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and
The Highlands Maconian

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JUNE 3, 1954

The Price Of Victory

To the winners, in Saturday's primary election, congratulations.

To the losers, appreciation. If the time ever comes in this country that the voters merely rubber-stamp a slate of unopposed candidates, our democracy will be about as effective as that in Soviet Russia. Those who ran and lost provided the first essential for a democratic government; they made it possible for the voters to have a choice. By making that choice possible, the losers have done us all a service.

They now have discharged their responsibility. Not so those who won nominations.

For every honor there is a price. For those who won nominations, the price is continuing responsibility: First, to represent the Democratic party, honestly and honorably, in the general election; and, second, if they are elected in November, to serve the public, intelligently as well as honestly.

The Court Decision II

It is quite possible that the real significance of the Supreme Court's segregation decision lies not in what the court ruled, but in how and why; not in the fact that non-segregation now is the law of the land, but in how it got to be the law.

Nowhere in the Constitution of the United States is there any hint that the men who wrote that document intended for the Supreme Court to have the power to invalidate a law because it was not in harmony with the Constitution. Not only is there no provision giving the court that authority, but the founding fathers were careful to write into the Bill of Rights the specific provision that "The powers not delegated to the United States, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

It was the evident intent of those who drafted the Constitution that the federal government should have three branches, executive, legislative, and judicial; and that they should be co-equal. And it was on this basis that the government operated during the two administrations of President Washington and the one of President John Adams.

It was not until Jefferson's administration that the court apparently even considered passing on the constitutionality of acts of congress or of the state legislatures. And it was Jefferson's bitter enemy, Chief Justice John Marshall, who thought of it then—and who usurped this power.

Since that time, the unwritten authority of the court to pass on the constitutionality of legislation has come to be accepted, and generally has worked quite well. It was, nevertheless, the first over-balancing of the co-equal powers of the three branches; of the system of checks and balances.

* * *

In recent years, there has been rather convincing evidence that the court, on occasion, has gone a step farther; that some of its decisions have been based not so much on what the Constitution means, as upon what the court, in its judgment, thinks it ought to mean. That is to say, there have been instances where the court has appeared to have put first emphasis on what its members believed was good for the country, with the court's role as interpreter of the Constitution secondary.

There was a strong feeling in the early Roosevelt days that the then anti-New Deal court threw out some New Deal legislation chiefly because the court thought it was bad legislation; some of the court's arguments in those cases seemed strained indeed, as far as constitutionality was concerned. Then, with the appointment of more and more members of the court by Roosevelt, the trend was in the opposite direction; in case after case, the court held that what the Constitution had meant in the 1930's it no longer meant in the 1940's—and

again some of the court's explanations were strained.

More recently, in the Dennis case, handed down in 1951, the court radically modified its former doctrine about freedom of speech. It formerly had been guided by the "clear and present danger" doctrine, enunciated by Justice Holmes. Under that doctrine, the government was forbidden to interfere with freedom of speech unless what was said presented a "clear and present danger" to the government itself. In the Dennis case, the court sharply restricted freedom of speech, and explained its change of attitude not by arguing that the freedom of speech provision of the First Amendment had changed its meaning, or even that the court had changed its interpretation of what it meant. Its explanation was that conditions were so serious it had become necessary to curtail freedom of speech. It's decision, thus, was not an interpretation of the Constitution, but an interpretation of what the court believed the country needed at the moment.

* * *

In the segregation case, this tendency appears to be even more marked. For it is almost impossible to believe that a court that has been so consistently divided as this one would be able to agree unanimously on so debatable a point as whether segregation, in and of itself, interferes with the right to equal educational opportunity.

It is almost impossible to believe, because that argument, carried to its logical conclusion, is absurd.

It is absurd, in the first place, to assume that it is possible to even remotely approach equality of education opportunity—except in "tangible" facilities, which the court held is not enough. There always are one or two outstanding teachers in every school system, for example, and if every pupil in the system is to have complete equality of opportunity, then every pupil in the system must be given the opportunity to be taught by these exceptionally good teachers. And what about the child on the wrong side of the railroad tracks? As a practical proposition, it is necessary to district areas for school purposes on a geographical basis—that is, to segregate the children, geographically. Is it not reasonable to believe that the child who must live and attend school on the wrong side of the tracks is quite as likely to "generate a feeling of inferiority" as is the segregated Negro child?

