

FILE MOTION TO SET ASIDE SENTENCE AS IMPOSED BY H. SINK

(Continued from Page One)

which time it will be finally disposed of unless the Supreme Court of North Carolina fails to grant relief. In that event a certiorari will be asked of the Supreme Court of the United States, it is said, and the record carried there for its opinion. It is suggested by some attorneys that the Supreme Court will have a hard time confirming Judge Sink's judgment in this case.

The Supreme Court has recently held in the case of State vs. Ritter in the 199 N. C. Report that the punishment prescribed by Section 4173 of the Consolidated Statutes and in its opinion in the present case reported in 202 N. C. Report, it held that a conviction of conspiracy was a felony since the amendment of Section 4173 by the General Assembly of 1927. Previous to that amendment it was a misdemeanor. In the defendants' appeal, they are asking that the Supreme Court order a new trial on the grounds of misconduct of the jury during the trial of the cause rendered members of the jury unqualified and unfit to pass on this case.

Following are copies of motions and rulings in the case.
In the Superior court
August term, 1932.
State of North Carolina
County of Transylvania.
State

vs.
T. H. Shipman, J. H. Pickelsimer, C. R. McNeely and Ralph Fisher.

This cause coming to be heard before the undersigned Judge presiding at this, the next criminal term of court following the filing of the certified copy of the opinion of the Supreme court of North Carolina in the office of the Clerk of Superior court of Transylvania county which said opinion affirms the verdict and judgment in the trial of this cause as to Shipman, Pickelsimer and McNeely and Fisher, and being heard upon the motion of the defendants for a new trial for newly discovered evidence and for the misconduct of the trial jurors and being heard upon the affidavits filed, and oral evidence.

The court being of the opinion that not sufficient evidence has been offered to show any misconduct on the part of the jurors, and that they were not unduly influenced in their verdict:

And the court further being of the opinion that the defendants were given a fair and impartial trial in the court below:
It is ordered and adjudged that the motion to set the verdict aside and for a new trial be denied in the discretion of the court and that the execution of the sentence heretofore pronounced upon the defendants in pronounced upon the defendants in accordance with the order of the Supreme court of North Carolina.

It is further ordered and adjudged that the defendants' Owen, Talley and White, according to the opinion of the Supreme Court, be discharged.

It is further ordered and adjudged by the Court that execution of sentence heretofore passed upon the defendants and affirmed by the Supreme court of North Carolina be, and the same is hereby stayed pending the appeal of the defendants and each of them to the Supreme court of North Carolina.
Walter E. Moore,
Judge presiding.

From the rulings of the court, and the order of the court, the defendants and each of them in apt time, in open court appeal from such rulings and order of the court, and give notice of appeal to the Supreme court. Notice given in open court and further notice waived.

Defendants allowed 45 days in which to make up and serve case on appeal to the Supreme court.

The Solicitor for the State of North Carolina is allowed 30 days in which to make and serve counter case or file exceptions. Appeal bond in the sum of one hundred dollars adjudged sufficient.

Walter E. Moore,
Judge presiding.
In the Superior court
August term, 1932

State vs.
T. H. Shipman, J. H. Pickelsimer, C. R. McNeely and Ralph Fisher.

MOTION

The defendants and each of them in apt time requested the court to find the facts prayed for by them as appears in the record in this case (said paper writing marked "A" by the judge presiding.)

The motion is denied and the defendants except.

The defendants further requested the court to find the facts upon the motion filed both as to the question of newly discovered evidence and of misconduct of the jurors and witnesses during the trial of this case.

The motion is denied except as the facts appear in the order signed by the Court.

Exception by the defendants.
Walter E. Moore,
Judge presiding.
In the Superior Court
Petition and Motion

North Carolina,
Transylvania county.
State

vs.
Thomas H. Shipman, J. H. Pickelsimer, C. R. McNeely and Ralph Fisher.

