

AS TO POLICE COURT COSTS

RECORDER IS A MAGISTRATE

Increasing Decision Handled Down This Week—Charlotte Recorder is Also a Justice of the Peace and Can Tax Magistrate's Costs as Well as Those Specified in the Charter, Says Supreme Court of North Carolina—Night Turkey Earnhardt Can Make Warrants Returnable Before Recorder—Case Carried Up on Appeal From Judge Ferguson and Tried in Mecklenburg Court—Means More For City Treasury.

The following is the full text of the decision handed down by the Supreme Court of North Carolina in the case sent up from Mecklenburg to determine whether or not the Charlotte recorder has the power to tax convicted defendants with all the costs that a magistrate can tax, or merely those specified in the charter of the city. The court holds that the recorder is also a magistrate and hence has all the powers and prerogatives appertaining to a justice of the peace. For the same reason, the night turkey and the day desk sergeant, being magistrates, can make warrants returnable to the recorder. The Supreme Court says:

SUPREME COURT OF NORTH CAROLINA: August Term, 1907. No. 401; Mecklenburg; State vs. Charles Lord. (Appeal by W. M. Smith, Recorder.)

The defendant was arraigned in the Superior Court of Mecklenburg county, charged with the illegal sale of liquor and fined guilty, his honor, Judge Ferguson, presiding. The court refused to tax certain costs claimed by W. M. Smith, recorder and ex-officio justice of the peace of the City of Charlotte. Said Smith excepted and appealed. Assistant Attorney General Clement for the State.

John A. McRae for appellant. F. M. Shannnonhouse for defendant, Lord. BROWN, J.—The charter of the City of Charlotte creates a recorder's court for said city; defines its powers and jurisdiction and provides for the election of a recorder. Section 53 provides: That said recorder shall be an ex-officio justice of the peace and before assuming the duties of his office shall take the usual oath required by law to be taken by the justice of the peace, and also an oath to honestly and faithfully perform the duties of his office.

One Earnhardt, a duly qualified justice of the peace, who also acts as desk sergeant at police headquarters in said city, issued a warrant for defendant and made it returnable before W. M. Smith, the appellant, who is the recorder and ex-officio justice of the peace. Upon hearing, Smith bound the defendant over to the Superior Court. It is contended that the act of Earnhardt, J. P., was illegal; that the hearing before Smith was void and that therefore Smith's costs cannot be taxed. His honor so held, in which ruling we do not concur.

Section 2162 of the Revisal provides that persons arrested under any warrant issued for any offense where no provision is otherwise made, shall be brought before the magistrate who issued the warrant, etc. The clause "where no provision is otherwise made," clearly implies that the magistrate who issued the warrant had the authority to make the warrant returnable before him, before the court, and he could make it returnable before the Superior Court. Having been appointed a justice of the peace by the General Assembly and having duly qualified as such, the incumbent of the recorder's office is invested with the jurisdiction of the justice of the peace as defined by our constitution. In addition to that which he exercises as recorder by virtue of the city charter. There is nothing in our fundamental law which forbids the appellant to hold the office of recorder and justice of the peace at one and the same time. Art. 11, Sec. 7, Constitution.

We will, of course, presume that when appellant heard the warrant made returnable before him he acted in his capacity as a justice of the peace and bound the defendant over to the Superior Court. We therefore think that the lawful fees prescribed by law for a justice of the peace should have been taxed against the defendant.

There is nothing in State vs. Jovner, 127 N. C. 542 which militates against our conclusion. In that case the mayor was not created a justice of the peace and required to qualify as a justice of the peace. He simply exercised the jurisdiction which a justice of the peace might concurrently exercise. That did not make him a justice of the peace. The appellant Smith is a justice of the peace and as such he may lawfully exercise all the constitutional jurisdiction. In addition to his jurisdiction as recorder, which any other justice of the peace in his township may exercise. He is required to take the oaths prescribed by the charter to honestly and faithfully perform the duties of his office as recorder. The case is remanded with directions to tax the fees allowed by law to the appellant as a justice of the peace. The costs of this court are to be taxed against appellee, defendant Lord.

