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## THE CONSTITUTION AT 200: REFLECTIONS ON THE PAST — IMPLICATIONS FOR THE FUTURE

*Derrick Bell\**

There is a lively refrain in a popular gospel hymn that says of the Lord:

He may not be there when I call him, but he's right  
on time.

That marvelous affirmation of faith came to mind when I read that the committee planning this conference had invited Justice Thurgood Marshall to participate. The committee reported that there was no response to its invitation. Those of us who go back to the founding of this organization can testify to similar silences in response to efforts over the years to persuade the nation's most famous civil rights lawyer and first black Supreme Court justice to grace our meetings with his presence.

I intend neither to offend Justice Marshall nor surprise you in stating the facts: even before his health limited his speaking appearances, Marshall expressed little interest in appearing before NCBL gatherings. Now that is the truth . . . Justice Marshall has not been there when NCBL wanted him. And yet it is also true that most of us would give him the highest marks for his opinions in defense of individual rights.

Also, and this is the point of all of this, Marshall was "right on time" with his outspoken Bicentennial speech of last spring. Indeed, nothing that we NCBL members do or say here is likely to win the public attention or bring on us the criticism Thurgood Marshall engendered when he suggested that the praise likely to be heaped on the Framers during the Bicentennial celebrations should be more restrained than it is likely to be. Since then, the talk — deemed front page news by the *New York Times*<sup>1</sup> — has been discussed at every Bicentennial gather-

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1. *N.Y. Times*, May 7, 1987, at A1, col. 4.

ing, and re-published in periodicals, including *Harper's*<sup>2</sup> and — believe it or not — *Ebony*<sup>3</sup> magazine.

Liberals in general and black folks in particular welcomed Marshall's remarks. Many though thought it was "bad taste" to bring up the subject of slavery during the Bicentennial celebrations, thereby calling for rain on a sunny occasion. One conservative legal group urged Marshall to resign because his remarks "reflect a deep-seated bitterness and dislike that impair his capacity."<sup>4</sup> Critics accused him of twisting history, asserting that to charge the Framers with endorsing slavery is unfair.

Those racial paranoids among us may be excused if we suspect that the vehemence of the criticism is due less to what was said than to who was saying it. Beep your horns if you discern in the attacks the message I hear, namely that: Marshall should be grateful for his seat on the high court and as a black should express that gratitude by a respectful silence during patriotic occasions.

Marshall violated this unstated maxim by reminding his audience that the Constitution denied the basic right to vote to blacks and women, a majority of the population. He committed a serious social faux pas when he declared the Constitution "defective from the start, requiring several amendments, a civil war, and momentous social transformations to attain the system of constitutional government, and its respect for the individual freedoms and human rights, we hold as fundamental today."<sup>5</sup> Again, to borrow the gospel singer's lines, Marshall may not be there when NCBL wants him, but he's right on time.

Justice Marshall's comments, seen in historic perspective, play out the role of Constitutional critic. It is a familiar function for black people, one that is as necessary today as when the Constitution was drafted. NCBL must not neglect its duty to perform that function.

You know, the crises provoked by the Meeses and Borks

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2. Marshall, *Celebrating The Constitution: A Dissent*, HARPER'S, July 1987, at 17.

3. Marshall, *The Real Meaning of the Constitution Bicentennial*, EBONY, Sept. 1987, at 62.

4. Gest, *Blasts Bicentennial of Constitution*, U.S. NEWS & WORLD REPORT, May 18, 1987, at 12.

5. Remarks of Thurgood Marshall at the Annual Seminar of the San Francisco Patent and Trademark Law Association in Maui, Hawaii, May 6, 1987.

have always been with us . . . and we will meet them as we have met those in the past. But we must seize the time to be reflective about what has happened in the past so that we may more effectively do what needs to be done in the future.

Few seem to realize that courageous candor as exemplified by Thurgood Marshall's speech exposes deficiencies of our basic law and provokes reform in structure and interpretation that make the Constitution worth celebrating. We have every right to be proud of the Constitution today for, as we shall see, black people — often at great risk and in perilous times — did more than any other group to transform a property protecting document into one that begins to protect individual rights. And, it is in this tradition that Geneva Crenshaw, the black, civil rights lawyer heroine of *And We Are Not Saved*,<sup>6</sup> is transported back to the Constitutional Convention in an effort to convince the Framers that they should not incorporate slavery into the new government. She fails, of course, but she discovers reasons for the Framers' actions that have a most troubling contemporary ring.

