

Doffermire Cites Law On Jury Trials

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Why all the hubbub about the jury trials in Dunn is hard for the average citizen to understand, is hard for many others, who know something about legal matters, to understand either. For the truth again of the matter is that Judge Strickland is not refusing a jury trial to anyone but is simply giving a change of venue any request from the defendant. The defendant gets a trial in Lillington instead of Dunn. This statement is without merit or foundation and absolutely incorrect. I agree that it is difficult for some people to understand the technicalities of our judicial system, while a lot of the confusion is caused by people attempting to write articles and explain things that they themselves know nothing about. I therefore, think it fitting and proper to look at the jury system as it relates to our judiciary.

CITES ORIGIN
The jury system is explained and derived from the Fifth and Fourteenth Amendment to the Constitution of the United States which relates to the due process of the law and equal protection of the law. Attention is called to the ecclesiastical laws which provide: "No man shall be deprived of his life, but by the laws of the Empire and the judgment of his peers."
The Magna Carta or Great Charter, to which the English Barons forced King John to affix his seal on June 5, 1215 at Runnymede, provided, among other rights, that "no free man shall be taken or imprisoned or disposed of, or outlawed, or banished, or in any way destroyed or will we go upon him or send upon him except by the legal judgment of his peers or by the law of the land."
During the next two centuries, the English Kings reissued and confirmed the Charter with minor changes as to the form. It was in

the year of 1354, in the twenty-eighth year of the reign of Edward III, in connection with one of these reissues that the phrase "due process of the law" probably appeared for the first time. "No man of what estate or condition that he be shall be put out of his lands or tenements, nor taken, nor imprisoned, nor disinherited, nor put to death without being brought to answer by due process of the law."
"DUE PROCESS"

As the centuries passed, the phrase "due process of law" continued to take on a more definite wording and meaning and at the time of the framing of the Constitution, as expressed in the Fifth and later in the Fourteenth Amendment, "Due process of law" and "Equal protection of the law" were definitely stated.

Bouvier defines "due process of law" as follows: "Law in its regular course of administration through courts of justice. Any legal proceeding enforced by public authority, whether sanctioned by age or custom, or newly devised in the discretion of the legislative power in furtherance of the general public good, which regards and preserves those principles of liberty and justice."
In the famous Dartmouth College Case, at 17 U. S. 513, Mr. Webster defined "due process of law" or "the law of the land" as follows: "By the law of the land, is most clearly intended, the general law, a law which hears before it condemns; which proceeds upon inquiry, and renders judgment only after trial. The meaning is, that every citizen shall hold his life, liberty, property and immunities, under the protection of the general rules which govern society. Everything which may pass under the form of an enactment, is not, therefore, to be considered the law of the land."

The Fifth Amendment of the Constitution of the United States reads as follows: "Due Process of Law. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."
CITES AMENDMENT
The Sixth Amendment of the Constitution of the United States reads as follows: Conviction of Criminals. In all criminal prosecutions, the accused shall enjoy the



STUDENTS HEAR ACTRESS — Dunn High School students are shown here as they heard Pretty Miss Charlotte Austin, pretty new staging star of "Rainbow 'Round My Shoulder." The new movie sensation visited the local school during a personal appearance tour here Monday. On Tuesday, she flew to Kansas City, Mo. for an appearance before a convention of theatre owners. (Daily Record photo by Bill Biggs).

right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence."
It is to be noted that one of the main reasons causing the Declaration of Independence to be written and it is so embraced in that great Declaration, over the signature of John Hancock and others, for depriving us in many cases of the benefit of a trial by jury.

The authority relied upon by Judge Strickland is "Chapter 223, H. B. 32" of the Session Laws of North Carolina for 1945 which in substance states that when a demand shall have been made for a trial by jury in a criminal case, that the judge of the Recorder's Court shall transfer the case to the Superior Court and that the Superior Court is given jurisdiction to hear and determine such cases upon being transferred thereto. But the North Carolina Legislature, in "H. B. 1192, Chapter 1001" ratified on the 15th day of April, 1949 stated, at Section II, that "Chapter 223 of the Session Laws of 1945 relating to jury trials in the Recorder's Court in the Town of Dunn is repealed. This is the authority that Judge Strickland is relying upon in transferring said cases to the Superior Court, when in plain, concise language it is clearly stated that the law is repealed.

This chapter is rewritten and Section IV reads as follows: "In the event a jury trial is demanded in said Court, in either a civil or criminal case, the defendant shall deposit a fee of Twelve Dollars (\$12) with the Clerk of said Recorder's Court and in the event an acquittal is had in said case, the fee so deposited shall be refunded to the defendant depositing the same."
QUOTES LAW
Section IV reads as follows: "The Judge of the Recorder's Court of the Town of Dunn is authorized to set a time when all jury cases are to be heard, and upon setting of such time, the Court shall continue from day to day until all pending jury cases are disposed of, either by continuance or otherwise."
Section V, of this House Bill explicitly reads as follows: "All laws and clauses of laws in conflict of this act are hereby repealed."
In my opinion, a person with average intelligence who can read and write can understand the phraseology used in this law and a person does not have to be a lawyer or a Judge to understand it.