Error.

HELMAS TRIAL NEXT WEEK

It is Expected That Slayer of Ella Pryor Will Be Placed on Trial Next Week—Much Speculation as to the Case.

It was learned yesterday that the case of Amzi Helmas, the self-confessed slayer of Ella Pryor, will in all probability, come up for trial at next week's session of Superior Court, probably toward the latter half. Messrs. Stewart & McIlwain are attorneys for the defendant. It is presumed that the defense will be along the lines of the young man's statement to the effect that the killing was accidental. Interest in this unusual case has by no means subsided among Charlotte people and there is much speculation as to the prisoner's innocence or guilt. While there is evident a general reluctance to say anything definitely one way or another as to the guilt, there are many people who think the tale of the man a plausible one, which sounds straight. Most people think there is a good deal to be explained for which an explanation has not been offered, no matter what view of the matter is accepted.

HERE'S GOOD ADVICE

O. S. Woolver, one of the best known chemists of the city, says: "If you are ever troubled with piles, and suffer from hemorrhoids, or any other ailment of the rectum, you should use Stuart's Dyspepsia Tablets. They are sold at all drug stores."

LAYMEN'S MOVEMENT TO-DAY

Initial Meeting of Convention This Afternoon at Auditorium—Rev. D. Clay Lilly to Speak

The first meeting of the Laymen's Missionary Movement will be held this afternoon, at 5 o'clock, at the Auditorium. The services will be for men only and will be addressed by Rev. Dr. D. Clay Lilly, of Winston-Salem. The musical features of the meeting will be of interest, and will be under the direction of Prof. W. Harvey Overcash. The Ariel Male Quartette will sing and a feature of note will be the singing by the male choir of 75 voices.

All men are invited to this service which will begin promptly at 5 o'clock. The doors of the Auditorium will be thrown open at 4:30 o'clock. To-night Dr. Lilly will speak again. Mr. Cecil C. Butt will sing a solo. Mr. Robert Glasgow will preside over the meeting this afternoon. To-night Mr. W. D. Boyd will be in the chair. Mr. Heriot Clarkson will preside at the banquet to-morrow night and Mr. E. A. Cole will be chairman Tuesday night.

Letters from out-of-town people show that men are coming from all sections of this State and from South Carolina as far down as Columbia to attend this notable series of meetings. Counting those from the various sections of Mecklenburg it is expected that several hundred from out-of-town points will be present.

The hour for the service to-night is 8 o'clock. The banquet to-morrow night will be at 7:30, while the meeting Tuesday night will be at 8 o'clock again. Messrs. J. Campbell White and William T. Ellis will not arrive until to-morrow morning from Atlanta, where they have been engaged in a similar convention.

Pigg Charged With Disorderly Conduct and Retailing

Combined charges of "drum and disorderly" and retailing liquor are entered on the police court records against J. T. Pigg, who was found yesterday afternoon by local patrolmen in one of the city back lots in a condition of obnoxious intoxication. In his possession was a grip well filled with whiskey, while more of the same article was found in his baggy nearby. He was locked up last night and spent the hours of darkness in the police station, being taken to his cell Monday morning to turn up and hence to him was given the cell of honor. Pigg is from Mint Hill.

No Meeting For Men at Y. M. C. A. To-Day

No meeting for men will be held this afternoon at the Young Men's Christian Association Building, on account of the mass meeting at the Auditorium, marking the opening of the convention of the Laymen's Missionary Movement. The boys' meeting will be held as usual at 2:45 o'clock. Those who would otherwise attend the men's meetings are urged to go to the Auditorium instead.