As you might expect, Geneva's arrival was not greeted calmly. But let me quote a portion of her Chronicle of the Constitutional Contradiction:

My trip back through time left me disoriented, but when I regained my bearings, there I was . . . standing at the podium at the Constitutional Convention. The year, I knew, was 1787.

The meeting room was hot. The doors, closed and locked to insure secrecy, rendered the heat oppressive. The few dozen delegates looked tired. They had doubtless been meeting all day and now they were caucusing in small groups. So intense were their discussions that the few men who looked my way could not readily take in the appearance, on what had just been an empty platform, of a woman . . . who was black.

I expected the extraordinary powers that had transported me here to protect me from harm. Still, my hands were wet with nervous perspiration, and my throat was dry. Taking a deep breath, I picked up the gavel and

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6. D. BELL, *AND WE ARE NOT SAVED: THE ELUSIVE QUEST FOR RACIAL JUSTICE* (1987).

quickly struck the desktop twice, hard. "Gentlemen, my name is Geneva Crenshaw, and I have come here from the late twentieth century to question your inclusion of slavery in the document you are writing."

For perhaps ten seconds, there was a shocked silence. Then the chamber exploded with delegates' shouts and oaths. A warm welcome would have been too much to expect, but their expressions of outrage at my sudden presence turned into an angry commotion unrelieved by even a modicum of curiosity.

When I remained standing at the podium, unmoved by their strong language and dire threats, several of the more robust delegates charged toward the platform, determined to carry out the others shouted orders: "Eject the Negro woman at once!"

Suddenly, the hall was filled with the sound of martial music, blasting trumpets, and a deafening roll of snare drums. At the same time — and as the delegates were almost upon me — a cylinder composed of thin vertical bars of red, white, and blue light descended swiftly and silently from the high ceiling, nicely encapsulating the podium and me. The self-appointed eviction party neither slowed nor swerved. As each man reached and tried to pass through the transparent light shield, there was a loud SssZap, quite like the sound electrified bug zappers make on a warm, summer evening. While not lethal, the shock the shield dealt each attacker was sufficiently strong to literally knock him to the floor, stunned and shaking.

The injured delegates all seemed to recover quickly, except one who had tried to pierce the light shield with his sword. The weapon instantly glowed red hot and burned his hand. At that point, several delegates tried to rush out of the room either to escape or to seek help — but neither doors nor windows would open.

"Gentlemen," I repeated, but no one heard me in the turmoil of shouted orders, cries of outrage, and efforts to sound the alarm to those outside. Scanning the room, I saw, a swarthy delegate cock his long pistol, aim carefully, and fire directly at me. But the ball hit the shield,

ricocheted back into the room, and shattered an inkwell, splattering my intended assassin with red ink. The swift but painless retaliation visited on the man who fired stunned the delegates into silence.

“Gentlemen,” I began again, “Delegates” — then paused and, with a slight smile, added, “fellow citizens. I have come to urge that, in your great work here, you not restrict to white men of property the sweep of Thomas Jefferson’s self-evident truths. For all men (and women too) are equal and endowed by the Creator with inalienable rights, including ‘Life, Liberty and the pursuit of Happiness.’”

The debate that ensues between Geneva and the Framers is vigorous, but despite the extraordinary powers at her disposal, Geneva is unable to alter the already reached compromises on slavery. During their heated exchanges, Geneva saw quickly the inaccuracy of the traditional rationalizations that the slavery provisions in the Constitution were merely unfortunate concessions pressured by the crisis of events and influenced by then prevailing beliefs that: (1) slavery was on the decline and would soon die of its own weight; or that (2) Africans were thought a different and inferior breed of beings and their enslavement carried no moral onus.

The insistence of Southern delegates on protection of their slave property was far too vigorous to suggest that the institution would soon be abandoned.<sup>7</sup> And the anti-slavery statements by slaves and white abolitionists alike were too forceful to suggest that the slavery compromises were the product of men who did not know the moral ramifications of what they did.<sup>8</sup>

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7. Even on the unpopular subject of importing slaves, Southern delegates were adamant. John Rutledge from South Carolina warned: “If the Convention thinks that N.C.; S.C. & Georgia will ever agree to the plan, unless their right to import slaves be untouched, the expectation is vain. The people of those States will never be such fools as to give up so important an interest.” II THE RECORDS OF THE FEDERAL CONSTITUTION OF 1787 373 (M. Farrand ed. 1911).

