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LAYS DOWN RULE FOR MAGISTRATES

Chief Justice Taft Picks North Carolina For Special Mention.

Chief Justice Taft declares that the North Carolina system of allowing magistrates compensation out of costs imposed on defendants tried in their courts is contrary to both the general practice in this country and to the common law.

He singles out North Carolina in the recent Ohio decision as one of six states, the others being Nebraska, Georgia, Kentucky, Texas and Ohio, which have inferior courts whose compensation is dependent upon convictions.

"From this review we conclude that a system by which an inferior judge is paid for his services only when he convicts the defendant has not become so embodied by custom in the general practice either at common law or in this country that it can be regarded as due process of law unless the costs usually imposed are so small that they may properly be ignored as within the maxim de minimis non curat lex," concludes Chief Justice Taft after reviewing numerous English and American cases.

While the nominal fee of $2 or $3 collected by a magistrate out of a defendant convicted in his court might be construed as being too small for the law to care about, there can be no doubt that the practice of retaining a percentage for collecting accounts through court action or the practice of wholesale trial of criminal cases by magistrates in cities and towns cannot be excused on that ground.

In the Ohio case decided by the Supreme court, the mayor of North College Hill collected $12 out of the defendant, and his average earnings from fees in addition to his salary were $100 a month. Chief Justice Taft declares that this was such a pecuniary interest in the outcome of the case as to make the law under which it was collected unconstitutional in that it authorizes and permits a practice that is contrary to due process of law.

"No matter what the evidence against him, he had the right to have an impartial judge," declares Chief Justice Taft with regard to the defendant in the Ohio case.

"There was then no usage at common law by which justices of the peace were paid fees on condition that they convict the defendants and such a practice cannot find support in due process of law in English precedent," Chief Justice Taft declares.

To takes a fall out of Blackstone, the classic expounder of the common law of England, who argued that it was the King's prerogative not to pay the costs to a subject and beneath his dignity to receive them from a subject, and declares that while this accounts for the practice in North Carolina and a few other states, it is not in line with English precedent, and is in fact contrary to the unbroken practice of 400 years.

He goes back to the 13th century and cites all the cases to show that never was it the practice in England to permit compensation to be charged out of the costs on defendants, and then points out that the practice complained of in Ohio "certainly violates the 14th amendment and deprives a defendant in a criminal case of due process of law to subject his liberty or property to the judgment of a court, the judge of which has a direct, personal substantial pecuniary interest in reaching a conclusion against him in his case.

While the small fees charged by magistrates in North Carolina may not come within the limitation of "direct personal substantial pecuniary interest," as construed by the Supreme court, when they involve occasional trials in villages and in the countryside, there can be no doubt that when magistrates in cities and towns try cases in large numbers, that their income mounts up to large totals that they have a "direct personal substantial pecuniary interest," as much interest certainly as the shopkeeper has in the few cents he makes on a peck of potatoes, and that they come within the rule.—News and Observer.

China, the home of the silkworm, is buying quantities of silk in the finished garment from America and France.

Each Indian of the tribal roll of the Osage Indians was allowed $2,300 with which to do his Christmas shopping.

Negro Slayer of Rowland's Police Chief Dies in Chair

What Was to Have Been a Double Electrocution at State Prison Is Interrupted When Governor McLean Commutes Sentence of One Negro to Life Term.

Raleigh, March 11.—Robert (Slim) Lumpkin, negro slayer of Chief of Police M. B. Rogers, of Rowland, on December 26, 1926, paid the supreme penalty at the state's prison this morning about 10:45, whis his condemned partner in the crime, Booker T. Williams, was granted a last minute reprieve and later life imprisonment by Governor A. W. McLean on evidence by Williams just prior to the hour when the two doomed men were to have marched to their fate.

Two shocks were sufficient to snuff out the life of Lumpkin, the first shock lasting for one minute and 55 seconds and the second one coursing through his body for exactly one minute.

As newspaper men and a few others gathered a few minutes before 10:30, the hour set for the double electrocution, Sheriff B. F. McMillan, of Robeson, Hoyle Sink, Wade Phillips and prison officials interviewed the two for the last time. They were asked what they had to say. Booker Williams spoke up and said that Rufus Ford was the negro who actually shot and killed Chief Rogers and that Ford shot at Slim Lumpkin's request. Lumpkin was present and denied emphatically the story. "You're a liar," he told the group of white men. "You shot the chief while I was down struggling with him."

Given Benefit of Doubt.

Hoyle Sink, pardon commissioner, who heard the two negroes' statements, went immediately to the governor and the result was more time for Williams. Sheriff McMillan believes that Lumpkin may have insisted that Williams did the shooting so as to force Williams to go to his death along with him. However, there was some doubt as to the two stories and Williams got the benefit of the doubt.