Law Building Nears Completion

The new law building in process of erection on South Tryon next to the county court house is rapidly taking the appearance of the handsome, modern structure which it is to be. There is no apparent reason to fear that it will not be completed by the first of the year, the date at which it is supposed to be finished. Work is now being done on the roof.

Mr. Clawson Comes to Charlotte

In order to give necessary attention to mining property which he owns, located ten miles south of Charlotte, Mr. T. W. Clawson, for 20 years a member of the editorial staff of The Wilmington Star, has located in Charlotte and will make his home here. He has left the field to J. Marshall. Mr. Clawson will live on West Vance street.

The Very Last Game

All interest in Charlotte sporting circles yesterday centered on the great Army-Navy game, which always attracts to itself the lion's share of national attention by reason of the fact that it is the only game of importance played after Thanksgiving Day. The odds were on the Army, though few people had any patriotic preference for one over another.

Criminal Court To-Morrow

There was no civil court yesterday all the matters which demanded attention in connection therewith having been adjusted Friday. The court officials indulged in a rest, pending the trial of criminal cases at the session which meets to-morrow. At this a large number of cases will be tried.

The Lunch Counter

Is the Cause of Dyspepsia and Indigestion, Catarrh of the Stomach and Heart Disease.

Nine-Tenths of Those Who Eat Their Bolt Down Their Food

The next time you eat at a lunch counter, just you watch the people opposite. Look down the whole line and notice how they bolt down their food, washing it down with hot coffee or cold water. First they take a large bite, then a drink, a bite and a drink, hurrying through their meal in five or ten minutes. Many of them don't know the correct way to eat, while others are so intent on money-making that they will not take the time to eat properly.

The lunch counters create a great demand for Stuart's Dyspepsia Tablets, for every one now knows that they assist the stomach in digesting the food that has been suddenly forced down into it.

Health should be the first thing sought for in the battle for existence. With a sound body all things are possible to man, while ill-health handicaps him.

The dyspeptic is usually grouchy and cannot meet his fellow-man in the proper spirit to win his confidence and esteem. Many a fine proposition has failed because a dyspeptic was back of it.

Your brain does not work right where dyspeptic condition prevails, neither does any organ of the body. Get your digestive apparatus in perfect condition first and all will go well with you.

Take Stuart's Dyspepsia Tablets until you cure yourself of indigestion, catarrh of the stomach, and dyspepsia, and your heart, liver, brain and all the organs of the body will perform their functions properly and you will be in sound health.

Don't give up in despair, but get right and all things will come your way and fortune will again smile upon you.

You can purchase Stuart's Dyspepsia Tablets anywhere on earth. They have become a family necessity everywhere.

They are 50 cents per package. Send your name and address to-day and we will at once send you a trial package. Write to Stuart's Dyspepsia Tablets, 150 Stuart Bldg., Marshall, Mich.

ANSON COUNTY PROSPEROUS

Charlotte Men Tell of the Good Season Which the Anson County Farmers Are Enjoying—Buying For Export.

A Charlotte cotton merchant who spent Friday in Wadesboro stated to an Observer man yesterday that the staple brought 11 3/4 cents on the streets there that day when it was only bringing 10 1/2 cents in Charlotte. In explanation he stated that the merchants there as well as in Lilesville, Morven and elsewhere, were bidding in the cotton for Alexander Sprunt & Sons, of Wilmington, and Rogers, McCabe & Co., of Norfolk, Va., exporters, and that they were giving the farmers practically what they got for it in order to secure settlements on outstanding accounts.

"There is no talk of hard times and scarcity of money in Anson county just now," he continued. "The majority of the smaller farmers have sold out of the greater part of their crop, paid their bills and are now living at ease and at peace with the world. Some of the larger planters are holding their cotton for better prices but this is not the case with all of them. There has been a plenty of money in the county since the cotton season opened. The banks, anticipating the money scarcity which they saw approaching, sent on ahead-of-time and procured an ample supply of cash. They never resorted to that several hundred from out-of-town points will be present. The farmers of Anson are in fine circumstances and equally so are the merchants and almost everybody else."