8. The debate over the morality of slavery had raged for years with influential Americans denouncing slavery as a corrupt and morally unjustifiable practice. See, e.g., W. WIECEK, *THE SOURCES OF ANTISLAVERY CONSTITUTIONALISM IN AMERICA: 1760-1848*, 42-43 (1977). And slaves themselves petitioned governmental officials and legislatures to abolish slavery. See, *A DOCUMENTARY HISTORY OF THE NEGRO PEOPLE IN THE UNITED STATES* 5-12 (H. Aptheker ed. 1968).

Geneva tries to embarrass the Framers by pointing out the contradiction in their commitment to freedom and liberty and their embrace of slavery. They would not buy it:

"There is no contradiction in our compromise," replied one delegate. "Life and liberty are generally said to be of more value, than property, . . . [but] an accurate view of the matter would nevertheless prove that property is the main object of Society."

"A contradiction," another added, "would occur were we to follow the course you urge. We are not unaware of the moral issues raised by slavery, but we have no response to the Southern delegates who admonish us that 'property in slaves should not be exposed to danger under a Government instituted for the protection of property.'"

"Government," he continued, "was instituted principally for the protection of property and was itself . . . supported by property. Property is the great object of government; the great cause of war; the great means of carrying it on. The primary protection the Southerners seek is that their government not take their slaves from them. After all, Negroes are their wealth, their only resource."

Where, Geneva wondered, were those delegates from Northern states, many of whom abhorred slavery and had spoken out against it in the Convention. She found her answer in the castigation she received from one of the Framers who told her:

"Woman, we would have you gone from this place. But if a record be made, that record should show that the economic benefits of slavery do not accrue only to the South. Plantation states provide a market for Northern factories, and the New England shipping industry and merchants participate in the slave trade. Northern states, moreover, utilize slaves in the fields, as domestics, and even as soldiers to defend against Indian raids."

"Slavery has provided the wealth that made independence possible," another delegate told her. "The profits from slavery funded the Revolution. It cannot be denied. At the time of the Revolution, the goods for which

the United States demanded freedom were produced in very large measure by slave labor. Desperately needing assistance from other countries, we purchased this aid from France with tobacco produced mainly by slave labor. The nation's economic well-being depended on the institution, and its preservation is essential if the Constitution we are drafting is to be more than a useless document. At least, that is how we view the crisis we face."

Realizing that she was losing the debate, Geneva intensified her efforts, but the imprisoned delegates' signals for help had been seen and the local militia was summoned. Hearing some commotion beyond the window, she turned to see a small cannon being rolled up, and aimed at her. Then, in quick succession, a militiaman lighted the fuse; the delegates dived under their desks; the cannon fired; and, with an ear-splitting roar, the cannonball broke against the light shield and splintered, leaving the shield intact, but terminating both the visit and all memory of it.

But what of our original question. Did the Framers have a choice? At the most dramatic moment of the debate, a somber delegate got to his feet, and walked slowly right up to the light shield before he spoke directly to Geneva:

"Woman. You are right. The contradiction of which you speak is real. Surely we know, even though we are at pains not to mention it, that we have sacrificed the rights of some in the belief that this involuntary forfeiture is necessary to secure the interests of others in a society espousing, as its basic principle, the liberty of all."

"And," he added, "you have, by now, heard enough to realize that we have not lightly reached the compromises on slavery you so deplore. It is simply that the delegates gathered here with the responsibility of forming a radically new government in perilous times, see more clearly than is possible for you in hindsight that the unavoidable cost of our labors will be the need to accept and live with what you call a contradiction. If you know our future as well as you claim, then you must be aware of many more instances in which we sacrificed your rights in order to protect and further our own."

We who are the descendants of those first victims of the Constitutional compromises on slavery, have the post-slavery record as evidence that they are far more than an embarrassing blot on our national history. Rather, they are the original and still definitive examples of the on-going struggle between individual rights reform and the maintenance of the socio-economic status quo.

