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IN REGARD TO THE JAIL CONTROVERSY.

The Documents in the Case of Williams et al vs. The County Commissioners--The Contentions of Parties on Both Sides Given in Full.

Following is a transcript of the complaint, answer and judgment in the case of W. F. Williams, A. B. Pearsall, R. B. Branch, N. A. McQueen, R. W. Livermore, S. R. Townsend, B. W. Townsend, J. A. Higgins, D. G. McMillan, J. G. Williams, R. F. DeVane, Martin McKinon, L. MacRae, H. Grant, J. M. Powden, M. S. Talbot, H. B. Ashley, W. J. Counsel, W. E. Garrett, James A. McNeill, Frank Jessup, E. C. McNeill, citizens and taxpayers of the county of Robeson, in behalf of themselves and all other citizens and taxpayers of said county who may come in and make themselves parties plaintiffs, vs. R. B. Branch, E. C. Nye, A. R. McEachern, M. L. Marley and J. W. Carter, county commissioners of Robeson county, heard before His Honor, Judge Henry R. Bryan, at chambers in Fayetteville, November 28th, 1903:

The complaint is as follows: R. B. Branch, one of the plaintiffs, being duly sworn, says:

1. The above named plaintiffs are citizens and taxpayers of the county of Robeson, State of North Carolina.

2. That the defendants above named are the duly elected and qualified commissioners of Robeson county, and as such constitute the Board of Commissioners of Robeson county.

3. That on or about the 23rd day of October, 1903, the defendant Board of Commissioners, at a called meeting, passed an order in reference to the repairing and adding to the jail of Robeson county, a copy of which order is hereto attached and marked Exhibit "A."

4. That as plaintiffs are informed and believe, that the said called meeting of the board, referred to in Art. 3 of this affidavit, was irregular, illegal and void, in that the same was not held in compliance with the law regulating the meeting of county commissioners, and that all proceedings had at said meeting are void.

5. That plaintiffs are advised and believe, and, therefore, allege, that the defendant Board of Commissioners have never found as a fact that the money authorized to be expended in the aforesaid order was a necessary public expense for the county of Robeson, and that said order is in contravention of Article 7, Section 7, of the Constitution of North Carolina.

6. That plaintiffs are informed and believe that the defendants acted without the scope of their authority in that they have attempted to contract for a much larger and costlier jail than the public need of the county justifies or requires, and that the price proposed to be paid is in excess of the actual value of the said repairs.

7. That, as plaintiffs are informed and believe, the defendant board attempted to make said contract without advertising for bids, without taking any steps whatever to ascertain if a lower bid could be obtained for said work and repairs, and without giving an opportunity to the public at large to submit bids for making said repairs, which is irregular, illegal and a gross abuse of the power and discretion intended by law to be vested in boards of county commissioners.

8. That plaintiffs are informed and believe that the taxes now levied are to the full constitutional limit, and have been inadequate to meet the necessary county expenses; that there is now outstanding indebtedness against the county due and unpaid; and plaintiffs are advised and believe that the defendant board has no authority to contract said debt.

9. That, as plaintiffs are informed and believe, all the repairs and improvements that are necessary, or that the public interest demands, to be made on said jail can be made for about one-fourth the amount which the said defendant board has attempted to contract for in the aforesaid order.

10. That plaintiffs are informed and believe and allege that the public necessity of said county does not require the repairs and additions to said jail contemplated by the aforesaid order, or the expenditure of the money therein authorized.

Wherefore, the plaintiffs pray that a restraining order issue from this Court, restraining and enjoining the above named defendants, the Board of Commissioners of Robeson county, from making, or having made, the repairs and additions to said jail as contemplated and authorized in their said order, from contracting the debt and from expending the

money authorized in said order for repairing and adding to said jail; and for such other relief as plaintiffs may be entitled to.

Attached to the complaint and marked Exhibit "A," is a copy of the order referred to in paragraph number 3.

