

The Franklin Press and The Highlands Maconian

Entered at Post Office, Franklin, N. C., as second class matter
Published every Thursday by The Franklin Press
Franklin, N. C. Telephone 24

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SUBSCRIPTION RATES
OUTSIDE MACON COUNTY INSIDE MACON COUNTY
One Year \$3.00 One Year \$2.50
Six Months 1.75 Six Months 1.75
Three Months 1.00 Three Months 1.00

JUNE 10, 1954

Senator Ervin

The appointee, the appointer, and the state are to be congratulated on Governor Umstead's appointment of Sam J. Ervin, Jr., as U. S. Senator from North Carolina.

Mr. Ervin, of Morganton, now serving as associate justice of the state supreme court, will succeed the late Clyde R. Hoey in the senate.

Mr. Ervin won numerous World War I decorations, repeated election to the General Assembly as Burke County representative, election to the superior court bench, appointment to congress, and appointment and later election to the state supreme court. More important than any of these, he has won the respect and affection of almost everyone who has come to know him.

The first thing his close friends say of him is that he is a man of strong character. Members of the bar (including members here, where he has held superior court) describe him as a man possessed of a brilliant and markedly logical mind. And his views on political, economic, and social questions stamp him as a middle-of-the-roader. A basic liberalism in his nature is diluted by a large fund of common sense and a streak of irrepressible humor.

Governor Umstead could hardly have made a better appointment.

The Court Decision III

As issues, segregation and prohibition had many things in common.

Both involved deep-seated social customs. In each case, many persons were convinced that the issue was basically moral. In each, there was a determined effort by some sections of the country to force a change on one or more other sections—the South and West forced prohibition on a reluctant North and East, and the North and West have been seeking to force racial integration on a reluctant South. And because of the crusading spirit for reform, the emotions of the reformers as well as the reformees were involved.

There the similarity ends.

Prohibition was put into effect by the adoption of an amendment to the Constitution (and later abolished by repeal of that amendment).

Segregation could have been banned in the same, or a similar, way—that is, by action of the people, or of their duly elected representatives in the Congress and/or the state legislatures. But the issue of segregation never was submitted to a vote of the people, and the people's chosen legislators in the Congress consistently refused to outlaw it.

Segregation has been outlawed by a Supreme Court decision—and by a decision that has many of the earmarks of legislation rather than Constitutional interpretation.

* * *

And in the segregation case, the court appears to have gone a step farther.

Elimination of segregation presents many and complicated problems, and there has been much praise of the court for deciding to hear arguments, next fall, before ruling when and how the integration of white and Negro children in the public schools shall be accomplished.

In adopting this unusual procedure, the court's motives undoubtedly were good; just as its motives undoubtedly were good in deciding the issue itself on a basis of the court's judgment of what is best for the country rather than on the question of what the Constitution means. But what the court's motives were is beside the point.

Nor does it make good sense to adopt the attitude many have, that "we'll just have to trust to the intelligence and character of the justices". For that means government by men, not by law—a doctrine repugnant to every American tradition, and repugnant, surely, to the justices themselves.

* * *

What the court has done is to defer unconstitu-

tionality! It has said flatly that segregation in the public schools is unconstitutional; then it has added that segregation will not be a violation of the constitution until a date to be set by the court. That is to say, the Constitution is to be held in abeyance, at the discretion of the court.

It has gone farther: After the arguments next fall, it is to decide not only when integration must be accomplished, but also how.

Such a ruling, on a constitutional question, is unprecedented. From the time of John Marshall until the segregation decision, the Supreme Court has passed on the constitutionality of a law—and has stopped there. It then has become the responsibility of the executive branch of the government to decide when and how the court's decree should be enforced—or even whether it should be enforced.

* * *

We started in this country with three co-equal branches of government.

The first over-balancing of that co-equality came when the court usurped the power to declare acts of the Congress or of the states invalid; that, in effect, gave the court the veto over one of the formerly co-equal branches, the legislative.

In recent years the court has more and more tended to determine the constitutionality of laws on the basis of what the court thought was good for the country rather than what the court thought the Constitution meant. Thus it has added to its power of veto over the legislative branch the power to legislate on its own.

And this latest case suggests a third new trend—for the court to decide when and how its interpretive-legislative decrees shall be put into effect. That would seem to be a rather obvious invasion of the authority of the administrative branch.

