## EDITORIAL WEIMAR JONES,

The Constitution---III

The men who drafted the U. S. Constitution got along fine, till they abandoned general principles and tried to specify just how a certain thing should

That is exactly what they appear to have tried to do in Article 2, which appears on this page. It sets out in complicated detail the exact method to be followed in the election of a President and a Vice President. And it didn't work.

Although sentiment already was sharply divided on the subject of a strong central government vs. a weak one, it doesn't seem to have occurred to "the founding fathers" that we would have parties in this country. Nor did they have in mind election of the President and Vice President by the people. Instead, the people were to name as electors men in whose character and judgment they had confidence; then the electors would meet and, using their own judgment, would ballot for a President. The man who got the second highest vote in the Electoral College would be the Vice President.

The new government was only 12 years old when trouble developed. In 1800, each of the two parties put up two candidates, one to be President, and the other Vice President. The Democratic-Republican party won the election, and naturally all the electors of that party voted for its candidates. The result was that Thomas Jefferson and Aaron Burr got the same number of electoral votes. It took 36 ballots in the House of Representatives (where each state had one vote) to break the tie.

The 12th amendment, adopted in 1804, sought to solve the problem. But questions about the method of election, the Presidential succession, and the term of office have continuted to plague the country. The 20th and 22nd amendments, both adopted in recent years, deal with the subject-but the prob-1em still seems unsettled.

#### WHAT ABOUT THE COURTS?

Did the constitutional convention of 1787 intend to give the Supreme Court the power to void acts of Congress or of the executive or of individual states, on the ground they violate the U. S. Constitution? It seems plain that was not intended. Here are some of the evidences it was not:

(a) The convention carefully spelled out, in all other areas, exactly what powers were delegated and which ones were not. And nowhere in Article 3 (which appears on this page), dealing with the judiciary-or elsewhere in the Constitution-is the subject even mentioned.

(b) When it was proposed to the convention that the Supreme Court and the President, together, be given the authority to revise acts of Congress, the proposal was voted down.

(c) Obviously, the question of whether the Constitution was obeyed had to be left to the judgment and conscience of somebody. And the early history of the nation indicates Congress and the President felt they were the somebody. Whether a bill was constitutional was a major subject of debate in the early Congresses (as contrasted with the present tendency of Congress to pass the buck to the Supreme Court). And as late as the Reconstruction period, President Andrew Johnson repeatedly vetoed acts of Congress, on the ground they violated the Constitution.

Half a century after adoption of the Constitution, President Andrew Jackson enunciated this

"The Congress, the Executive, and the Court must each for itself be guided by its own opinion of the Constitution. Each public officer who takes an oath to support the Constitution swears that he will support it as he understands it, and not as it is understood by others. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges, and on that point the President is independent of both."

## HOW DID IT GET IT?

How, then, did the Supreme Court get the authority to determine the constitutionality of the acts of Congress and the executive and the individual states? There seems only one answer: It took it - and slowly but steadily, enlarged it. Some critics of the court use the word "usurp". And they apply that word particularly to John Marshall, who was Chief Justice from 1801 to 1835.

Well, critics can find plenty of chinks in Marshall's armor; there is abundant evidence that some of his decisions were dictated more by his personal hatred of Jefferson and his contempt for democracy than by the Constitution. It is true, too, that he probably did more than any other one man to make the Supreme Court the powerful force it has become.

But he cannot fairly be criticized (or praised) for originating the idea that the Supreme Court is the arbiter of constitutionality. For as early as 1796, the Court approved an act of Congress, holding it was constitutional, and therefore valid.

This should be added, however:

The statement is often made, in defense of the

court's alleged practice of "legislating" instead of merely "interpreting" the Constitution: "Well, the Court has always legislated." That just isn't true. During this nation's first 70 years, the Supreme Court invalidated only two acts of Congress as unconstitutional. And in only one of those — the Dred Scott decision of 1857 — could it be charged with "legislating". Incidentally, that bit of lawmaking, as a matter of expediency (if it was that), went a long way toward precipitating the Civil War. The doctrine of changing interpretation to fit changing conditions is a relatively new one.

It is worth noting, too, that it is only in the last quarter-century or so that the court has acted so often that nobody is ever quite sure what is legal and what isn't, until the Court has passed

That first Russian satellite was bad enough. But doggone the second one!

## Letters

## Why Doesn't Franklin Advertise?

As a stranger in your midst, I have been surprised to find such a lack of foresight and neglect of extolling the virtues of Macon County. We are terminating a 12,000-mile tour of the United States and I can honestly say no lovelier views have we seen than the views in an area surrounding Macon County. A pleasing climate goes with the views, Your people are friendly, courteous, and graciously obliging.