"Slim" Lumpkin, a fine specimen of the negro race and tall, went to his death unmoved. As he entered the death chamber, he said nothing but scrutinized the score of men ranging around the chair. He took his seat, unassisted, and attendants began adjusting the head piece and ankle connection. A negro preacher asked him how he felt and "Slim" said "all right," adding, "I'm safe." He uttered no further words, as his spiritual adviser prayed for him from the Lords prayer.

Second "Shot" Is Required.

By this time the various adjustments had been made and the switch was shot into contact. "Slim" leaned forward slightly in his chair and his hands were tightened and rested on the arms of the chair. They gradually relaxed and the current sizzled through the man's body without further movement on his part. Evidently his passing had been without the usual muscular contractions. For one minute and 55 seconds the motor hummed and the current made fine contact through the negro's body. There was no smoke issuing from the death cap, as has been the case many times before. The contact at the head and at the ankle was perfect. There was no smell of burning flesh as the bystanders watched the negro closely to see if he moved. He did move silghtly two or three times as the voltage was increased, in a spurt. His body would become more rigid and then would relax as the current continued to course through him

The "juice" was cut off for a few seconds. It was evident that he was not dead, although he had been unconscious from the very first crash of the electric current. Again the switch was pushed into place and again the death current raced through his body. This time he convulsed his hands tightly into balls but, as the current continued to do its ghastly work, his fingers gradually fell apart from their clinched condition. The man was dead when the second shot had gone on for a full minute. Dr. J. R. Norman so pronounced him and attendants took the body out to the waiting hearse, to be carried off.

Negro's Body Unclaimed.

The negro's wife is not expected to claim the body, as she has "run off and married another man," Roberson's sheriff said. Lumpkin has no near relatives who will want to give the body burial, so the state will attend to that part of the aftermath. Among the score present, to view the execution, were Sheriff B. F. McMillan, W. C. Britt, R. C. Cox and R. C. Jones, all of Lumberton. Not a person from Rowland was a witness.

The two negroes had been in "solitary" on death row for about a year and had observed a stoicism which was unusual. Towards the end of their stay and with no possible means of escaping the death penalty, however they showed some slight signs of breaking their silence and stoicism. That attitude finally was completely broken this morning, when the two gave what they claimed was the whole truth about the killing. Whether Williams' story is true, even partially, is a question in the minds of prison thorities but the doubt created by what Williams said was enough to save him.

Chief Was Good Marksman.

On the left side of Lumpkin's chest, high up near the collar bone, was a scar, which showed that Chief Rogers was no mean shot. The bullet had gone in just a few inches too high to take the negro's life. The story of the shooting adds to the courage of the Rowland officer. He knew the three negroes well and they were characterized as "bad niggers." They were wanted for minor infractions of the law and Chief Rogers took it upon himself to arrest them, against the advice of friends. He walked up to them and began talking to them, intent on putting them behind the bars. As he did so, one of the three pulled a gun and fired and in a second several guns spoke. Chief Rogers did his best to kill Lumpkin, who managed to knock the chief to the ground. In the mix-up the chief received his mortal wound. The three negroes made good their escape but only for a few hours. Chief Rogers was considered not only a fearless but a fair officer and he had always had the best interests of the negro population at heart and was highly thought of by the negroes of that section. His trust that the three negroes would do as he said was the reason for his thinking so little of making the arrest the night after Christmas.

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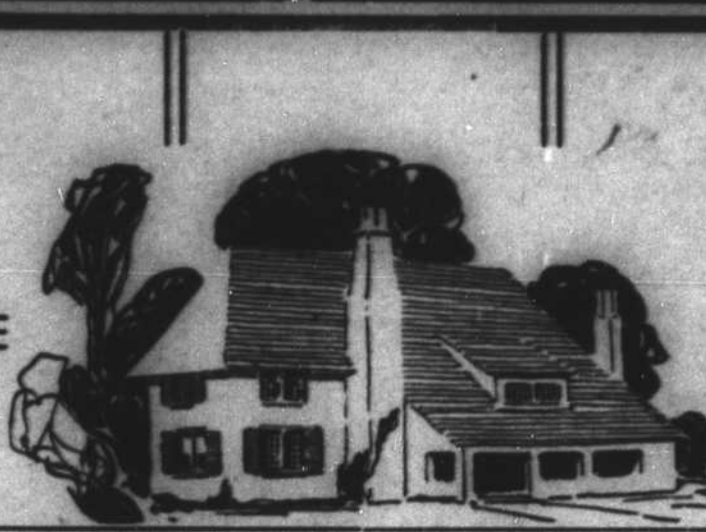

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