The defendants above named, respectfully move and petition this Honorable court as follows: That the sentence heretofore imposed upon the defendants by His Honor, H. Hoyle

Sink, Judge presiding at the August Special Term, 1931, of the Superior court of Transylvania county, be stricken out:

1. Said sentence is excessive, erroneous, illegal and void, in that the said sentence is in direct conflict with and in contradiction to Sections 4172 and 4173 of the Consolidated Statutes of North Carolina.

2. That upon the face of the record it appears that the defendants were indicted upon two charges; first for the wilful and corrupt use or misapplication of the funds of Transylvania county, etc., as will be shown by reference to the bill of indictment; that the judgment of the court, pronounced upon the verdict of the jury, in said cause finding defendants, Thomas Shipman and R. Fisher not guilty, and the defendants J. H. Pickelsimer and C. R. McNeely guilty on said indictment; that the court, upon said indictment and verdict, entered judgment that prayer for judgment be continued as to the defendants J. H. Pickelsimer and C. R. McNeely, upon the payment of part of the costs, as shown by said judgment and record.

3. That each of the defendants herein were indicted on another bill of indictment charging a conspiracy to defraud Transylvania county, etc., as will appear by reference to the bill of indictment in said case, and the verdict of the jury in said case was that each of the defendants herein were guilty as charged in said bill. That said judgment of the Court shows that the defendants, and each of them, were sentenced to serve in the State's prison from two to five years, and each to pay a fine of \$5,000.00 and a part of the cost in said action. Reference is hereby made to the bills of indictment the verdict of the jury as returned into court and the judgment of the court pronounced, thereon and each all and every of said record is made a part of this petition.

4. That the sentence of from two to five years in the State's prison and the payment of the fine of \$5,000.00, is contrary to and in direct contradiction of the terms of Consolidated Statutes, Sections 4172 and 4173, wherein it is provided:

Section 4172: "Every person who shall be convicted of any felony for which no specific punishment is prescribed by statute shall be imprisoned in the county jail or state prison not exceeding two years, or be fined in the discretion of the court, or if the offense be infamous, the person offending shall be imprisoned in the county jail or state prison not less than four months nor more than ten years, or be fined."

Section 4173: "But if the offense be infamous, or done in secrecy and malice, or with deceit and intent to defraud the defendant shall be punished by imprisonment in the county jail or state prison for not less than four months nor more than ten years, or shall be fined."

And the defendants here show the court that the judgment heretofore rendered in this cause against the defendants being in excess of, and in contradiction of said statutes, is erroneous, illegal and void:

WHEREFORE, the defendants pray the Court to strike out the judgment and sentence heretofore entered against the defendants and each of them in this action, and to proceed with judgment in the case in accordance with law.

Lewis Hamlin
Jones and Ward
Johnson, Smathers and Rollins
Attorneys for the Defendants.

The court being of the opinion that it has no authority to consider the above motion, the same is denied as a matter of law.

Walter E. Moore,
Judge Presiding.

To the foregoing denial of petition and motion the defendants and each of them except and object, and appeal to the supreme court, notice of appeal given in open court and further notice appeal bond in sum of \$100.00 with 45 days to make and serve case and appeal and state allowed 30 days thereafter to serve exceptions and counter case.

Walter E. Moore,
Judge Presiding.

CAROLINA POWER CO. TO BE HEARD FIRST

Raleigh, Aug. 10.—In its announced purpose to reduce public services as much as possible, the N. C. Corporation Commission has fixed a schedule of hearings for the four big electric companies, to be followed by hearings of the major gas and telephone companies, beginning the last week in August and continuing through September.

The Carolina power and Light Co. will be heard beginning August 23, the Durham Public Service Co., August 26, the Southern Public Utilities Co., September 1, and the Tidewater Power Co., September 6. There are 48 electric companies in the State but these four do about 90 per cent of the business. Three of the 15 gas companies, doing about 80 per cent of the business, and six of the 80 telephone companies, doing about 85 per cent of the business, will later be heard. The smaller companies in all three activities will be heard later.

The commission is seeking to reduce the rates in keeping with the depressed times and the reduced income of the people of the State. Telegraph companies may not be required to appear, since this State has among the best rates for intrastate messages of any States of this Nation, a 10-word message for 30 cents.