We like what we have seen, but nobody from Franklin told us of this lovely country. We just stumbled across it in our travels. Why don't the town and county advertise the area

We have purchased a home and soon we shall be spending our dollars here instead of in other areas. Somebody should get busy and start selling Franklin and Macon County.

Jensen Beach, Fla.

How President Elected

# "Whew! Things Really Looked Bad There For Awhile"



# The CONSTITUTION OF THE UNITED STATES INSTALLMENT

SUPREME COURT SET UP

(EDITOR'S NOTE: Below is the third installment of the Constitution States, which is being published serially by The Press. The remainder of the Constitution, proper, will appear next week. In the fifth and sixth installments, the amendments will be published.)

#### ARTICLE II

SECTION 1-1. The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected as follows:

2. Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative or per-son holding an office of trust or profit under the United States, shall be appointed an elector.

3. The electors shall meet in States. their respective States, and vote by ballot for two persons, of whom one at least shall not be an in-Senate. The President of the Sen- United States. ate shall, in the presence of the 6. In case of the removal of the

Franklin has nine stores.

veyor; and C, M. Moore, coroner.

electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose, shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them

ARTHUR MARLAND

by ballot the Vice President. 4. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes: which day shall be the same throughout the United

#### President's Qualifications

5. No person except a natural habitant of the same state with born citizen, or a citizen of the themselves. And they shall make United States, at the time of the a list of all the persons voted adoption of this Constitution, shall for, and of the number of votes be eligible to the office of Presifor each; which list they shall dent; neither shall any person sign and certify, and transmit be eligible to that office who shall rected to the President of the teen years a resident within the

Senate and House of Representa- President from office, or of his tives, open all the certificates, death, resignation, or inability to and the votes shall then be count discharge the powers and duties ed. The person having the great of the said office, the same shall est number of votes shall be the devolve on the Vice President, and President, if such number be a the Congress may by law provide majority of the whole number of for the case of removal, death.

DO YOU REMEMBER?

Looking Backward Through the Files of The Press

65 YEARS AGO THIS WEEK

(1892)

The balloon ascension was a failure last Saturday, as it would

Pork, flour, wheat, corn, rye, oats, wood, dried fruit, and

paper currency will not be refused when offered.

25 YEARS AGO

ticket into office: A. B. Slagle, sheriff; C. L. Ingram, representa-

tive; C. Tom Bryson, register of deeds; Walter Gibson, Gus

Leach, and E. W. Long, commissioners; John H. Dalton, sur-

With a quota of \$375 to be raised, the Macon County chapter

of the American Red Cross will launch its annual membership roll

call November 11. John B. Byrnne will direct the roll call in

10 YEARS AGO

Cottages have been bought by Mr. and Mrs. James Vovos, of

For a sale price reported as approximately \$25,000, Wayah View

Mrs. Sam Alexander and son, Mrs. Gus Leach, Mr. and Mrs.

Bob Sloan, Mrs. George Bulgin, Mr. and Mrs. John Bulgin and

Franklin, and Mrs. Carl S. Slagle in the rural areas.

Petersburg, Ind., from Mr. and Mrs. Fred Cabe.

Macon County voters Tuesday swept the full Democratic county

not hold gas and failed to rise. It was a success in bringing out

a large number of citizens to hear the public speaking.

lumber will pay subscriptions to The Press .

#### **TREASON**

Like present-day Americans, the men who wrote the Constiwere concerned with treason (the commoner modern word is "subversive").

It is significant, though, that their first emphasis seems to have been not on national security, but on protecting the rights of the accused.

Section 3 of Article 3 (printed elsewhere on this page) is careful to say exactly what treason is. Then it goes on to provide that "no person shall be convicted of treason unless on the testimony of two persons to the same overt act, or on confession in open court"; and to specify that conviction of treason "shall not work corruption of blood that is, that the punishment shall not, as was true in England, be carried over to the descendants of the one convicted.

resignation, or inability, both of disability be removed, or a President shall be elected.

7. The President shall, at stated times, receive for his services, a compensation which shall neither United States, or any of them.

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United their continuance in office. States, and will to the best of my United States."

be Commander-in-Chief of the or which shall be made, under Army and Navy of the United their authority;—to all cases afseveral States, when called into ministers and consuls;—to all come from within, the actual service of the United cases of admiralty and maritime. That is not to spective offices, and he shall have and citizens of another State; United States, except in cases of same State, claiming lands under impeachment.

