

ALLEGED BURGLAR GETS NEW TRIAL

COURT HOLDS THAT DRUNKEN NEGRO COULD NOT HAVE NECESSARY INTENT.

OPINIONS OF SUPREME COURT

Case of Bank of Varina Against N. L. Shearon Goes Back For New Trial.

Raleigh. Omission of degrees of guilt in the court's charge to jury brought an order from the supreme court for a new trial for James Allen, 18-year-old negro sentenced to the electric chair in Franklin county superior court last May for first degree burglary.

Justice Stacy, writing the majority opinion for the court, finds reason to justify a lighter degree in the case of intoxication and Chief Justice Clark, dissenting vigorously opposes this attitude.

"Without the ulterior felonious intent," writes Justice Stacy, "the crime of burglary as charged would not be complete, and if the prisoner, without any prior criminal intent, were so drunk at the time as not to know where he was or what he was doing, and had no intention of committing a felony in the dwelling house, as alleged, whatever his offense, he would not be guilty of burglary in the first degree because of the absence of an essential ingredient of the crime."

Chief Justice Clark declared, on the other hand, that if drunkenness "were a valid precedent as a defense, it would leave our women unprotected in their homes at night at the mercy of any brute who will testify, or even prove, that he was partially intoxicated."

The court sends back for a new trial the case of the Bank of Varina against N. L. Shearon, which is similar to several cases now standing for trial on the calendar of the Wake County Superior Court. In this case the bank secured judgment for \$2,500 on a note originally given for stock in the Cumberland Railway and Power Co., now defunct. The court holds that there was error on the part of Judge E. H. Cranmer, in excluding certain testimony tending to show collusion between the bank and power company. There is also a dissent in this case. Justice Etay holding that the question of fraud was fully determined by the jury.

The following opinions were handed down:

Carolina Power Company vs. Haywood, et al, Chatham, affirmed.

Dill Cramer Truitt corporation vs. Raynolds et al, Onslow, reversed.

Overland Garage vs. Hardee, Lenoir, no error.

State vs. Allen, Franklin, new trial.

Richardson vs. Egerton, Franklin, modified and affirmed.

Ferrell vs. Southern railway, et al, Wake, no error.

Bank vs. Sherron, Wake, new trial.

State vs. Oliver, New Hanover, affirmed.

Blue vs. City Wilmington, et al, New Hanover, reversed.

Layton vs. Godwin, Cumberland, appeal dismissed.

Horton vs. Horton, Durham, reversed.

Jones vs. McKeel, Greene, judgment affirmed, without written opinion.

Suggs vs. Oakley and Cannon, Pitt, judgment affirmed without written opinion.

To Investigate Pension Frauds.

State Auditor Baxter Durham and Treasurer Ben Lacy have been subpoenaed to place before the Sampson county grand jury certified records of the list of pensioners and pension funds paid out for that county, it was learned. The Sampson grand jury is investigating alleged irregularities in the administration of the pension fund, following up reports to State Auditor Durham several weeks ago that pension checks for Confederate veterans dead for three years had been endorsed.

Following the discovery of evident irregularities in the administration of the fund in that county, Major Durham ordered a checking of the vital statistics records for the county on file in the state department of health. This work is reported to have revealed the names of a number of deceased veterans whose names had been retained on the county list and for whom checks had been regularly issued, these checks later being endorsed and cashed by some person not designated.

Governor Commissions Notaries.

The following notaries of the public have been commissioned recently: L. P. Benton, Evergreen; J. L. Robinson, Whiteville; Horace B. Blanton, Maiden; L. V. Connor, Chadbourne; H. L. Embler, High Point; R. G. Ferrell, Asheboro; W. J. Armfield, Jr., Asheboro; J. J. Friday, Worth; Miss Blanch Hancock, Selma; Fred Beisser, Salisbury; Miss Marie A. Link, Salisbury; B. H. Isenhower, Salisbury; T. B. Van Poole, Salisbury; W. S. Lyon, Greensboro; A. S. Newcomb, Pinehurst.