The recent dry weather is estimated to have cut the tobacco crop of Beaufort County by 50 per cent in pounds produced and to have materially lessened the quality.

WINBORNE ELECTED STATE CHAIRMAN OF DEMOCRATIC PARTY

(Continued from page one)

ting on Mr. Winborne, who, since the first suggestion of him, has been the only man considered. He was acceptable and accepted from the first as the logical and suitable man in every respect. A native of the east and for several years a resident of the west, he has been McDowell chairman for 10 years, and managed Mr. Ehringhaus' campaign in the 11th district. He is the type of man who does not make himself obnoxious to his opponents, and his nature assures that no part of the Democratic ticket will be neglected this fall.

LOOK OUT, DOCTORS, YOU'RE NOT NEEDED

Raleigh, Aug. 10.—Hypnotism, that strange science which has baffled many a person, is now being used in the medical profession, Insurance Commissioner J. Dewey Dorsett vouching for the fact that Duke Hospital used it successfully on a woman injured in a textile plant, who had been under care of doctors for more than six months. Medical, hospital and drug bills reached about \$2,000, from which the Industrial Commission cut more than \$600, and ordered the woman to Duke. She was twice hypnotized and convinced nothing was wrong with her. She is now able to return to work. That was one reason the Industrial Commission issued a letter to the insurance companies to have all medical, hospital and drug bills itemized and copies sent to the commission for approval, before payment.

SELICA NEWS

The farmers of our section are taking a long needed rest. We are idle but are not following Bill and Beck.

The Revival at Cherryfield is progressing nicely under the pastor Rogers and his assistant. All who have attended admit that the sermons are the greatest they have ever heard.

The former Cherryfield editor is picking buckle berries, we wish he would quit long enough to say something of his section once and a while.

McDuff Bryson is doing a good job on the public road with the mowing machine. We hope more of the farmers may be hired on these jobs as we are interested in the work and would give it justice.

Jonas McKinna and sons of Little River were visiting his brother here Tuesday.

A party of our folks got a scare this week when on a huckle berry search met with two rattle snakes but those interested in another trip will be interested to know that Cecil Hensley of Cherryfield killed both snakes and there 2 less on Soapstone mountain.

Mr. and Mrs. Copa Lee and children of Lake Toxaway accompanied by Mrs. Crate McCall of Cashiers in party with a number of our folks had a picnic in the Boylston section last Sunday, also visiting many friends and relatives. It was expressed as a great day for all.

Aunt Rilza Compton gave a working last Saturday to build an annex to her dwelling on the Brooks place. A complete crew attended and almost done the job, and agreed when the remaining materials had been delivered to complete the job.

Mr. and Mrs. Lem Brooks and son J. O. of Brevard carried a party of Selicaites to Pisgah National Forest for a picnic Sunday and they all report a fine time.

Our next Community Prayer Services will be at the home of Mr. and Mrs. H. C. Barton next Saturday evening.

The Selica union Sunday school is planning a picnic soon for the whole school. Mr. Dickson the supt. is back on the job after a vacation to South Carolina with friends and kindred, we are glad to have him back. Ward Breedlove as Sunday school advocate and much experience served in this capacity in the absence of the supt.

PRAISES HOSPITAL WORK IN BREVARD

Mr. and Mrs. Howard Wyatt are confident that the Lyday Memorial hospital under the direct supervision of Dr. C. E. Cunningham and Dr. C. L. Newland will soon develop into the best hospital in Western North Carolina, according to a statement they made in a recent interview with a representative of the News.

Mr. and Mrs. Wyatt took their two sons to the hospital Saturday morning for a "three in one" operation. The operations on both the boys which turned out to be unusually successful only required 50 minutes.

They wish to send their expressions of gratitude to Dr. Newland, Dr. Cunningham and the nurses, Misses Charles Hilliard and Mrs. Zachary through the columns of this paper.

Mr. Wyatt declared that he would recommend the Lyday Memorial hospital to anyone desiring to go to a good hospital.