## Powers Of President

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior

the President alone, in the courts be by jury; and such trial shall of law, or in the heads of depart- be held in the State where the said crimes shall have been com-

3. The President shall have pow- mitted; but when not committed er to till up all vacancies that within any State, the trial shall may happen during the recess of be at such place or places as the the Senate, by granting commis- Congress may by law have di-sions which shall expire at the rected. end of their next session.

Report To Congress

SEC. 3.—He shall from time to in levying war against them, or, time give to the Congress infor- in adhering to their enemies, giv-mation of the State of the Union, ing them aid and comfort. No and recommend to their consideration such measures as he shall treason unless on the testimony judge necessary and expedient; of two witnesses to the same overt he may, on extraordinary oc- act, or on confession in open casions, convene both Houses, or court. either of them, and in case of disagreement between them, with er to declare the punishment of respect to the time of adjourn treason, but no attainder of ment, he may adjourn them to treason shall work corruption of such time as he shall think blood, or forfeiture except during proper; he shall receive ambassadors and other public ministers; he shall take care that the laws RACE AND DIGNITY be faithfully executed, and shall commission all the officers of the United States.

SEC. 4-The President, Vice the President and Vice President, President and all civil officers of declaring what officer shall then the United States, shall be rect as President, and such officer moved from office on impeachshall act accordingly until the ment for, and conviction of treason, bribery, or other high crimes and misdemeanors.

#### ARTICLE III

SECTION 1-The judicial powbe increased nor diminished dur- er of the United States, shall be ing the period for which he shall vested in one Supreme Court, and sealed to the seat of the Govern not have attained to the age of have been elected, and he shall in such inferior courts as the ment of the United States, di-thirty-five years, and been four not receive within that period Congress may from time to time have been elected, and he shall in such inferior courts as the "No race can prosper till it not receive within that period Congress may from time to time learns that there is as much any other emolument from the ordain and establish. The judges, dignity in tilling a field as in both of the Supreme and inferior writing a poem.' 8. Before he enter on the execu- courts, shall hold their offices tion of his office, he shall take during good behavior, and shall, speaking to members of his own the following oath or affirmation: at stated times, receive for their race. But his words, far ahead services a compensation which of their time, might well have shall not be diminished during been addressed to all men, of

> Constitution, the laws of the dependent on avocation or cir-SEC. 2-1. The President shall United States, and treaties made, cumstance or position. party; grants of different States, and between a State, or the citizens thereof, and foreign States, citizens or subjects.

a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

Trial By Jury

officers, as they think proper; in in cases of impeachment, shall I salute him.

2. The Congress shall have pow-

SEC. 3-1. Treason against the

United States, shall consist only

person shall be convicted of

the life of the person attainted.

### A Thought for Today (From yesterday's talk by the

editor on The Press' weekly 7:45 a.m. Wednesday program, "A Thought For Today", over Sta-Booker T. Washington said it:

The great Negro leader was all races. Because, even today, SEC. 2-1. The judicial power we have not fully learned the ability, preserve, protect and de-shall extend to all cases, in law lesson that there is dignity in fend the Constitution of the and equity, arising under this all useful work. Dignity is not

Were he alive today, I believe Booker T. Washington would add States, and of the militia of the fecting ambassadors, other public another thought: Dignity must

That is not to States; he may require the opin- jurisdiction;—to controversies to respect due every human being, ion, in writing, of the principal which the United States shall of whatever age or condition or officer in each of the executive be a party; — to contro- race. And most thoughtful perdepartments, upon any subject reversies between two or more sons will show such respect by lating to the duties of their re-States; — between a State little courtesies, such as speaking pleasantly, or holding a door power to grant reprieves and par- - between citizens of different for another. The man who re dons for offenses against the States; -- between citizens of the fuses such courtesy demeans only himself.

But it seems to me many members of the Negro race have been misled into thinking dignity can be conferred on them by govern-2. In all cases affecting am. ment and laws and courts, It bassadors, other public ministers cannot. For if a man is respected and consuls, and those in which as an individual, it is because he deserves respect. And if he has dignity, it is because respects himself—yes, and respects his family and his race. And surely the Negro, who has come so far in so short a time, has reason to respect his race

I am glad, and proud, that the high type Negro citizen we have here in Macon County, as a rule, seems wise enough to 3. The trial of all crimes, except recognize that. For that wisdom,

children, Frank Duncan and daughter, Misses Ruth and Barbara Edwards, and Miss Elizabeth Jones attended the Ringling Brothers Circus in Asheville last Friday.