Many Apply For Motor Titles.

Approximately 10 per cent of the automobile owners registered in North Carolina have complied with the new State law, effective October 1, for the registering of title, according to J. E. Sawyer, motor supervisor for the State Department.

Complaints, criticisms, many of them of a facetious nature, and some of them born of misunderstanding of the purposes of the act, are reaching the department, but not in numbers impressive enough to cause alarm to Secretary of State W. N. Everett, who believes that the act will do much to protect automobile owners from theft.

The anti-motor theft act, introduced in the last General Assembly by Senator Charles U. Harris, of Wake, and passed without substantial opposition, provides for the registration of automobile title with the Secretary of State at a fee of \$1.50. Certificate of title furnished the owner of an automobile when application properly filled out with the descriptive matter called for by the act, is good for the life by the car or as long as it is the property of the holder of title certificate. Upon the sale of the vehicle so registered, the seller endorses the title card over to the purchaser, who files it with the Secretary of State, and in return for the registration fee receives another card certifying to his own title. The old card is filed by the Secretary of State and will permit a trace of title of any automobile.

Under the new law, no application for automobile license tag will be honored unless the applicant can show title. And the real complaint against the new law, if there is to be any substantial opposition to it, officials believe, will come when the department is forced to withhold certificate of title.

"Who would think of driving up a two thousand dollar piece of real estate to the curb, if such a thing is imaginable, and running off to leave it to the whims of any passing thief, without so much as a deed to show ownership?" asks Joe Sawyer, who can see no reason for opposition to the law.

Power Petition Hearing Nov. 12.

Ten o'clock on the morning of Monday, November 12, was announced by the North Carolina corporation commission as the hour and the date for the beginning of the hearing on the petition of the Southern Power company for permission to increase its rates to an extent allowing "a fair return on the capital invested."

The petition of the power company was presented to the commission by a representative of the company following a statement by J. B. Duke, president, at Charlotte, that he was through with the development of power plants in this state unless permission to increase rates on hydro-electric power was granted by the corporation commission, which, following a hearing in 1921, set the maximum rate chargeable at 1.25 cents per kilowatt hour.

An increase in rates of about 10 per cent is asked in the Southern Power company's petition now before the corporation commission.

Notice has been given to consumers of hydro-electric power of the state of the Southern Power company's petition and persons opposing the requested increase in rates will be allowed to appear before the commission at its hearing here beginning November 12.

A committee of citizens from Hickory, headed by J. D. Elliott, president of the Hickory Chamber of Commerce, and H. W. Link, secretary of the chamber, appeared before the commission and presented a resolution adopted by the directors of the Hickory commerce body endorsing the request of the Southern Power company for permission to increase its rate to such an extent as will enable it to "pay a fair and adequate return upon the capital invested."

The corporation commission also received a copy of a resolution from the Marion Kiwanis club, Marion, favoring the granting of permission to the Southern Power company to increase its rates if an increase is necessary to the further development of power plants in this state and permit a "fair return on the capital invested."

Report of Board of Health.

The state board of health issued its second quarterly report on the earning on the dollar invested in county health work in 22 counties, co-operating with the state board. For the second quarter, the average earning per dollar was given as \$1.54, as compared with \$1.45 for the quarter previous.

The earning is estimated on a basis of work accomplished during a given period with reference to the costs.

Cabarrus county lead the list of the counties making the largest earnings, with \$2.24 per dollar invested.

New Corporations.

Chartered by the Secretary of State: Clineard's Art and Gift Shop, Inc., Winston-Salem, with \$100.00 authorized capital and \$1,250 subscribed by R. R. Clineard, Mrs. Theodore Clineard and W. H. Clineard, all of Winston-Salem.

Potter Tow Bot Company, of Wilmington, with \$50,000 authorized capital and \$5,500 subscribed by L. D. Potter, Walborg L. Potter and David H. Scott, all of Wilmington.

30 New Varieties of Birds Found

"Extinct Species" Brought to New York From the South Sea Islands.