BIG COMMITTEE NAMED

To Represent American Cotton Manufacturers' Association at Waterways Convention This Week.

The National Rivers and Harbors Congress will convene in Washington, Wednesday, of this week, and continue throughout Friday. Delegates will be in attendance from all sections of the country. North Carolina will be well represented.

President S. B. Tanner has announced the personnel of the committee which has appointed from the American Cotton Manufacturers' Association. It is composed of: D. A. Tompkins, Charlotte, chairman; Ellison A. Smyth, Greenville, S. C.; Arthur H. Lowe, Fitchburg, Mass.; J. W. Parker, Greenville, S. C.; T. A. Byrthe, Philadelphia, Pa.; Leonard Paulson, New York, N. Y.; R. M. Miller, Jr., Charlotte; E. W. Orswell, Pawtucket, R. I.; J. P. Eddy, Jr., Providence, R. I.; Walter E. Parker, Boston, Mass.; T. I. Hickman, Augusta, Ga.; Charles D. Fuller, Atlanta, Ga.; G. W. Pratt, Peil City, Ala.; Leroy Springs, Lancaster, S. C.; Caesar Cone, Greensboro; E. H. Williamson, Fayetteville; T. L. Wainwright, Stone-wall, Miss.; Frederick A. Abbott, Weston, Miss.; and G. M. Whittin, Whitesville, Mass.

Bound to Court For Assault on Lay

There had to be a recorder's court yesterday morning. To have had two failures on successive days would have been subversive of all preconceived conceptions and violative of all historical precedents. But it was a very small affair. The case against J. F. Faxton and A. R. Turner for assault with deadly weapons on Cliff Lay, which was postponed until yesterday on account of the severity of the cuts inflicted upon the face and head of Lay, was tried. Each was bound to court in the sum of \$50. The affray case was dismissed.

Mrs. Paul McKane Burned

Mrs. Paul McKane was the victim of a painful accident yesterday about 12 o'clock. While in the kitchen of her home, No. 4 East Second street, she accidentally turned over a kettle containing boiling water. As a result her right arm was severely burned. The injury is not serious, but very painful.

Teachers to Confer at Dixie

A general conference of the teachers of Paw Creek, Steele Creek and Perryhill townships will be held at Dixie next Friday. The meeting will be presided over by the county superintendent of schools, Mr. R. J. Cochran. Other conferences at other places will follow this one.

LUZIANNE COFFEE. Every grain selected and suitably prepared, roasted and packed as if it were for our BEST FRIEND. This is one way we take to show our appreciation of the splendid patronage bestowed upon us. Another way is to make LUZIANNE the best coffee on earth for Price and Quality. 25 cts. 1-lb. At all good grocers. THE REILY-TAYLOR COMPANY, New Orleans, U. S. A.

RETAIL GROCERS. The date for deciding our prize contest for best display of LUZIANNE COFFEE made by a retail grocer or dealer has been deferred from December 1, 1907, to January 1, 1908. Send photo or snap-shot of your display—it may win. 1st prize, \$25; 2d prize \$15; 3d prize, \$10. The Reily-Taylor Co. New Orleans, U. S. A.

Don't Delay Order Your Christmas Piano From STIEFF To-Day. Chas. M. Stieff Manufacturer of the Artistic Stieff, Shaw and Stieff Self-Player Pianos. Southern Wareroom: 5 West Trade St., CHARLOTTE, N. C. C. H. WILMOTH, Mgr. Don't Go without a Victor in your home when you can have it for as little as a dollar a week. Don't starve your taste for music and your sense of fun, when a dollar a week will give you your fill of both. Melody and fun are food for man's best nature. They nourish the finest sentiments. They make you not only happier, but better. The wise philosophers know that music is not a mere luxury, but almost one of life's necessities. Herbert Spencer, the great scientist, says: "Only sleep and laughter rest the brain." No matter what kind of work you do nor what your family does, you and they need the brain-rest and spirit-rest of good music and hearty laughter. Stone & Barringer Co. Distributors Victor Talking Machines and Records, 22 S. Tryon St., Victor Department, second floor.

