

CONSTITUTION WEEK

Editor's Note: Following is an address delivered over radio station WGBY in connection with the observance of Constitution Week. The address was made by William D. Fuller and is one of several to be published in The Herald by request.

It is with a deep sense of responsibility that, as a layman, I speak with you about our Constitution.

This is Your Constitution Week. It is important for you to know your Constitution for there has not been a time when the interpretation of the Constitution has been the issue as it is today.

As you know our government is the oldest federalized government in the world still functioning under its original constitution.

It is the first time in our history that, at a meeting of the Chief Justices of the various states, a resolution was passed criticizing the U. S. Supreme Court decisions as usurping the functions of the State courts.

Never in our history has the 5th Amendment been used as a defense to testifying in various investigations and court trials. It raises the question as to whether or not the original purpose of the 5th Amendment has been perverted. In fact, it raises a question as to whether we are not in danger from subversives who are part and parcel of ideologists whose main purpose is to weaken and overthrow our government but who take refuge in the 5th Amendment.

Then, again, criminal gangsters are taking refuge in the 5th Amendment and ordinary persons, as myself, not versed in the law, wonder about the application of the 5th Amendment in such cases, and begin to lose respect for the ordinary due process of law to bring criminals to justice.

It is quite likely, in criminal cases, that witnesses may be intimidated from testifying on the basis of self incrimination under the provisions of the 5th Amendment, thus frustrating the application of the criminal law and justice.

Not only is the law and the Constitution at stake but also the responsibility of citizenship.

There are four general fields in the interpretation of the Constitution with which you should be concerned, watchful and observant.

These four fields are as follows: First—The delegation of sovereign powers inherent in our government. Such delegation may take place in our negotiations with foreign powers and under our responsibilities as a member of the United Nations. This delegation of our sovereign rights and authority may be done by the Executive Branch of our Government with or without the consent of the Congress as provided by the Federal Constitution.

Second—Usurpation, in the interpretation of the Federal Constitution, of States Rights and jurisdiction in cases solely falling within the framework of the laws

and constitutions of the various states.

Third—Interpretation of the Federal Constitution on the basis of social problems rather than on the basis of application of fundamentally established legal principles.

Fourth—Perverted use of the 5th Amendment by witnesses in official investigations and in criminal cases. Such use may eventually develop a contempt for all law and frustrate the agencies of the law in bringing about the imposition of justice in criminal cases.

We are indeed fortunate at the time of the formulation of our Constitution, that we had men familiar with ancient history as well as the then modern history of the times.

Remember the fundamental principles of law were not developed overnight, but were developed through the centuries by men who fought and died for the principles of justice.

Remember that our Constitution is based on the Magna Carta which was wrested from an unwilling King John of England.

You are familiar with the news item which appeared in the papers about three weeks ago about the boy who referred to the fifth amendment. This story has its humorous side as well as its serious side. The youngster, 12 years of age, took off with the family automobile. On his ride through the small western town he damaged the fenders of fifteen cars and finally stopped when he ran into a tree. The police arrived on the scene and started questioning the boy. The boy got out of the car and said, "See here, I am not talking; I am taking the fifth amendment." This, of course, illustrates how far the attitude toward amendment.

Then there is the case before the Supreme Court which illustrates the misapplication of the 14th amendment to the administration of decedents' estate. This involves the famous Girard College case.

Stephen Girard was a famous shipping magnate and merchant of Philadelphia. He left the bulk of his estate to establish a school for the education for poor white orphan boys. The school was established. The State Legislature subsequently passed an act enabling the City of Philadelphia to set up what is called the Board of City Trusts for the administration of the Girard Estate as well as for the administration of estates left to the city for public purposes. The school has a very good reputation and many prominent men are graduates of the school, such as the President of the Insurance Company of North America, the oldest and perhaps the biggest casualty and indemnity insurance company in the country; also the President of the Penn Mutual Life Insurance Com-



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pany. Several years ago application was made for the admission of two Negro boys. This application was denied on the basis of the terms of Girard's will which provided only for the education of white orphan boys. This was appealed through all of the courts in Pennsylvania having jurisdiction and finally the Supreme Court of Pennsylvania in its decision upheld the decisions of the lower courts in declining the application of the two Negro boys to admission to Girard College. The case was then appealed to the Federal Supreme Court. The Federal Supreme Court decided that the Board of City Trusts, created under an enabling act of the State Legislature, was an instrumentality of the State and, therefore, could not discriminate in the acceptance of students to the College under the provisions of the 14th Amendment.