New York.—More than 10,000 specimens of multi-colored birds from the South seas, including 30 varieties hitherto unknown to ornithology, and many more of which only one or two examples had only been vaguely heard of, arrived in New York recently in the custody of Rollo H. Beck, an experienced naturalist and collector of marine birds, who has been cruising among the islands of the southern Pacific for the last three years in charge of the Whitney Ornithological expedition. He has covered 20,000 miles and visited nearly 100 islands in Polynesia and the Marquesas.

This collection, noted for its scientific value and beauty, now is in the Museum of Natural History here, and is being catalogued, appraised and classified by Dr. Robert C. Murphy, assistant curator of birds at the museum. It will be some time, Doctor Murphy told a representative of the Christian Science Monitor, before Mr. Beck's collection will be ready for public exhibition, but it is already obvious, he said, that the specimens brought back will provide a valuable addition to ornithological data.

Strange Species Found.

One of the outstanding discoveries made by Doctor Beck was that environment and isolation have a marked effect on the development of birds, both in color markings and in organic structure. Birds of the same family discovered on one island were found to be quite different from those only a few miles away. Very often two birds of the same genus found on different islands would differ in size or their beaks might vary, or the color markings of one would be of a deeper shade and more pronounced than those of the other.

The expedition has brought back many specimens either totally unknown up to the present or which have been studied only from photographs or written descriptions. For instance there is Peale's Petrel, discovered by Titian Peale in 1838 and never seen or heard of since, of which several specimens were secured by Doctor Beck. It is a dark, demure little bird, and as one turns it in the hand mysterious greens and blues and brownish blacks are seen.

The Polynesian sandpiper, a small, port thing, whose feathers are white, mottled with a peculiar pale brown, was up to a few days ago only known to the world through five carefully guarded specimens. Doctor Murphy proudly exhibited nearly half a trayful. Doctor Beck also found a rare variety of cuckoo which, according to some accounts, is parasitic and lays its eggs in the nests of the brilliant fruit pigeons and the sagacious looking terns.

"Extinct Birds" Found.

Doctor Murphy pointed out that several of the forms discovered by the Whitney expedition had been listed as "extinct birds" during the early years of this century. The Christmas Island warbler has never before been represented in any collection and was known to ornithologists only through a description now found to be at fault. The museum at Turin, Italy, is the only collecting agency that has forestalled the Natural History museum in obtaining the fruit pigeon from Rapa, whose distinguishing feature is a crown of crushed raspberry surrounded by a narrow circle of gold.

It would take a fair-sized book to describe the splendor and the beauty of Doctor Beck's collection. There are the parakeets, blazingly bright; there is the red-tailed tropic bird, whose feathers have a pearly sheen tinted

U. S. Tars Had Busy Time During Quake

Washington, D. C.—Bluejackets proved their diversity in the Japanese earthquake zone by performing as firefighters, carpenters and safe crackers, and doing relief work, in addition to their regular duties. Details of the activities of the American navy, first to arrive in the stricken area, are contained in a report received by Secretary Denby from representatives of army relief in Japan. Here is what the bluejackets did:

Cleaned up American consulate in addition to rescue work among survivors, and established it anew.

Searched for and buried American dead.

Cracked safes, securing valuables and securities for American and foreign firms.

Furnished water for all American ships touching in Yokohama and for Americans and army hospital ashore.

Fought fire on one American ship.

Successed two other ships broken down and repaired machinery so they were able to proceed.

Furnished supplies and food to embassy and relief organizations until arrival of army transports.

with a delicate pink glow; green teals; the blue-sky kingfisher, and the most striking of all, the fruit pigeons. Every color in the rainbow scintillates from the fruit pigeons in Doctor Murphy's office—moss green, deep, deep crimson, orange burnt dark by the sun, and an endless number of lilacs, mauves, and pale purples.

Sand Formation Takes Centuries

Shellfish Aid Mother Nature in Long Process of Cutting Huge Cliffs.

