

EDITORIAL WEIMAR JONES, Editor

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 be done.

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 continued to plague the country. The 20th and 22nd amendments, both adopted in recent years, deal with the subject—but the problem 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 doctrine:

"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 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 law-making, 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 on it.

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

Letters

Why Doesn't Franklin Advertise?

Editor, The Press:

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 more?

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.

ARTHUR MARLAND

Jensen Beach, Fla.

How President Elected

The CONSTITUTION OF THE UNITED STATES

THIRD INSTALLMENT

SUPREME COURT SET UP

TREASON

Like present-day Americans, the men who wrote the Constitution were 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 the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly until the 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 be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

SEC. 2—1. The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of 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 officers, as they think proper; in

the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

Report To Congress

SEC. 3.—He shall from time to time give to the Congress information of the State of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SEC. 4.—The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III

SECTION 1—The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

SEC. 2—1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting ambassadors, other public ministers and consuls;—to all cases of admiralty and maritime jurisdiction;—to controversies to which the United States shall be a party; — to controversies between two or more States; — between a State and citizens of another State; — between citizens of different States;—between citizens of the same State, claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens or subjects.

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which 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

3. The trial of all crimes, except in cases of impeachment, shall

be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SEC. 3—1. Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained.

RACE AND DIGNITY

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 Station WFSC).

Booker T. Washington said it: "No race can prosper till it learns that there is as much dignity in tilling a field as in writing a poem."

The great Negro leader was speaking to members of his own race. But his words, far ahead of their time, might well have been addressed to all men, of all races. Because, even today, we have not fully learned the lesson that there is dignity in all useful work. Dignity is not dependent on avocation or circumstance or position.

Were he alive today, I believe Booker T. Washington would add another thought: Dignity must come from within.

That is not to discount the respect due every human being, of whatever age or condition or race. And most thoughtful persons will show such respect by little courtesies, such as speaking pleasantly, or holding a door for another. The man who refuses 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 government and laws and courts. It cannot. For if a man is respected as an individual, it is because he deserves respect. And if he 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 recognize that. For that wisdom, I salute him.

"Whew! Things Really Looked Bad There For Awhile"