Following is a copy of the answer:

The answer of the Board of Commissioners of Robeson county, and the joint and several answer of R. D. Caldwell, chairman of said Board, and E. C. Nye and A. R. McEachern, constituting a majority thereof, respectfully sheweth to the court in answer to the affidavit filed by R. B. Branch, one of the plaintiffs herein, as follows:

1. That the allegations of paragraph one of said affidavit are true as they are informed and believe.

2. That the allegations of paragraph two of said affidavit are true.

3. That it is true as alleged in paragraph three of said affidavit that in October, 1903, the defendant passed an order in reference to the repairing and adding to the common jail of Robeson county. But it denies that the said meeting was held on October 23rd, 1903, or that said meeting was a "called meeting" or that a true copy of the order passed at said meeting is attached to said affidavit as an exhibit or otherwise. And further answering said paragraph three, the defendant says that the meeting referred to was held on October 15th, 1903, and was a regular adjourned meeting held in pursuance of an adjournment taken from the regular meeting of the said board held on October 5, 1903, to that time, at which said meeting an order was passed by said board as hereinafter set out.

contemplated by said order and the expenditure of the money therein authorized to be paid therefor, all of which will fully appear hereinafter.

Further answering the said affidavit, and as a further defense thereto and to this action the defendant says:

11. That on the 23rd day of April, 1901, J. W. Carter, A. L. Shaw, W. A. Leggett, W. P. Barker and H. M. John were the duly elected and qualified Commissioners of Robeson county and as such constituted the Board of Commissioners of Robeson county, and as such held their said office until the first Monday in December, 1902, when their successors in office (the defendant) qualified and entered upon the discharge of their duties.

12. That at July term, 1901, of the Criminal Court of Robeson county, a grand jury of said county, composed of A. T. McCallum (foreman), J. W. Simms, B. L. Page, Hector Currie, J. W. Sikes, W. B. McQueen, A. Q. McLaurin, A. K. McFadyen, W. W. Carlyle, W. F. Brisson, N. C. Graham, G. L. Robertson, W. A. McNeill, A. M. Baker, Martin McQueen, I. G. Whitlock, James Bracy, L. H. Caldwell, made a report to said Court, which said report contains the result of an inquiry made by said grand jury into the condition of the common jail of Robeson county, in words following, to-wit:

"Recommendations: Second: That as soon as practical that a new, modern jail be built. Third: That a cell be provided for the insane either at the jail or at the county home. Fourth: We would call special attention of the county commissioners of immediate repairs needed on jail, including ceiling, guttering and chimneys of kitchen."

13. That a copy of said report was, by order of the judge presiding at said term, certified to and served upon said Board of Commissioners.

14. That at the November term, 1901, of the Criminal Court of Robeson county, a grand jury of said county, composed of Edgar Hall (foreman), W. C. Kinlaw, C. M. Barker, C. A. Crump, T. L. Grimsley, J. B. Sellers, Daniel McLeod, H. A. McWhite, J. C. Gibson, E. G. Canady, Rufus Simmons, Thos. S. Tolar, Henry Wessell, J. J. Cobb, D. A. Buis, Gao L. Townsend, D. W. Biggs, J. J. Evans, made a report to said Court, which said report contains the result of an inquiry made by said grand jury into the condition of the common jail of Robeson county in words following, to-wit:

"We have visited the county jail and found the prisoners as well cared for as could be expected considering its over-crowded condition; the jail is not properly heated, there being one small stove, which is wholly insufficient and dangerous; in case of fire it would be impossible to remove the prisoners, there being only one small exit. There are now thirty or more prisoners, composed of three races, four of the prisoners being women, who have no privacy whatever, it being impossible to separate the races and sexes in the four cells. We therefore earnestly recommend that the commissioners take immediate steps to provide a modern building with sufficient capacity to accommodate its criminals in a proper manner."

15. That a copy of said report was, by order of the judge presiding at said term, certified to and served upon the said Board of Commissioners.