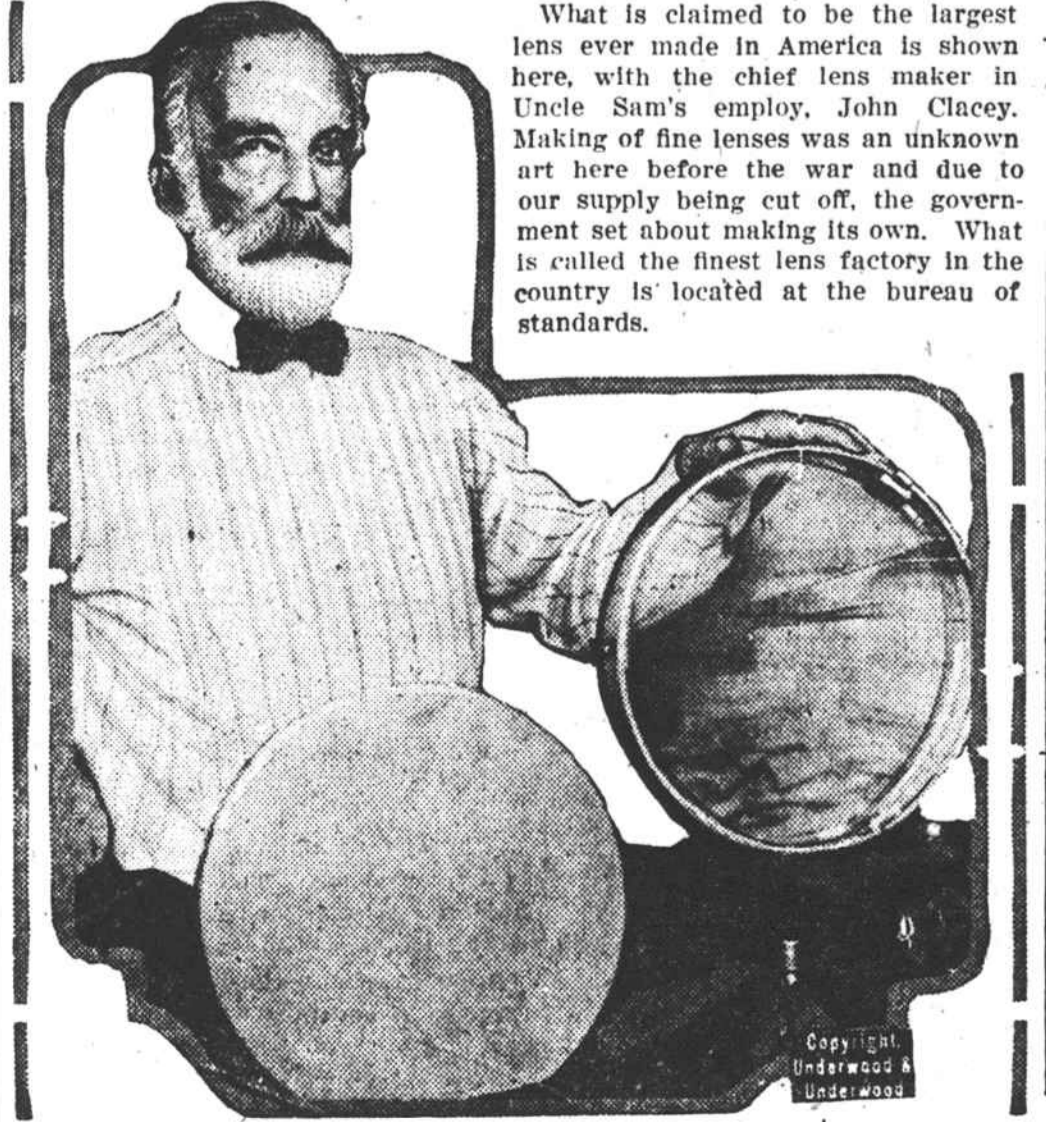
Boston, Mass.—The sand upon which you bank at the seashore is not a ready-made article, nor does it find its way to the beach in a haphazard way. Sand is one of nature's most finished products. It is the result of countless thousands of years of ceaseless work and a wondrous compound of a myriad ingredients.