As was the case in Philadelphia, some of the most dramatic of these encounters involve blacks and racial issues, and as happened in 1787, the resolutions effected are more readily made because of the shared sense of superiority that the differing white groups use as a basis for compromises that sacrifice the interests of blacks.

The Framers felt that the country could not have come into being without the race-based, slavery compromises placed in the Constitution. First, they were all too aware of the economic benefits of slavery; and second, they were likely aware as well that the very presence of blacks posed a threat that served to unify whites across class lines.

It is worth spending a few moments to examine how these factors that played a very major role in the nation's birth also influenced its growth and development.

By 1857, the nation's economic development had stretched the initial slavery compromises to the breaking point. Differences between planters and business interests that had been papered over 70 years earlier by greater mutual dangers, could no longer be settled by the involuntary sacrifice of black rights.

Chief Justice Taney's conclusion in *Dred Scott*<sup>9</sup> that blacks had no rights whites were bound to respect — a view rather clearly reflecting the prevailing belief in his time as among the Founding Fathers — was a shock less because it sought formally to remove all blacks outside the ambit of Constitutional protection, than because it placed the Supreme Court on one side of the fiercely contested issues of economic and political power that were propelling the nation toward the Civil War.

But after the Civil War Amendments were enacted and then cast aside, constitutional jurisprudence fell in line with Taney's conclusion regarding the rights of blacks *vis a vis* whites even as

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9. *Dred Scott v. Sandford*, 60 U.S. 393, 454 (1856).

his opinion was condemned. And in the post-Reconstruction era, the constitutional protections initially promoted to shield former slaves were transformed into the major, legal bulwarks for corporate growth. The legal philosophy of that era espoused liberty of action untrammelled by state authority, but the only logic of the ideology — and its goal — was the exploitation of the working class for the benefit of big business.<sup>10</sup>

Consider *Lochner v. New York*,<sup>11</sup> where the Court refused to find that the state's police powers extended to protecting bakers against employers who required them to work in physically unhealthy conditions for more than 10 hours per day and 60 hours per week. Such extension, the Court held, would interfere with the baker's freedom of contract.<sup>12</sup>

Then, compare *Lochner* with the decision in *Plessy v. Ferguson*,<sup>13</sup> decided only ten years earlier. In *Plessy*, the Court upheld the state's police power to segregate blacks in public facilities even though such segregation must, of necessity, interfere with the liberties of facilities' owners to use their property as they saw fit.<sup>14</sup>

Here, a century later, we have another Constitutional Contradiction. Both opinions are quite similar in the Court's use of fourteenth amendment fictions: the assumed economic "liberty" of bakers in *Lochner*, and the assumed political "equality" of blacks in *Plessy*. Those assumptions, of course, required the most blatant form of hypocrisy. Both decisions protected the existing property and political arrangements and ignored the disadvantages to the powerless caught in those relationships: the exploited whites (in *Lochner*) and segregated blacks (in *Plessy*).

In both decisions, the first Justice Harlan railed in dissent against the majority's refusal to recognize what they all knew: the injustice of declaring the law's formal equality in a grossly unequal world:

In *Lochner*, Harlan was morally right, but out-of-step with the prevailing "liberty of contract" doctrine in suggesting that the state's authority under its police power to protect its citi-

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10. *Lochner v. New York*, 198 U.S. 45 (1905).

11. 198 U.S. 45 (1905).

12. *Id.* at 58.

13. 163 U.S. 537 (1896).

14. *Id.* at 543-44.

zens' health and safety was sufficient to justify a statute that he conceded may have had "its origin, in part, in the belief that employers and employees in such establishments were not upon an equal footing, and that the necessities of the latter often compelled them to submit to such exactions as unduly taxed their strength."<sup>15</sup> He did not — as Justice Holmes did in his dissent — directly attack the Court's adoption of the *laissez-faire* economic philosophy that underlay the *Lochner* era cases.

In *Plessy*, though, Harlan urged — this time in line with *Lochnerian* philosophy — that the state's segregation laws violated fourteenth amendment prohibitions by interfering with the personal liberty of citizens. He predicted accurately enough that segregation laws would signal the subordination by race of all blacks, and would "permit the seeds of race hate to be planted under the sanction of law."<sup>16</sup>

But as in *Lochner*, Harlan, while addressing the human injustices with great and articulate vigor, was unable to come to grips with the majority's view that "liberty" was a property-related right, and that the state's segregation laws, far from interfering with liberty, were furthering that property in whiteness that entitled those holding it to the right not to associate in public places with blacks.

