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# FOREST CITY COURIER

FOREST CITY—"ONE OF THE TEN BEST PLANNED AND MOST BEAUTIFUL CITIES IN THE U. S. A." U. S. DEPARTMENT OF AGRICULTURE SURVEY.

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## Police Slayer Given 30 Years Sentence

### Judge Cameron McRae Gives Maximum Sentence After Jury Finds Fred Smart Guilty of Second Degree Murder.

Rutherfordton, Aug. 31.—The jury in the Fred Smart murder case brought in a verdict of guilty of murder in the second degree at 6:30 o'clock Saturday evening after being out four hours. Judge Cameron F. McRae immediately sentenced Smart, who killed Chief of Police Price of Forest City to 30 years in the state's prison. This is the maximum sentence for second degree murder.

Judge McRae declared the prisoner should feel relieved to escape first degree verdict, though he added that he was not criticizing the jury.

Attorneys for Smart insisted that the sentence be from 20 to 30 years, but this was refused.

Solicitor J. Will Pless, Jr., closed the arguments at noon and Judge McRae charged the jury until 2 o'clock. After 30 minutes for lunch, the jury took the case.

Smart remained calm and showed no signs of emotion when sentence was passed upon him, though his children burst into tears.

Attorneys for Smart moved to set aside the verdict, but were overruled. They gave notice of appeal and bond was fixed at \$15,000. They admitted, however, that they had little intention of appealing the case.

Smart was charged with killing Chief Austin A. Price, of the Forest City police department on Saturday night, June 6, 1931, after that officer had arrested him on a charge of drunkenness. The defendant was formally arraigned Monday morning, August 24, on a charge of first degree murder. Smart pled not guilty. Judge Cameron McRae, who presided over the special term of court called to try Smart, ordered a venire of 100 men to report Wednesday morning at 9:30 o'clock. The entire day was consumed in selecting the jury.

#### Jury Selected.

Eleven farmers and one merchant composed the jury which decided the fate of the defendant. They were selected from a special venire of 100 men.

L. D. Hemphill, farmer, of the northern section of the county, was the first juror selected at 10 o'clock Wednesday, while E. Phillips, farmer, of the southern end of the county, was the last juror selected at 4:45 p. m. Wednesday.

#### All Sections Represented.

The other jurors were J. E. Eply, H. C. Dobbins, J. A. Frady, C. D. Fincannon, G. H. Cochran, L. W. Wallace, W. P. Henson, W. M. Griswold and J. E. Norville, farmers, and G. N. Bennett, merchant, of near Rutherfordton. They represent every section of Rutherford County.

Seventeen state witnesses were sworn in and court adjourned until 9:30 o'clock Thursday morning.

The large court room was crowded all day with people. Smart sat calmly and listened attentively as various men were asked if they believed in capital punishment and if they had paid their taxes.

Nearly all of the 100 members of the venire were examined before 12 men were selected who had not formed or expressed an opinion as to Smart's guilt or innocence.

Witnesses for the state were examined Thursday. More than 1,000 spectators utilized every space in the courtroom. At least one thousand were turned away.

#### "Drunk" Testimony.

The defense put up 22 witnesses, including Smart, during the day. Eleven of them gave the defendant a good character and 10 stated that he was "drunk" the night of the killing.

Practically all of the state's 18 witnesses testified Smart was "under the influence of whiskey" the night of the killing "but was not drunk."

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"Dr. W. C. Bostic, Sr., Forest City physician, the first witness in the trial, who reached the officer eight minutes after three shots had pierced his body, testified that any of the wounds was sufficient to have caused death. Under questioning of Solicitor J. Will Pless, Jr., of Marion, Dr. Bostic testified he examined the body in an undertaking establishment and found severe knife wounds in the back that also would have caused death. He said he smelled the odor of whiskey on Smart's breath, but that he did not consider the man intoxicated.

M. N. Henderson of Forest City, followed Dr. Bostic to the stand and testified he heard Smart say "He'd been run over long enough in Forest City" a short time before the slaying. Walter Brady, the third state witness, corroborated Henderson's testimony and testified further that he heard Smart remark "I'll die before I go home" when told by Price to get off the streets.

R. L. Taylor, Forest City, cafe employee, testified he heard Smart curse Price a short time before the tragedy.

Details of the killing were told by a series of witnesses the state sent to the stand after Taylor's testimony was received.

#### Dramatic Story.

Durham Philbeck of Caroleen, who was in Forest City on a visit, told the most dramatic story of it. He related that Price passed him on the street leading Smart to jail and then he heard the officer call for help. An instant later, he said, the report of a pistol shot sounded and he saw the flash of fire from the gun held by Smart.