16. That at February term, 1902, of the Superior Court of Robeson county, a grand jury of said county, composed of D. B. McLaughlin (foreman), A. W. Davis, G. B. Allen, Neill McMillan, M. G. Williams, Daniel Jones, E. F. Prevatt, J. M. Brown, J. S. Adams, E. Bullock, W. S. Lancaster, J. H. Powers, J. Archie Currie, A. T. Stubbs, A. S. Iuman, J. D. Bullock, R. O. Pitman, Henry Flowers, made a report to said Court, which said report contains the result of an inquiry made by said grand jury into the condition of the common jail of Robeson county, in words following, to-wit:

"We also visited the jail in a body and find it well kept. But it is the unanimous opinion of the jury that it is unsafe, insufficient, not properly ventilated and heated and that it is not such a jail as the county should have. Under the arrangements of the jail it is absolutely impossible to have privacy between the sexes. There are only four cells and at times it is impossible to keep the races apart as the law directs that they should be. This is no fault of the keeper, but is due solely to the building. We are of opinion that in case of fire it would be well nigh impossible to get all the prisoners out and that some, if not all, would of necessity be burnt up. This would, to say nothing of the humane features of it, leave the County liable to heavy damage.

es. It is the opinion of the grand jury and we so recommend, that the county authorities take immediate steps to build a new jail, modern plans and one suitable to the demands and conveniences of Robeson county."

17. That a copy of said report was, by order of the judge presiding at said term, certified to and served upon, said Board of Commissioners.

18. That in pursuance of the aforesaid report in paragraph 12, 13, 14, 15, 16 and 17 herein and in pursuance to personal investigations made by the said Board of Commissioners, composed as aforesaid of J. W. Carter, A. L. Shaw, W. A. Leggett, W. P. Barker and H. M. John, the said Board of Commissioners at their meeting, held on March 4, 1902, unanimously adopted the following preamble and resolutions, to-wit:

"Whereas, three separate grand juries have reported the condition of the jail as being unhealthy, unsafe to human life, no privacy between the sexes, with no means of separating the races.

"And whereas, the last grand jury ordered that immediate action be taken to redress these wrongs.

"And whereas, further instructions were issued from the Superior Court of Robeson county to this body, that these recommendations must no longer be ignored, and the Solicitor of the State was instructed to proceed against the body unless said recommendations and instructions were immediately carried out.

And, whereas, further, from an inspection of the present jail, the body is determined that the same is insufficient in size, unsanitary, that there is and can be no privacy for female prisoners confined, that there is, and can be, no separation of the races, that there is grave danger to the lives of all the inmates, and that in the event of fire, either above or below, it would be next to impossible to save the lives of the inmates."

"Therefore be it resolved, that immediate action be taken towards building a modern jail which will meet all the requirements and demands of the situation, and that to this end R. D. Caldwell, E. K. Proctor Jr. and A. W. McLean be, and they are hereby appointed a committee to act in conjunction with the Board and that immediate action be taken towards getting up plans, specifications etc., and that the work go forward without any delay."

19. That a meeting of said Board of Commissioners was held on May 5th, 1902, and the report of the special committee appointed by the said Board as set forth in paragraph eighteen hereof was presented in writing to said board and filed. That the said committee after much careful and personal investigation, reported that a new and modern jail was an imperative public necessity for the county of Robeson and they recommended that the said Board of Commissioners immediately proceed to contract for and to cause to be erected a jail building according to plans and specifications then and there presented. That the said committee recommended the building of an entirely new jail, the cost whereof, as then estimated by the committee, the architect, the contractors and by the said Board, was far in excess of the sums appropriated for the repairs and additions to the said jail ordered by this defendant as hereinafter set forth.

20. That upon the coming in of said report of the said committee and at the same meeting, the following order was duly and unanimously adopted by said Board:

"It is further ordered that in accordance with the report of said committee, J. M. McMichael be employed as therein specified and that the attorneys of this Board are directed to prepare the contract to be executed by this Board and the said J. M. McMichael.

"On motion, E. K. Proctor Jr., A. W. McLean and R. D. Caldwell are continued as permanent Building Committee."

21. That at July Term, 1902, of the Superior Court of Robeson county, a grand jury of said county, composed of D. A. McMillan (foreman), O. C. Norment, T. I. Harsey, Leonard Stone, J. A. Campbell, W. J. McCormac, J. L. Gantley, Joel G. Johnson, A. A. (Continued on Second Page)

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