The case was then referred back to the Pennsylvania Supreme Court which remanded the case back to the Orphans Court of Philadelphia having original jurisdiction. Inasmuch as it always has been considered that the fundamental responsibility of the Orphans Court was the carrying out of the terms of any testator's will, removed the Board of City Trusts as administrator of the Girard Estate and appointed individual trustees.

This action of the Orphans Court was considered as a subterfuge to get around the decision of the Federal Supreme Court and was further appealed to the Pennsylvania Supreme Court. This appeal was denied in a very learned opinion of then Chief Justice Horace Stern. In the course of his opinion, Chief Justice Stern pointed out that he as a Jew would be restrained in his will from providing for the establishment of a home for elderly, indigent Jewish people under the opinion of the Federal Supreme Court. This decision of the Pennsylvania Supreme Court has again been appealed to the

Federal Supreme Court, which has as yet not handed down any final decision.

However, under the reasoning of its original opinion it would have upheld the petition of the appellants for entrance of the two Negro boys to Girard College. For if the Board of City Trusts was an instrumentality of the State Government, certainly the Orphans Court, having original jurisdiction, is an instrumentality of the State Government, created under the provisions of the State Constitution and the various enabling acts of the Legislature. The terms of a person's will have always been considered sacred by the courts having jurisdiction and always have been zealous in seeing that the terms of any will are faithfully carried out. However, if the final decision of the Federal Supreme Court upholds the contention of the Appellants, then it means that in the future no one will have the right to leave his property for the benefit of any specific charity, but only for general charitable purposes. For instance, you could not leave any fund to the Heart Fund, the Polio Fund or the Cancer Fund, as under the decision of the Federal Supreme Court it would be discrimination under the 14th

Amendment, and the fund would have to be left for general charitable purposes.

The Girard College case illustrates the fact the Federal Supreme Court is not basing its decisions on fundamentally established principles of law but rather on social reasoning which do not always coincide.

With this trend people should be familiar for if this type of reasoning is to be maintained then it is the beginning of a new era in the interpretation and application of the law based on social expediency rather than on law and justice.

SUNDAY SCHOOL LESSON

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had been with Jesus in the flesh, who had listened to his teachings, and seen his great deeds—were growing old and dying off. He therefore set himself the task of compiling an "orderly account" of those events which laid the foundation for Christianity as we know it today.

In his writings Luke pays particular attention to the activities of John the Baptist. John came from the desert preaching. There he had cleared his thinking, and had discovered that the hope of his people rested with the Messiah. He, therefore, lent his voice to preparing the way for the redemption of his people. His was the voice "crying in the wilderness."

Our faith, as we practice it today, owes much to Luke and his talent as a chronicler. In his Gospel Luke furnishes a setting for

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the birth of our religion as we know it today. He chronicles the political and religious background of the times. The prominent people in government and religion in those days are listed; in fact, had it not been for the writings of Luke, the names of the great of that day would be known only to research scholars. Luke very carefully pinpointed the era in which Jesus began his ministry, by giving the year of the Emperor's reign and listing the name of the Emperor, the Governor of Judea and so on.

In the early days of Christianity Jesus sent his disciples before him to "prepare the way." We are, in a sense, the modern-day disciples of Jesus, and before us still lies much "preparing of the way." We can, each in his humble way, by untiring and devoted effort, follow in the footsteps of the many god men, like Luke, who passed on to the multitudes down through the years, our great religious heritage.

Let us dedicate ourselves to this purpose, untiringly, unselfishly, and with the devotion the Lord our God deserves.

(These comments are based on outlines of the International Sunday School Lessons, copyrighted by the International Council of Religious Education, and used by permission.)

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