The microscope reveals to the scientist that no two sands are quite alike, though they may look and feel much the same as you walk over them. Take a handful of that which surrounds you and spread it out and examine carefully the tiny particles of which it consists. Many will be little stones. Others are fragments of shells. And if you have sharp eyes you may find among them numbers of beautiful unbroken shells, varying in size from that of the smallest pin's head to that of a pea.

Shells Under Microscope.

The smallest shells must be seen under a magnifying glass before their full beauty can be appreciated. They are the discarded homes of tiny creatures who wormed them into perfect cups and twists and spirals and had the skill, even in the small space

America Now Makes Large Lenses



What is claimed to be the largest lens ever made in America is shown here, with the chief lens maker in Uncle Sam's employ, John Clacey. Making of fine lenses was an unknown art here before the war and due to our supply being cut off, the government set about making its own. What is called the finest lens factory in the country is located at the bureau of standards.

MARINES GET A GIANT



Emerson Gaines Martin, who measures seven feet three inches in his stocking feet, is shown applying for acceptance as a member of the Marine corps in San Francisco, recently. His five and a half inches of excess height will have to be waived by the major general commandant of the corps if he is to get his uniform.

Miners Alive After Being Entombed 9 Days

Falkirk, Scotland.—Buried alive for nine days, five of the forty-one miners entombed by an explosion in a coal pit near here were rescued. They were brought to the surface in fairly good condition and their remarkable escape from death has raised the hopes of the relatives of the others imprisoned. The searchers were redoubling their efforts. The first thing the rescued men asked for was cigarettes. They said all they had to exist on was water after the first day, when the supply of bread gave out.

DOCTORS WANTED TO OPERATE

Mrs. Quillon Tells How Lydia E. Pinkham's Vegetable Compound Saved Her from an Operation



Muskegon, Mich.—"After suffering for eight months with different ailments, I was unable to get any relief at all. I had to go to the hospital and I was told that I would have to have an operation. I had heard of Lydia E. Pinkham's Vegetable Compound and I bought a bottle. I saw it advertised in different papers where I had some friends. I had suffered well and strong as I did and the Vegetable Compound had saved me. I finished the first bottle before I was better, the second bottle I was cured. I am now married and do my own work and work in the factory and give it all the credit to Mrs. Lydia E. Pinkham's Vegetable Compound. Mrs. Quillon, 17 Morris St., Muskegon, Mich.

Women should heed such warning symptoms as back-ache, pains and weakness, for they indicate some female trouble, and a prompt and faithful use of Lydia E. Pinkham's Vegetable Compound will seldom fail to help.

Working Hard.

"Will your leg hurt when you get up?" "He thinks it is a sign of rheumatism. I have to study, but I have to work hard. I hope the football team can't beat our team."

Hall's Catarrh Medicine

is a Combined Treatment, both local and internal, and has been successful in the treatment of Catarrh for over forty years. Sold by all druggists. F. J. CHENEY & CO., Toledo, Ohio

Drive Malaria Out of the System



That's Simple. He—I can't express my love to words. She—Perhaps you can in terms. The trouble with gossip is that it knows no stopping place. Nearly everything in Europe is pronounced some other way.

Sure Relief FOR INDIGESTION



Toothache Instantly Relieved

dearly retarded. A dentist's seal up the cavity. A doctor's formalin and mercury temporary relief, but a real filling for the tooth, which will last for weeks or months. Do not put gum or wax, which brings only temporary relief. Sufferers for five to five teeth. Send 5c. to CLIFFY CHEMICAL CO., MADISON, IND.

Don't Cut Out a Shoe Boil, Capped Hock or Bursitis for



GREEN MOUNTAIN ASTHMA COMPOUND

quicker relief than any other. It is a natural product of the mountains. It is guaranteed to relieve the most stubborn cases of Asthma, Hay Fever, Cough, and other lung troubles. The open market is flooded with cheap imitations. Beware of every body's "Green Mountain" Compound. Buy the real one. Druggists. J. H. Green, Springfield, Mass.