* * *

Are we moving, as all the evidence seems to indicate, toward a federal government in which all final authority, judicial, legislative, and administrative, is vested not in three co-equal branches, and not even in the people, but in nine justices—and the only nine men in high government position who are completely beyond control by the people?

That question, though less spectacular, may prove to be far more significant than the legal outlawing of segregation.

Our Manners

Our best mountain manners to North Carolina's newest newspaper, the twice-a-week Chapel Hill News Leader.

The News Leader is ably staffed, as was indicated by its first issue, a sprightly 14 pages filled with well written news and pictures about the Chapel Hill and nearby communities, including, of course, the University of North Carolina.

Its editor is Phillips Russell, long-time newspaperman, author, and U. N. C. journalism professor, and its editorial page is just what those who know Mr. Russell would have expected—hard-hitting editorials and a variety of readable columns.

It's "a fur piece" from Franklin to Chapel Hill, but The Press sends across the miles best wishes to its new neighbor in the field in journalism.

Then there was the man who thought the highway Stop sign was meant for the other fellow. That's right—WAS.

Others' Opinions

NOT GOOD (Christian Science Monitor)

The new home owner and amateur gardner soon learns that the mulch left by the bullder—consisting of plaster, bent nails, sand and torn cement bags—doesn't promote the growth of shrubs and flowers.

EISENHOWER ATTACKS BY INNUENDO (Charleston, S. C., News and Courier)

President Eisenhower's "Crusade of Truth" speech in New York Monday was almost certainly aimed directly and carefully at the controversial figure of Sen. McCarthy.

The President received his heaviest burst of applause when he said that Americans must guard against "all who seek to establish over us thought control—whether they be agents of a foreign state or demagogues thirsty for personal power and public notice."

Not once during his speech did the President mention Sen. McCarthy's name; but there was no doubt in the minds of his listeners, including experienced White House reporters, that McCarthy was the target.

The business of verbally shooting a man, without mentioning his name, has somehow become associated with "clean politics" in the United States. If a public figure mentions an opponent by name and then proceeds to attack him, that is considered "dirty politics". But to attack the opponent without specific mention of him is deemed dignified and "keeping politics on a high plane."

Letters

DIPLOMAS FOR G. I.'s

Editor, Franklin Press:

I was one of the smart ones who quit high school before I graduated and I later was drafted into the Army. I have been over here in Japan for 19 months and since I have been over here all of my buddies who hadn't finished high school have taken the G.E.D. test put out by the Army and have received high school diplomas. But I happened to be from so-often called "good old North Carolina" and I can't get a high school diploma from the schools, even though the Army approves it.

I would like to know just why the state doesn't recognize the test. There's just one other state besides ours that does this.

An Unhappy Soldier,

APO 27, c/o Postmaster CPL. ANDREW HOLDEN
San Francisco, Calif.

(EDITOR'S NOTE: The awarding of high school diplomas is regulated by the State Board of Education. Since shortly after the end of World War II, tests given by the services have not been considered adequate for high school diploma. However, many North Carolina servicemen have made application for, and have received, high school diplomas from other states.)

LIKES EDITORIAL

Dear Mr. Jones:

Since the recent Supreme Court decision, outlawing racial segregation in the public schools, I have read editorial comments in the daily papers from Washington to Atlanta, but in my opinion your editorial in The Press ("The Court Decision", issue of May 27) is the sanest and clearest on the subject of any that I have read.

Surely you are right in assuming that public opinion is fast coming to the side of anti-segregation. No doubt the Supreme Court gave full weight to this new development in rendering its historic decision. Within the last dozen years, millions of our choice young white men have fought on the battlefields beside the young colored boys. They have mixed and mingled together when not fighting. White and Negro children are thrown together in schools on military reservations. Then the two races of children often play together around their homes or on the streets when their parents live in close proximity to each other.

It will be a bit difficult for us older ones who are steeped in prejudice to break with past customs, but I think the beginning will be the hardest. If parents will just let their children alone, I am confident they will have no trouble at all.

However, a very great responsibility rests on the Negroes themselves in making this non-segregation an orderly transition. The more humble they are, the easier it will be for all concerned. But some recent observations lead to the conclusion that they are not going to accept the court decision in a spirit of humility, but for many it will be just the opposite.

Some have already developed a spirit of boldness in public conveyances. Only two or three days ago, while riding in a passenger train from Atlanta to Charlotte, I went into the white rest room and found two colored boys washing and combing their hair as though they had as much right there as white people. This attitude on the part of the Negro will nettle the whites and make full compliance with the Court decision a difficult one.