Harlan's now famous platitude: "Our Constitution is color-blind, and neither knows nor tolerates classes among citizens,"<sup>17</sup> was even more a fiction than those upon which the Court majority relied. Moreover, it was a wholly inadequate response to a Court majority claiming its readiness to defend blacks' entitlement to "legal equality" under the law. In challenging the segregation law though, the majority viewed blacks as seeking a Constitutional guarantee of "social as distinguished from political equality . . ."<sup>18</sup> And the Court was quite certain that the fourteenth amendment had not granted blacks the social status of whites, a status the Court conceded for the purposes of this case was a *property* right.<sup>19</sup> In effect, the Court refused to take from

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15. 198 U.S. at 69.

16. 163 U.S. at 560 (Harlan, J., dissenting).

17. *Id.* at 559.

18. *Id.* at 544.

19. *Id.* at 549. The plaintiff had argued that in any racially mixed community, "the reputation of belonging to the dominant race, in this instance the white race, is *property*,

whites the vested advantages of their whiteness, an important one of which — in those days — was the right not to associate with blacks in public facilities.

Justice Harlan, by the way, failed to tell us how a color-blind Constitution could be expected to provide even the most basic protection to blacks in a country where by his own prideful admission — set out in the same paragraph — he declared:

The white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth and in power. So, I doubt not, it will continue to be for all time, if it remains true to its great heritage and holds fast to the principles of constitutional liberty.<sup>20</sup>

For the fact is that the general belief as to why the white race is dominant in the society has helped motivate — and justify — the many compromises in which the interests of blacks are bartered and sometimes sacrificed to further accords between groups of whites. Over time, beliefs in white dominance, rein forced by policies that subordinate black interests to those of whites have led — as the plaintiff in *Plessy* contended — to an unrecognized but no less viable property right in whiteness that serves as entitlement to those advantages gained over blacks by virtue of a white identity. This “right of whiteness,” while nowhere mentioned in the property casebooks, is valued and protected like all other property in a system constructed and maintained primarily for that purpose.

Actually, *Berea College v. Kentucky*<sup>21</sup> was perhaps an even more striking illustration than *Plessy* of the Court’s readiness to view state segregation laws as protective of rather than a threat to private property interests under the *Lochner* rationale. Decided only three years after *Lochner*, the Court in *Berea College* upheld a state statute that barred the private school from con-

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. . .” In conceding this to be so, the majority was at a loss to see how the segregation statute deprived plaintiff — a black — of any right to such property. A white assigned to a colored coach would have an action for damages against the company for being deprived of this property, but if, the Court said a colored man was assigned to a car for the colored race, “he has been deprived of no property, since he is not lawfully entitled to the reputation of being a white man.” *Id.*

20. *Id.* at 559.

21. 211 U.S. 45 (1908).

tinuing its policy of integrated education. The Court reasoned that, since the state which chartered the college could revoke the charter, it could also amend it to prohibit instruction of the two races at the same time and in the same place without defeating or impairing the object of the original charter.<sup>22</sup>

Focus on the corporate charter did not serve to obscure the fact that the Court's hands-off attitude on segregation legislation that overrode principles of free association, occupational liberty, freedom of contract, and property rights, posed a seeming contradiction in the era of freewheeling, laissez-faire constitutionalism.<sup>23</sup> But in that era of rampant Negrophobia supported by social Darwinism, few beyond the Justice Harlans and, of course, the blacks themselves, were much concerned with judicial findings that state-sponsored restraints could further individual freedoms.

This year, we observed the thirty-third anniversary of the Court's rejection of the "separate but equal" doctrine of *Plessy v. Ferguson*,<sup>24</sup> but the commemoration — like that for the Emancipation Proclamation — is more to console us for "what we might have gained" than to celebrate "the steadily diminishing rights we have." For in the late twentieth century, the passwords for gaining judicial recognition of the still viable property right of "whiteness" include "higher entrance scores,"<sup>25</sup> "seniority,"<sup>26</sup> and "neighborhood schools."<sup>27</sup>

Black people, thus have been the major victims in Constitutional history, but they are also its principal heroes. For they have both survived the continued subordination of their rights, and in their effort to gain — through law — the entitlement, as the Supreme Court put it in *Strauder v. West Virginia*,<sup>28</sup> to "all the civil rights that the superior race enjoy,"<sup>29</sup> they have provided neglected understandings of value for those involved in

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22. *Id.* at 53, 57-8.