Twenty-one pure bred rams were sold at the recent ram sale held at Clyde in Maywood county.

MANY TEACHERS ARE ANXIOUS FOR WORK AT COST OF "KEEP"

(Continued from Page One)

in making it impossible for these men and women to obtain positions as school teachers. While Mr. Cole did not mention it in his article, the fact remains that hundreds of teachers living in other states are brought into North Carolina and given positions as school teachers, while North Carolina's own men and women are unable to obtain schools.

Mr. Cole's article is a revelation on the school situation, and will, it is assumed, be of tremendous interest to the citizens and tax payers.

Mr. Cole's able article follows: "North Carolina has made much progress in her educational system during recent years for which she is greatly commended. Large well-equipped and architecturally beautiful school houses are to be seen all over the state. Into these buildings are gathered daily an ever increasing number of pupils. More young people than ever before are being educated in North Carolina. With the growth in attendance, one would expect to see an increase in the number of teachers employed. However, in recent years the state has been forced to reduce the number of teachers in its schools, owing to lack of funds. What of the hundreds of North Carolina teachers thus deprived of a living?"

"Many recent graduates of normal schools and colleges have signed what is called a Teacher's Agreement, for which they have secured free tuition on the promise that they would teach for two years out of the first three following their graduation. In the days when teachers were scarce and few desired to enter the profession, this Agreement protected the state and assured it that the individual signing the agreement would actually teach. At the present time, it is seen, curiously enough, that instead of being forced by the agreement to teach his two years, the would-be instructor finds himself unable to secure a position "for love or money."

"While, as said before, there is a lack of sufficient funds to employ more teachers, there are many North Carolina normal school graduates, at present unemployed, who are sincerely grateful for the education and training the state has given them through the Agreement plan. They are genuinely interested in serving North Carolina, and are desirous of helping her come out of the depression. They would be only too glad to come forth and teach for only their living expenses, and thus feel that they were living up to their agreement. In this way, those who are best fitted for their work and most interested in it will be given an opportunity for activity, and those not genuinely attracted to the profession of education and child welfare will seek other means of employment. In thus fulfilling their two year teaching obligation, these instructors would at the same time test their ability and real inclination for teaching.

"If all the recent normal school graduates not yet employed would unite in support of such a scheme there would be a marked reduction in the number of idle teachers and an improvement in the teaching efficiency wherein each teacher would have charge of smaller classes. The writer, for one, would be more than willing to cooperate in such a movement."

GOVERNOR TO BASE APPEAL UPON NEED

Raleigh, Aug. 10.—Actual need will form the basis of request by Governor Gardner for Federal aid for the unemployed in North Carolina this winter, not as a substitute for but as supplemental to the usual relief work done by cities and towns, and the money secured will be spent as far as possible in employing able-bodied members of a family on county road work, to be carried on under direction of the State Highway Commission, Governor Gardner has announced.

This fund is set aside by Congress for relief of the destitute during the coming fall and winter, and is not to be confused with the highway fund also provided, which will be used on State highways under Federal regulations. The relief fund is to be distributed only where an absolute need is shown and the local relief agencies are not able to handle the problem with funds they have, Governor Gardner said.

Governor Gardner is engaged in a survey of the State to determine the needs, getting the reports from the county welfare officials. So far about 80 of the 100 reports are in. When completed, these reports will be studied and checked, and Governor Gardner will ask for aid on that basis. Local communities will be required to continue their relief work, the Federal funds to supplement such local funds.

FOREST STATION IS SOUGHT IN THE EAST

Raleigh, Aug. 10.—A site of 1,500 to 2,000 acres in eastern North Carolina is being sought by State Forester J. S. Holmes as a branch experiment forest station of the Appalachian Forest Experiment Station, Asheville. Letters have gone to county commissioners and prominent citizens in several counties, asking if a tract suitable, probably being held for taxes, cannot be secured for the purpose.