It is absurd, in the second place, because if segregation, per se, is an interference with equality of educational opportunity, then sexual segregation is such an interference—and thus is unconstitutional. If the court is going to be logical, it must abolish every all-male and every all-female school in the country. Carried to its extreme, the argument would even demand that football, acknowledged as an important part of education, be open to young women.

It is impossible to believe that nine intelligent men, so often and so bitterly divided on so many and so diverse issues, were unanimously agreed on this one.

* * *

On what, then, is it reasonable to believe an almost invariably divided court could agree unanimously? On two things — two things on which many Americans are agreed: (1) that racial segregation is morally wrong; and (2) that the time had come to eliminate it—especially because of its bearing on our international leadership.

It is hard to reject the conclusion that these were the things on which the court really agreed. It is hard to reject that conclusion, in the light of these facts: For 57 years the court had held that "separate but equal" facilities complied with the requirements of the Constitution; in at least five recent cases the court has handed down decisions that, by implication at least, were based on the "separate but equal" doctrine; and the court's only real explanation for its reversal of itself was the statement that education has become more important.

And it is easy to see how this court thus might have stepped outside its strict role of interpreter of the Constitution, because only one—Justice Minton—of the nine justices had had judicial experience prior to appointment to the Supreme Court.

* * *

All the evidence seems to suggest that the segregation ruling was not based on a change in the court's understanding of what the Fourteenth Amendment means, but on the court's judgment of what is best for the country.

If that is true, then the court—in this and other recent cases—is attempting to play God for 150 million Americans. More to the point, it is legislating.

Perhaps the only true dignity of man is his capacity to despise himself.—George Santayana.

The reason birds can fly and we can't is simply that they have perfect faith, for to have faith is to have wings.—James M. Barrie.

OUR DEMOCRACY—by Mat

DOWN BY THE OLD MILL STREAM

MANY SONGS, MANY BOOKS, MANY PICTURES CELEBRATE OUR RIVERS.
WE DRINK FROM THEM, FISH AND SWIM IN THEM, ROW ON THEM.
THEY BEAR OUR COMMERCE AND ACCOMMODATE OUR INDUSTRIES.



TOO OFTEN WE ABUSE OUR STREAMS, LITTERING THEIR BANKS AND POLLUTING THEIR WATERS, SO THAT MANY OF THEM ARE FIT NEITHER FOR MAN NOR FISH.
FORTUNATELY, WE ARE TAKING STEPS TO CONSERVE THEIR VALUE, BOTH TO THE LOCAL COMMUNITY AND THE NATION, BY RESTORING THEM TO SOMETHING LIKE THEIR ORIGINAL CLEANLINESS AND BEAUTY.

News Making As It Looks To A Maconite

By BOB SLOAN

To me the most important thing in the just concluded Senatorial primary election between Kerr Scott and Alton Lennon was the fact that the instigation of the emotional racial issue on a phony basis in the last few days did not swing the election to Lennon. The racial issue was introduced by a Lennon backer with false intent. In an advertisement and handbills paid for by this man there was the message to ask Negroes to vote for Scott because of interest he had shown in their problems. However, the man who paid for the ad was not interested in the Negro vote, he wished to swing white voters for Lennon by fanning the fires of the segregation issue.

Such tricks and deceit are similar to photo-cropping, paragraph lifting and misquoting. Had Lennon received a majority of the votes, candidates for this office in the future might have been prone to conclude that if you smear hard enough you can get elected. To me, this would be a deplorable situation.

Highway Commissioner Harry Buchanan stated earlier this year that North Carolina would be ready with their part of U.S. 441 by the time Georgia built theirs. Well from what I hear we had better get moving unless Mr. Buchanan is going to be guilty of bragging and not backing it up.

I just had an idea for you folks who have garden,—that is if any of your vegetables survived the many frosts we had this spring. Instead of canning and freezing your vegetables, save the seed and sell it for people to raise frost proof plants from. It seems to me that any which have survived the many arctic invasions this spring would be capable of growing up at least as far as the arctic circle. Of course there is a catch to this, there may not be any which have "made the wiggle".

The success that the new super market opened by Gus Baldwin and the Farm and Home Supply Company are having seems to indicate that business can move from the center of town and be successful. This may be helpful in causing Franklin to expand.

Do You Remember?