The General Assembly of North Carolina, in 1951, recognizing that the re-establishment of trials by jury had placed additional work on the Judge of the Recorder's Court and Solicitor of the Recorder's Court of Dunn, enacted into the law "S. B. 572, Chapter 817" of the

Session Laws of 1951—Section I, which reads: "The Judge of the Dunn Recorder's Court in Harnett shall receive as full compensation for his services the sum of Three Thousand Dollars (\$3,000.00) per annum, payable in 12 equal monthly installments by the Town of Dunn from funds available to it for the maintenance of said Court."
Section II, reads as follows: "The solicitor of the Dunn Recorder's Court shall receive as full compensation for his services the sum of Two Thousand Four Hundred Dollars (\$2,400.00) per annum, payable in 12 equal monthly installments out of the funds available to the Town of Dunn for the maintenance of said Court."
Section III, reads as follows: "All laws and clauses of laws in conflict with this Act are hereby repealed."

BEAR IN MIND that there is no contention by Judge Strickland or the Solicitor that this law is not valid.

DENIED JURY TRIAL
When the case of State vs. Mary Vice was up in the Recorder's Court of Dunn, she was denied a trial by jury. Judge Strickland gave as his reason for denying a trial by jury that she had previously come into Court and asked for a continuance. Then Judge Strickland proceeded to try her

without a jury and convicted the defendant, giving her a jail sentence and placed her in custody. She was carried before Superior Court Judge, W. H. S. Burgwyn, on the ancient writ of habeas corpus, alleging that her imprisonment and confinement was illegal in that she was denied a trial by jury in the Recorder's Court. The Court ordered that Mary Vice be discharged; that she was entitled to a trial by jury in the Recorder's Court and said Judgment of the Court was that she be placed under bond for her appearance in Recorder's Court to stand trial for the offense charged in the warrant by a jury; said case was not appealed by the State. The Judge of the Recorder's Court and Solicitor of the Recorder's Court did not comply with the mandate of the Superior Court and the case was not proessed, meaning prosecution abandoned, for that the State did not have sufficient evidence to merit prosecution of the case after Judge Strickland had tried the case and from the evidence, convicted her and the same State's witnesses were present and available to the Court and later were in Court and testified in other cases. Here was an opportunity for Judge Strickland and the Solicitor to appeal to the Supreme Court for a decision.
As a result of the way this case

was handled, Mary Vice has never had an opportunity for a Court to exonerate her of the charges in the warrant. Other cases were heard by Judge Susie Sharpe, who held that for misdemeanors committed in the Town of Dunn and for a mile and a half from the corporate limits thereof, was in the exclusive, original jurisdiction of the Recorder's Court and that her Court was without jurisdiction to hear the matter except on an appeal by the defendant and the cases were remanded to the Recorder's Court of Dunn for compliance of that judgment and the Solicitor of this district gave notice of appeal to the Superior Court and we contend that "the mandate of the Superior Court ruling should be complied with until reversed or otherwise altered by legislation or by judicial proceedings of the Supreme Court. In the cases before Judge Sharpe in which appeal was noted, said motion was made for plea in abatement which every lawyer knows or should know it not appealable to the Supreme Court and therefore citizens are being denied their right to a speedy and public trial by an impartial jury as guaranteed under the Sixth Amendment to the Constitution of the United States, which its history traces back to the Magna Charta in 1215.

DIFFICULT POSITION
It is difficult to understand how a Judge of any Court can expect to maintain respect when the Court itself has no respect for the mandates of their Superior Court.

So, therefore, the following conclusion might be reached—that if people who attempt to publicly explain the trial by jury dispute in the Dunn Recorder's Court would make some effort to enlighten themselves, maybe confusion would not follow in the minds of the average citizen and certainly, if the average citizen would make a comprehensive study, they would understand what is taking place weekly in the Recorder's Court of Dunn. Much was said about the letter of the Attorney General in connection with Judge Strickland's recent decision in continuing to transfer cases to the Superior Court; Judge Strickland having remarked that three Superior Court Judges had advised him. Frankly, I think he ought to make public the letter from the Attorney General and then you will find that

the Attorney General indicated that appeal might be proper in the Mary Vice case but it does not pertain to the subsequent cases. A Judge rendering a decision in Court on the matter in review is binding until reversed or otherwise modified and Judge Strickland's statement about what three Judges had advised him is of no importance and if he will make their names public, I will invite them to a public debate in City Hall on the issue.

It might be well to go back again to the Declaration of Independence and quote a portion thereof, which reads as follows: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men deriving their just powers from the consent of the governed.—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it

is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security."

But if lawyers and citizens stand idly by and do not defend the causes entrusted to them to defend and allow things to proceed and go on unprotected as they are now doing, it might be well that everybody be reminded of the following quotation: "Oh Justice, Justice, what crimes are committed

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