23. A. BICKEL, B. SCHMIDT, THE JUDICIARY AND RESPONSIBLE GOVERNMENT 1910-21, VOL. 10 OF THE OLIVER WENDELL HOLMES DEVISE HISTORY OF THE SUPREME COURT OF THE UNITED STATES 736 (1984).

24. *Brown v. Board of Educ.*, 347 U.S. 483 (1954).

25. *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978).

26. *See, e.g., Wygant v. Jackson Bd. of Educ.*, 106 S. Ct. 1842 (1986).

27. *See, e.g., Milliken v. Bradley*, 418 U.S. 717 (1974).

28. 100 U.S. 303 (1880).

29. *Id.* at 306.

the increasingly inscrutable endeavor we call Constitutional interpretation.

Professor Arthur Kinoy makes this point when he writes: "One of the most fascinating areas of the evolution of our constitutional law yet to be explored is the catalyzing effect of the myriad forms of struggle for Negro freedom and equality upon the development of constitutional rights and liberties applicable to all citizens — white and black alike."<sup>30</sup>

It is something of a paradox, but while the Constitution, by its terms, specifically excluded blacks from its historic recognition and protection of individual rights, the major implementation of individual rights for all Americans has come through the efforts by blacks and their supporters to use the law to eliminate first slavery and then racial discrimination.

For verification of these scholarly observations, one need only explore some of the major civil rights precedents: for example, the right to fairly apportioned electoral districts,<sup>31</sup> protection of freedom of speech as against powerful, public figures,<sup>32</sup> elimination of invalidated criteria from civil service tests and other job qualifications,<sup>33</sup> the admission of college students on criteria other than social class related grades and test scores,<sup>34</sup> elimination of poll taxes,<sup>35</sup> protection of whites charged with crime from trial by a jury selected on a racially discriminatory basis.<sup>36</sup> The value of these decisions to all Americans are more than happy coincidences, a societally beneficial fallout of the long freedom struggle in the courts by blacks.

For the injustices that so dramatically diminish the rights of blacks because of race also point up serious disadvantages suffered by many whites, particularly those who lack money and power. Clearly, there is a little recognized but intricate relation-

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30. Kinoy, *The Constitutional Right of Negro Freedom*, 21 *RUTGERS L. REV.* 387, 389 n.6 (1967).

31. *Gomillion v. Lightfoot*, 364 U.S. 339 (1960) (holding that a state statute adjusting city boundaries effectively deprived black citizens of their right to vote in violation of the fifteenth amendment).

32. *N.Y. Times v. Sullivan*, 376 U.S. 254 (1964) (establishing the "actual malice" standard in libel law for public officials in the context of a northern newspaper's advertisement criticizing a southern public official).

33. *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971).

34. *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978).

35. *Harper v. Virginia State Bd. of Elections*, 383 U.S. 663 (1966).

36. *Peters v. Kiff*, 407 U.S. 493 (1972).

ship of race and political and social reform.

Discrimination based on race provides a dramatic focus that reveals more subtle though hardly less pernicious disadvantage suffered by many whites. By looking carefully at black history, and the struggle for opportunity and dignity, one can observe as well the history of most whites. The whites' better-off status is ascertained by comparison with the position of those blacks on the bottom, and it is this compulsive fascination that seems to obscure the far more sizeable gap between the status of most whites and those who occupy the far more lofty levels at the top of our society.

The challenge in this Bicentennial Year remains what it has been from the beginning of the American age: extending the meaning of liberty under the Constitution to those who lack the property prerequisites our law has usually required for its full enjoyment. The Constitutional formula for reform must be ascertained, not from the words — as Justice Marshall boldly told the country — but from the workings of a document that has gained immeasurably from those whose economic and political interests were not represented back in Philadelphia. We will do little cheering during this Bicentennial season. A critical assessment of the Constitution reveals that much still remains to be done. Let us continue.