SMOKING JACKETS BATH ROBES HOUSE COATS. Speaking of Christmas gifts—are these not suggestive? We've just got all sorts in this line and can show you exactly the thing you are looking for. And we haven't forgotten the Children. Come and see our specially fine line. TEDDY BEAR ROBES for the little folks, the nicest things you ever saw; bound to please. Mail orders filled on day of receipt.

ED. MELLON CO. Remember, Mel lon's Clothes Fit. There's Small Profit on all goods sold at this furniture store. You may not think so, but "small profits" are all that we are looking for, because our LARGE FURNITURE SALES make up for the small profits. We have just received a car load of Iron Beds, ranging in price from \$8.50 to \$35.00. We can save you money and give you the largest and best selected stock in the State to select from. Not only is this true of iron beds, but all other lines, and especially FELT MATTRESSES AND SPRINGS. If you are at all interested, come in and let us tell you some things about the Felt Mattress business that you don't know. Not half the salesmen know what is in the mattress they show you. WE DO. LUBIN FURNITURE CO. The Streit Davenport

There's Small Profit. LUBIN FURNITURE CO. The Streit Davenport. It is a luxurious, comfortable Bed at night and a Sofa in the day time—ever ready for use and always a beautiful and artistic piece of furniture. The Streit Davenport Bed is recognized by the furniture trade everywhere as being the best manufactered in this line. Others makers imitate them, but a one can equal the STREIT. We show them in all woods. Upholstered in Verona Velours.....\$35.00 to \$50.00 Upholstered in Pantosette.....\$35.00 to \$45.00 Upholstered in Best Grain Leather.....\$55.00 to \$85.00 Just the thing for library, parlor or den. Parker - Gardner Co. FLOWERS FOR THANKSGIVING. Here we are again, with everything in the way of Cut Flowers. The choicest selection of Cut Flowers. The best service. The lowest prices consistent with quality. Just a word about our Fancy Carnations, Roses, Lily of the Valley and Violets. They are the New York kind. The best ever. Don't fail to secure some of them. DILLWORTH FLORAL GARDENS, Charlotte, N. C. W. G. McPhee, Prop. Phones: Night call 281; business 900.

THE TATE-BROWN CO. Overcoats and Raincoats Of Splendid Quality. Never in the history of this house have we offered men/better garments. Take the models, for instance. We have brought out several original and very smart designs, full of good styles. The fabrics, too, are new and striking. The tailoring is thorough, much of it handwork. Prices range from...\$20.00 to \$40.00. New Lines of Men's Haberdashery. Men's Scarfs in French Four-in-Hands, made of imported and domestic silks, in the rich winter colorings. Many are novelties exclusive with this house.....50c. to \$3.50. Dunlap & Co.'s Celebrated Hats. Special Line Ladies' High-Class Silk Hose.

Streit TRADE MARK. The Streit Davenport. Parker - Gardner Co. FLOWERS FOR THANKSGIVING. Here we are again, with everything in the way of Cut Flowers. The choicest selection of Cut Flowers. The best service. The lowest prices consistent with quality. Just a word about our Fancy Carnations, Roses, Lily of the Valley and Violets. They are the New York kind. The best ever. Don't fail to secure some of them. DILLWORTH FLORAL GARDENS, Charlotte, N. C. W. G. McPhee, Prop. Phones: Night call 281; business 900. The McKanna Liquor Treatment CURES TO STAY. Safe and prompt relief. Call or write to nearest Sanitarium. Address: McKanna 3-DAY LIQUOR CURE COMPANY, COLUMBIA, S. C. REEDSVILLE, N. C. 1200 1-3 Main St. Phone 418. Phone 184.