Smart was stooping over, Philbeck said, when the first shot was fired and then stepped back. "Don't do that," Philbeck quoted Price as saying.

Smart then fired four more shots, Philbeck said, and the officer slumped in the street.

Philbeck was not cross-examined. A similar story was told by his father, Lester Philbeck, who was with him.

Charles Brackett, who was at the scene, related that Smart turned the pistol toward Officer Troy Green, who came up a moment after Price was shot. Green, taking the stand, related that he shot once at Smart, but missed, and withheld further fire when Smart held up his hands.

#### Smart on Stand.

Smart was called to the stand late in the afternoon and testified that he had no recollection of anything that took place on the night of the killing.

Smart testified he had no knowledge that Chief Price arrested him or that anybody spoke to him from 8 p. m., June 6, the date of the killing, until the next morning. He denied telling officers anything about the slaying while he was being taken to jail after Price had been killed and disclaimed any knowledge of anything that took place the night of the killing.

Smart was questioned 30 minutes by Fred D. Hamrick, his own chief counsel, and was cross-examined 45 minutes by Clyde R. Hoey of Shelby, of the prosecution.

#### Friday's Proceedings.

Testimony was closed at 11 o'clock Friday morning and arguments by counsel were begun. All save two of the attorneys involved in the case presented their pleas to the jury Friday.

The evidence was put through in a day and a half, 24 witnesses appearing for the state and 27 for the defense.

#### Smiles Gone.

The defendant lost his smiles

## JUDGE'S CHARGE TO JURY IN TRIAL OF FRED SMART

A complete stenographic report of Judge Cameron McRae's charge to the jury in the trial of Fred Smart for the slaying of Chief A. A. Price, will be found on the first page of section two.

Friday as he sat calmly listening to state's witnesses and lawyers tell of the killing in detail.

The widow and other members of the dead man's family sitting in the rear of prosecuting attorneys wept Friday morning as a lawyer addressing the jurors told in detail how Smart cut and shot Chief Price.

The courtroom was packed again Friday. Those attending the court sat through the speeches to the jury and listened attentively.

#### Defense Witnesses.

The defense put five witnesses on the stand Friday morning, Julius Hardin, J. Downey, W. B. Marks and J. H. Mayse, all of whom stated that Smart was drunk on the night of the killing while Mike Morrow, who was in jail here on June 6 testified that he stayed in the cell that night with Smart after he was brought here, and that Smart entered the jail after midnight drunk and partly unconscious, and was suffering with a bullet wound through his foot.

He admitted on cross-examination that he (Morrow) had been arrested six times.

#### State Testimony.

The state put seven more witnesses on the stand Friday morning. Dr. W. C. Bostic, Jr., who dressed Smart's foot soon after the killing said Smart was suffering from his foot wound but knew him. Dr. Duncan and others. Dr. Bostic further testified that in his opinion Smart knew what he was doing and at that time, knew right from wrong.

The Rev. T. A. Jones, Baptist minister who was working in a grocery store in Forest City the night of the murder, told that Smart came into the store ten minutes before the killing and purchased a plug of tobacco and gave him the correct change without any questions and he noticed nothing wrong with Smart. Clyde Hardin, who works in a store near the killing told that he talked to Smart 15 minutes before the killing and he was drinking.

#### Recognized Voice.

F. F. Black, of Forest City, who was telephoning in the city hall just after the killing said Smart recognized his voice and called to him to phone a doctor as his foot was hurting. Officer Yates Duncan stated that Smart was drinking but knew what he was doing.

G. B. Harrill corroborated what Lawrence Roberson, negro, stated in court Thursday that Smart told Roberson the night of the killing that Forest City had got rid of one Price and he would take care of the other. Officer Troy Green again took the stand Friday morning and told of hearing Smart say just after he arrived here in jail, the night of the killing, "guess this means the electric chair for me."

#### Murphy Heard.

Judge J. L. Murphy, of Hickory, spoke first for the state, followed by J. S. Dockery for the defense. Hon. C. O. Ridings spoke next for the state, and made a masterful plea for conviction. N. C. Harris, attorney for the defense next spoke. Attorney Clyde Hoey, of Shelby, for the state, spoke next, and immediately after his argument court adjourned until Saturday morning. No time limit was placed on the speeches of counsel.