OPERATING COSTS SET AT LOW FIGURE BY BREVARD BOARD

(Continued from page one)

obligations. Following is a copy of the official minutes of the meeting held Tuesday night:

Regular meeting, Tuesday, August 2, 1932.

Present: Mayor Ramsey and the full membership of the Board.

Minutes of July meetings were read and approved.

At July regular meeting, the Clerk was instructed to see T. W. Whitmire relative to paying a balance due on a Note executed by said T. W. Whitmire to the Town of Brevard, in the amount of \$200.00 plus accumulated interest; and to ask that this note be paid or a new note given the town, secured by a Deed in Trust against the particular piece of property against which the assessment should have been entered. This Note having been executed and made payable to the Town in lieu of having an assessment entered against said property. The Clerk reported to the Board that he had taken this matter up with Mr. Whitmire and had been informed that this property had been sold by him some several years ago to Mrs. A. H. King but that he was willing to do whatever was possible in order to satisfy the Mayor and Board of Aldermen until such time as he might be able to pay off this obligation.

The matter of adopting Budget Appropriation Resolution for the fiscal year beginning July 1st of this year and ending June 30, 1933, was brought to the attention of the Board but before this was done it was decided to make certain salary reductions which were as follows:
Mayor and Board to be reduced from \$4.00 to \$3.00 for each regular meeting.
Clerk and Treasurer reduced \$10.00 per month.
Foreman reduced \$10.00 per month.

APPROPRIATION RESOLUTION.
Be It Resolved by the Board of Aldermen of the Town of Brevard, in the County of Transylvania, State of North Carolina this the 2 day of August 1932.

That for the expenses of Town Government its activities and institutions, for the year ending June 30, 1933, the amounts in the following schedules, or so much of each as may be necessary, are hereby appropriated:

Section 1. That for the said fiscal year there are appropriated out of the "General Expense Fund" the following:
Water Department \$1639.05
Sewer Department 656.55
Streets and Sidewalks 2659.57
Police Department 2306.25
Salaries—Mayor and officials 2215.60
Fire Department 1160.45
Lights 4373.33
Miscellaneous Administrative exp. Office 5442.51
Total \$20,453.11

Section 2. That for the said fiscal year there are appropriated out of the "Debt Service Fund" the following:
Bonds in Default \$30,538.12
Coupons in Default 27,052.72
Extra Interest 24,530.63
Bonds Current 40,059.90
Coupons Current 180.00
Extra Interest 2,674.50
Sinking Fund in Default 1,337.25
Sinking Fund Current 9,364.50
Notes and Accrued Interest 1,390.00
Interest on Funding Bonds \$137,128.62

Attest:
H. H. Patton, Clerk
Ralph H. Ramsey, Jr., Mayor.
F. D. Clement, Alderman.
T. H. Galloway, Alderman.
S. M. Macfie, Alderman.
Wm. J. Wallis, Alderman.

Motion introduced by Alderman Macfie to adopt Budget Appropriation Resolution as spread on preceding page. Seconded by Alderman Wallis and adopted.

Alderman Wallis introduced a resolution authorizing the purchase of suitable Laboratory Equipment (amount to be so expended not to exceed \$300.00) provided satisfactory terms can be arranged for the payment of said equipment. Resolution seconded by Alderman Galloway and adopted.

Clerk was instructed to employ suitable person as Dog Tax Collector and to pay said person ten per cent on collections made by him for first fifty dogs and twenty five percent for all collections above this number. Motion adopted to adjourn.

PENROSE LOST TWO GAMES LAST WEEK

On Wednesday of last week Penrose and Pisgah played a league game which was rained out Saturday before. Although Penrose suffered another defeat in the game of 3-10, several good plays kept the game interesting throughout.

Saturday's game at Rosman also went against Penrose by a score of 7-9. In spite of several blunders the game was interesting, several very attractive plays being made.

Score by innings:
Penrose ... 120 001 030—7—11—5
Rosman ... 141 200 10x—9—11—4
Penrose is supposed to play Rosman here Saturday. This is expected to be a close game and the last of the season with Rosman.