(Looking backward through the files of The Press)

50 YEARS AGO THIS WEEK

Franklin is an up-to-date town because she has the following accessories: A liar, a sponger, a loafer, a smart alec, a giggling girl, a weather prophet, a tattling woman, a man who knows it all, a boy who cuts up in church, a drunkard, a hypocrite, a meddler, a thing that stares at women, a widower too gay for his age, a profanity gusher, a man who can give advice to everybody, a fault-finder, a calamity howler, a grown man who laughs every time he says anything.

Prince Calloway, of Highlands was here Friday.

Mr. James P. Angel moved his harness shop outfit into the room occupied by his son, Thornton last Wednesday and gave Col. A. A. Howe possession of the premises vacated.

Burton Lyle and Clifford Harrison returned home Thursday from the A. & M. College at Raleigh. Burton Slagle stopped off at Webster where his father, C. W. Slagle, was attending court, and they came over Friday.

10 YEARS AGO

J. W. Addington, mail carrier of Franklin, Route 2, for the past 30 years, has retired from service.

T. W. Porter, Sr., postmaster of the Franklin office, was elected chairman of the National Association of Postmasters of the 12th Congressional district at a meeting held on Saturday evening.

A picnic was enjoyed by the teachers of the Franklin high school and the elementary grades on Wednesday evening at Arrowood Glade. Mrs. Gudger Fortner, Mrs. Virginia Ramsey, Mrs. Pearl Hunter, and Miss Edna Jamison were in charge of the refreshments.

Mrs. C. Tom Bryson left recently for Klammath Falls, Ore., for a visit with her brother, Lloyd Higdon, and family and her sister, Mrs. F. R. Holcomb.

Others' Opinions

REASONABLE CONCLUSION

(Greensboro Daily News)

"What Causes Baldness?" asks caption in Raleigh News and Observer. Off-hand, we'd say lack of hair.

NEEDED: 1 SOAPBOX

(U. N. C. Daily Tar Heel)

In some remarks on education during his visit to the campus Monday, physicist Harold Urey drew a picture of academic freedom: "The right to express whatever view we hold to be correct." And he suggested that the teacher must be free to do this without veto from the university or investigating committees.

This will seem extremely self-evident to many. It is, however, a principle under attack in many schools and from many quarters, and we are glad to see it reasserted by Dr. Urey.

His definition of academic freedom, of course, implies the right of the student to study whatever he wants and to follow his curiosity wherever it may lead, even if it leads to non-conformist social and political and religious views.

Most people in the United States conform. But conformity is foreign to the ideals of a university. Professors are paid to produce new ideas. Students work to find the truth. It is possible to make a university conform, but when the process is through, you won't have a university.

What American universities need, what this one needs, are a few soapbox orators with alien beliefs to stir things up a bit. This would be academic freedom in its true meaning. It would also be the best way to strengthen democracy, on the campus and in the land.

The fashion wears out more apparel than the man.—Shakespeare.

I do then with my friends as I do with my books. I would have them where I can find them, but I seldom use them.—Ralph Waldo Emerson.

STRICTLY

PERSONAL

By WEIMAR JONES

CHAPEL HILL.—This is the last time this column will carry the Chapel Hill dateline that has appeared on it since last September. By the time this appears in print, I'll be back home, at work on The Press. I hate to leave Chapel Hill. My nine months here will be a pleasant memory for me as long as I live.

But I also will be glad to get back to Macon County. Glad because it's home, glad because it's the home of a lot of folks I'm proud to call my friends, and glad just because I like to live in Macon County.

For any and every thing we have, we must pay a price. I've had a wonderful winter in Chapel Hill, but I've paid for it—in the things I missed at home. And there are a lot of things, besides the people, I've missed.

I like nippy winter days. I like it when the trees are leafless, so you can see a lot of things you never know are there. In summer, I like snow on the mountains, making every ridge and hollow stand out against the sky. I like open wood fires on cold winter days. I like to get out in the woods when the arbutus, one of spring's first flowers, blooms beneath the dead, dry leaves. I like the sight, and smell, of newly plowed mountain red clay.

All these I've missed, for this year. But, happily, I'm home in time to enjoy the fragrance of blooming honeysuckle; in time for the rhododendron and laurel and azalea (we called 'em laurel and ivy and mountain honeysuckle when I was a boy); in time to smell freshly cut hay, curing in the sun; in time for the arrival of friends and kin I never see except when summer's heat sends them to the mountains; in time to work and play—at home!