Sincerely yours,

Charlotte, N. C. R. M. PEEK

STRICTLY

PERSONAL

By WEIMAR JONES

If you want music while you eat, this modern bit of restaurant equipment, the juke box, is wonderful. You drop a nickel in the slot, and out comes your favorite tune.

But if you don't want music? If you want to eat in peace and quiet, the juke box can quickly become an instrument of the devil. Of persecution, too; because I've never found one with a slot where you can put in a nickel to keep the darn thing silent.

Since they lack that slot, you are forced to listen, whether you want to or not, and to listen to the tune somebody else selects, whether you like that or not. I resent being forced to do anything.

I've always felt that way, but until recently I never got around to doing anything about my convictions on the subject. The other day I did.

This, then, is the story of the muted juke box.

Mrs. Jones and I were in a town where nobody knew us. It was about 9 a. m. I hadn't had the morning coffee that usually I have even before I dress. I felt exactly the way any coffee-drinker feels before he's had his morning cup—except, that morning, I felt a good deal more so.

We went into a restaurant for breakfast.

Just as we sat down, the loudest juke box I've ever heard let loose with the most raucous noise I've ever heard—well, at least, the loudest, most

—Continued on Page 3

News Making As It Looks To A Maconite By BOB SLOAN

There has already been considerable speculation as to the whys and wherefores of the recent political campaign but I believe The Duram Observer probably got the basic issue best in focus with the following account:

"Political observers like to recall the time Scott as Commissioner of Agriculture of North Carolina issued a call to the farmers of the State to come to Raleigh to prevent passage of anti-farm legislation. No one expected more than 100 horny-handed tillers of the soil to put in an appearance. When the day for the hearing arrived the farmers swarmed over Raleigh like so many swarms of bees. Like the swarming bees they were mad. There was only one building in Raleigh large enough to accommodate the crowd . . . the auditorium at the opposite end of Fayetteville street from the State capitol. The meeting had to be adjourned to the auditorium.

"There were many speakers on the program. Everyone has forgotten the issue involved in the discussion, but none have forgotten the occasion. The crowd hooted and cat-called the proponents. It was a matter of waiting for the star attraction. The farmers wanted to hear what Kerr Scott had to say about the legislation.

"Just what the former Commissioner of Agriculture said during his speech of nearly an hour's duration has been forgotten along with the issue involved, except one little anecdote used in his opening remarks. It went this way:

"My friends, the speakers who have preceded me tell you no harm is intended by the proposed legislation. It reminds me of the fellow who once caught a big fish. He was preparing to clean his prize fish and have it for his supper. While he was holding the fish with one hand he sharpened his knife with the other. The fish wriggled to free himself from his captor. 'Lie still,' said the fisherman. 'I'm not going to hurt you. I'm not going to do a thing to hurt you. I'm just going to gut you.'

"The roar, applause, yells and general confusion that followed almost broke up the meeting. It seemed to observers that the noise could be heard from Murphy to Manteo.

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Do You Remember?

(Looking backward through the files of The Press)

50 YEARS AGO THIS WEEK
Tom Johnston rushed in just as we were going to press and reported that he had beans from his garden yesterday.

A large new bell passed through town last week on its way to Smithbridge to be placed in the belfry of the new Methodist church at Asbury to replace one destroyed by fire a year or two ago.

Most of Macon's wheat crops look very promising.

25 YEARS AGO

At its meeting Wednesday night of last week the town board decided to cease all efforts at the present time to obtain an additional water supply for Franklin. The new well that has just been abandoned, after costing the town more than \$4,000, evidently acted a deterrent in so far as boring other wells is concerned.

Word has just been received at Franklin that Uncle Johnny Crawford, who lacks only one year of being as old as Macon County, will attend the Centennial here next Saturday. Mr. Crawford is now a citizen of Clay County, having moved there many years ago from Macon.

Mrs. Eva Ashear, after an extended visit to her parents, Mr. and Mrs. Rufe Henry, in California, returned to Franklin last Tuesday.

10 YEARS AGO

More than 400 men, women and young people answered the call of Franklin church bells on Invasion Day and filled the Baptist church for the union prayer service at 3 p. m.

Misses Ollie and Lelia Whitaker, of Andrews, spent the week-end visiting their sister-in-law, Mrs. J. E. Whitaker, at her home on Harrison Avenue.

Barbara Zoellner has been elected editor-in-chief of The Mountain Trail, Highlands school paper.