#### Close Arguments.

Court convened Saturday morning at 9:30 o'clock. Attorney Fred D. Hamrick, chief of the defense staff, presented his argument immediately after the opening of court. Solicitor J. Will Pless closed the arguments before the jury at 12:20 Saturday. At the close of Mr. Pless' argument,

## JUDGE WEBB ORDERS \$25,000 JUDGMENT AGAINST FOREST CITY BANK DIRECTORS

Asheville, Sept. 1.—Judge E. Yates Webb, in U. S. district court here, has signed an order directing a judgment of \$25,000, with interest from May 28, 1930, in favor of the Metropolitan Casualty Insurance company of New York, against T. B. Lovelace, C. C. Moore and B. C. Horne, residents of Forest City.

The suit is the outgrowth of the failure of the Farmers Bank and Trust company at Forest City, Rutherford county, on February 4, 1929, tying up \$161,684.91 of the public funds of the Rutherford county board of commissioners.

The insurance company executed

a depository bond for \$25,000 in favor of the board of commissioners and was indemnified by Messrs. Moore Lovelace and Horn.

According to the complaint, the casualty company paid the depository bond to the board of commissioners May 27, 1931, and filed suit in federal court here last March 21, 1931, to recover from the three defendants.

The defendants were large stockholders in the closed Farmers Bank and Trust company, at Forest City and signed a bond guaranteeing the casualty company against loss on its depository bond to Rutherford county.

## F. C.-Alexander To Play Gastonia

Games for this week will include a series with the Gastonia Weavers. Three former Forest City players are with this club and they are going good, Ed Cross, Red Costner, and Bobby Forbes are the old home towners. Gastonia has secured several Marion players to add strength to their line up in the series.

#### WINS THIRD PRIZE.

Mr. Ernest Harrill has received the following notice from the Highway Education Board, Washington, D. C.: "Your essay, entered in the Tenth Annual Street and Highway Safety Campaign, has been awarded third state prize for North Carolina. This award consists of a check for five dollars and a bronze medal, which will be sent to you later. We wish to offer our congratulations upon your success and express the hope that your interests in safety will continue through future years."

Mr. Ernest Harrill is the thirteen-year-old son of Mr. and Mrs. Buren Harrill and this is his second year in high school.

## BAPTIST PASTOR TO REPEAT MESSAGE

The pastor of the First Baptist church, two weeks ago, delivered a sermon in the interest of the schools, the teachers and the parents of the city. By request of the members the pastor will repeat this sermon next Sunday morning at 11 o'clock. The schools, the teachers and the parents are extended a special invitation to attend the service. The public is also cordially invited.

#### SPINDALE NOTES.

Spindale, Sept. 2.—Mr. and Mrs. M. T. Long and two children, of Wadesboro, arrived Saturday for a visit to Mrs. Long's parents, Mr. and Mrs. W. M. Clay. Mr. Long returned Sunday, but Mrs. Long and children will spend the week here.

Mr. Henry Thomas and several friends have returned after spending a week in Washington and New York.

Mr. and Mrs. Curtis Giles and son, Mr. and Mrs. Addie Bland and Misses Eula and Grace Hester spent part of last week at Carolina Beach.

Miss Susan Etta Daniel and Mr. Clifford Lovelace were married in Spartanburg on June 11, and kept the transaction a secret until last week.

More for your money in school supplies at Courtney's Ten Cent Store.

Judge McRae charged the jury. The charge was completed at 1:45, after an hour and 25 minutes consumed in reviewing the case. Court adjourned for lunch. Court re-convened at 2:30, and after four hours deliberation the jury returned a verdict of murder in the second degree, and Smart was sentenced to thirty years in the state's prison.

#### Taken to Prison.

Smart was taken to Raleigh Tuesday morning to begin serving his sentence of thirty years. Deputies A. A. McFarland, Charles McFarland and Costner accompanied him to Raleigh.

## WOMAN'S CLUB TO MEET THURSDAY

### First Meeting of New Year to Be Held at 3:45 Today With Mrs. G. C. McDaniel.

The first fall meeting of the Forest City Woman's Club will be held Thursday afternoon, Sept. 3rd, at 3:45 in the home of Mrs. G. C. McDaniel with Mrs. J. W. Morgan, Mrs. B. T. Jones and Mrs. S. J. Asbury, Jr., as associate hostesses. This is to be a general meeting for all interested club women and every old member is urged to be present and ready to enter into a new club year with all their past enthusiasm for giving service thru this medium towards the public and civic interests of their town and community. Any new member or one wishing to become a member is cordially invited to this meeting and the president wishes to again state that the membership fee of \$1.00 this year will entitle a member to become associated with any department of the club. A drama and art department is planned and will have their meetings in the evenings. Anyone who will find it inconvenient to join a department meeting in the afternoon, will enjoy this arrangement.