GOVERNOR GARDNER NAMES COMMITTEE ON HOME LOAN BANK

(Continued from Page One)

operation. The President has not yet appointed a director." Governor Gardner spoke highly of the work done by Congressman Frank Hancock in getting the bill through Congress and his efforts to get one of the banks for this State. He named Mr. Hancock as chairman of the committee to seek to get a bank for this State, other members being Judge Junius G. Adams, Asheville; Stuart W. Cramer, Cramerton; Word H. Wood, Charlotte; James B. Duncan and Julian Price, Greensboro; John Sprunt Hill, Durham; Charles E. Taylor, Wilmington; George K. Freeman, Goldsboro; W. C. Woodard, Rocky Mount; Clyde R. Hoey, Shelby; J. E. Brinn, Sanford; J. M. Broughton, Raleigh, and Robert M. Hanes, Winston-Salem.

As to Agricultural Credit Corporations, the Reconstruction Finance Corporation is authorized to create one in any of the 12 Federal Land Bank districts, with not less than \$2,000,000 paid up capital and authorized to make loans or advances to farmers and stockmen for agricultural purposes, including crop production and raising and marketing live stock, at fair and equitable interest and discount rates.

Saying that former Governor A. W. McLean, Lumberton, has manifested a great interest in this movement, Governor Gardner named him as chairman of the committee seeking the credit corporation for North Carolina, along with the following members: R. T. Fountain, Rocky Mount; W. A. Graham, Raleigh; Lindsay Warren, Washington; J. Bayard Clark, Fayetteville; W. Kerr Scott, Haw River; Josephus Daniels, Dr. J. Y. Joyner and Dr. Clarence Poe, Raleigh; E. G. Flanagan, Greenville; W. G. Clark, Tarboro, and Larry I. Moore, New Bern.

DEMONSTRATION IN CANNING IS GIVEN

Mrs. D. M. Flemming, Home Economist of Greenville, S. C. gave an electric oven canning demonstration at the Southern Public Utilities office, Tuesday evening at 3:00 o'clock before a small but enthusiastic gathering of Brevard Electric Range users.

A wide spread interest was expressed concerning the canning and preserving of all kinds of fruits and vegetables, this being one of the most important points stressed by the "Live at Home" program of the two Carolinas.

Several of the ladies present told of excellent results from their electric canning last season.

This important suggestion was learned from the demonstration by the ladies present: "that in order to obtain best results it is necessary to increase actual canning time from one half an hour to three quarters of an hour over the time given in cook books, due to the fact that the high altitude of Brevard makes it necessary."

BUS SCHEDULES

Leave
HENDERSONVILLE
for
ASHEVILLE

8:00 A. M.	12:15 P. M.
9:15 A. M.	2:00 P. M.
11:00 A. M.	3:15 P. M.
	4:10 P. M.
	5:00 P. M.
	7:45 P. M.
	9:30 P. M.

BREVARD
10:15 A. M. 3:45 P. M.

GREENVILLE
7:45 A. M. 2:15 P. M.

11:45 A. M. 4:45 P. M.

AUGUSTA
7:45 A. M. 2:15 P. M.

JACKSONVILLE
7:45 A. M. 6:30 P. M.

SPARTANBURG
7:45 A. M. 2:15 P. M.

10:45 A. M. 6:30 P. M.

COLUMBIA
7:45 A. M. 2:15 P. M.

10:45 A. M. 4:45 P. M.

CHARLOTTE
8:00 A. M. 12:15 P. M.

5:30 P. M.

Atlantic Greyhound Lines
Skyland Stages Division
Coast To Coast
Border To Border
Comfort - Safety - Economy
A Few of Our Rates From
Hendersonville, N. C.
to
Jacksonville, Fla. \$ 9.50
Miami, Fla. 19.50
Savannah, Ga. 6.75
Memphis, Tenn. 14.00
Nashville, Tenn. 8.50
Cincinnati, Ohio 11.20
Chicago, Ill. 17.95
UNION BUS TERMINAL
Hodgewell Hotel Bldg.
Phone 578