Never in the history of woman's club work has there been such a desperate need for an earnest and sincere endeavor on the part of our organization to do their bit towards keeping up the higher spirit of their own community. In this connection it is of great interest to all club women to review the recent interview which the National Federation president, Mrs. John F. Sippel, had recently with Mrs. Herbert Hoover, partly as follows:

Mrs. Sippel set down "thoughts" occurring in talking with Mrs. Hoover the other day on economic conditions throughout the world."

She made the conference in the White House the basis for an appeal to club women "not only to do our share in the present crisis, but to be more ready to meet peace-time emergencies."

The article was given point here by Washington's knowledge of Mrs. Hoover's intimate acquaintance both with the public welfare machinery of the World War and with the present unemployment situation.

Mrs. Sippel pictured Mrs. Hoover's idea on relief as follows:

An America "more keenly alert to the needs of the people in our communities."

"Organized social groups marshaling forces to meet emergencies which may arise during the coming months in an effort to prevent want from lack of employment or from other causes, just as we met emergencies in the years of the war."

"These in distress relieved by whichever group—visiting nurses, playground association, family service societies, parent-teachers association, etc.—is there to help them."

"Great organizations taking on, not only responsibility for the coming season of distress, but responsibility for relieving suffering year after year."

The article pointed out that many people do not know how to reach out for assistance to societies organized to help them. The example cited was the organizations for prevention and control of tuberculosis—a subject close to Mrs. Hoover's heart, her own son having been benefitted by prompt treatment. It was urged that those who need it be put in touch with "trained workers who recognize the signs of that dread disease before it has often a real grip."

By such community co-operation, the article said, "We could help largely to prevent the circumstances of having in our midst undernourished children; girls and boys who could not go to school for lack of clothing; old men and women in need."

To the women of the land the Mrs. Hoover-Sippel conversation put the question: "While the financial stress in such times seems overwhelming, would not the humanizing touch of those interested help in keeping up the morale?"

## FALL TERM CIVIL COURT IN SESSION

### Judge H. Hoyle Sink Presiding Over Term—Several Cases Disposed of.

Rutherfordton, Sept. 2.—The fall term of Superior Court for the trial of civil cases convened here Monday morning with Judge H. Hoyle Sink presiding. A heavy docket faces this term of court, which will likely continue two weeks.

Cases disposed of up to Wednesday are as follows:

Divorces granted: Estelle Robertson vs. Preston Robertson; Lillian Toney vs. Laxton Toney; Hattie Dyer Head vs. Rucker Head; H. G. Payne vs. Essie Payne.

A number of cases of the Corporation Commission of North Carolina as plaintiffs, came up, and the order of the court was that "The Commissioner of Banks of North Carolina, ex rel" be substituted as party plaintiff in the actions in the place and stead of the Corporation Commission of North Carolina, and the Commissioner of Banks authorized to prosecute actions to final judgment. These actions were Corporation Commission of North Carolina vs. G. P. Collins, Mrs. Julia Collins and J. L. Collins (ex rel Farmers Bank); Florence Mills, (ex rel Farmers Bank); Ralph Schmucker (ex rel Chimney Rock Trust Co.); R. L. Hunter and O. V. Hooker, trading as Hunter Auto Co., (ex rel Chimney Rock Trust Co.); Chimney Rock Improvement Co., and J. E. Thomas, (ex rel Chimney Rock Trust Co.); R. H. M. Whitehead and A. W. Deck (ex rel Rutherford County Bank); R. H. M. Whitehead and J. A. Mitchell (ex rel Rutherford County Bank).

Commissioner of Banks vs. J. W. Beason, S. G. Beason and T. F. Oates, trading as Beason Motor Co. Inc. Consent judgment. Plaintiff recovers \$1,000 and costs of action taxed against defendants.

Daniel Miller Co. vs. M. L. Sullivan, plaintiff recovers \$488.10 with interest from May 27, 1925, together with costs of this action.

Corporation Commission vs. Virginia Grayson. It appearing to the court that this action has been settled, appeal is dismissed.

Rosa Hoyle vs. J. H. Thomas. Non suit.

Mrs. Winona E. Barber vs. Chimney Rock Mountains, Inc. Non suit.

WOMAN'S CLUB WANTS DONATIONS OF CANNED FRUIT

The welfare chairman, Mrs. McDaniel asks that every one bring a can or jar of fruit, jelly, vegetable or magazines to today's meeting. There has been such an abundance of fruit vegetables, etc., canned this year and the welfare department will store this donation away for future use.

#### A FINE WATERMELON.

Mr. P. V. Bostic, champion cotton grower, also knows how to raise fine and luscious watermelons, judging from the fine forty-pound melon he gave The Courier last Monday. He has our thanks for his kindly remembrance. Mr. Bostic is one of the county's outstanding farmers and The Courier's good friend.