

## Judge Declares Mistrial In Wallin Case

By BILL STUDENC  
Editor

Madison Tax Collector Harold Wallin, charged with failing to collect interest and penalties from 92 delinquent taxpayers, will have to wait to have his day in court.

After listening to a half day of evidence Monday in the trial of Wallin, District Court Judge C. Philip Ginn declared a mistrial, saying a special session of Madison County District Court would be necessary for the trial.

Ginn cited a crowded court docket as his main reason for declaring the mistrial.

"I told the fellows (defense and district attorneys) early on that if the case was going to take a long time, I didn't want to try it. We had other criminal cases scheduled that I considered of greater importance than the crimes involved in this case," Ginn told The News Record after his ruling.

"They had assured me that it would only take two or three hours to try it, but when we got into it, I realized it would take much longer than that," he said.

Ginn estimated that it would take about three days for the trial of Wallin.

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District Court Judge C. Philip Ginn

"We will need to set a special session for the trial," he said. "I don't want us to get back in this same situation again."

Wallin has been charged on the misdemeanor offense of willfully failing to discharge his duties. Two charges against Wallin stem from his alleged failure to collect \$240.60 in penalties on late tax during July 1985

and and \$357.47 in February 1986.

The District Attorney's Office, in two misdemeanor statements of charges issued last month, listed a total of 92 occasions in which Wallin allegedly failed to collect interest on delinquent tax - 22 in July 1985 and 70 in February 1986.

Amounts of uncollected interest range from 5 cents to \$49, according

to the statements.

During testimony prior to the declaration of a mistrial, tax clerk Janice L. Caldwell testified that taxpayers had paid interest in nearly all of the transactions listed in the charges against Wallin.

Caldwell testified that in some instances, the taxpayer had made a partial payment of tax one month, and came into the office later to pay the difference. In those cases, interest was included in the partial payments, she said.

In other instances, the interest was paid, but was recorded in county tax books as principal, Caldwell said.

"Often the tax was listed and the interest was listed in the same column," she said.

Caldwell indicated that in all but two or three cases, tax and penalties had been paid in full.

During questioning from Assistant District Attorney Gerald Wilson, Ginn recessed court for nearly 30 minutes while he, Wallin, Caldwell, Wilson, State Bureau of Investigation Agent Claude Greene and Wallin's attorney, Joseph Huff, went downstairs to the Tax Collector's Office to look over county tax records.

After a lunch recess, Ginn declared the mistrial.

## Republicans Pick Church For School Board Seat

By BILL STUDENC  
Editor

The executive committee of the Madison County Republican party has chosen Jewel Church of Hot Springs as the newest member of the Madison County Board of Education.

Church replaces Jimmy Dean Hensley, who announced his resignation Sept. 8 but then changed his mind and asked that he be reappointed to the school board.

The Republican executive committee, during a meeting last Thursday, decided by a 8-5 vote not to allow Hensley to keep his seat on the board.

Church assumed her new duties as a member of the Madison County

Board of Education at a special meeting Monday night (See related story).

Church, an ex-Democrat, was fired in 1975 as principal of Hot Springs Elementary School on charges she inflated enrollment figures at the school.

Hensley did not attend the executive committee meeting, saying he did not want his presence to put any pressure on committee members. But when contacted Friday, he said he was disappointed by the committee's decision.

"I feel hurt and betrayed by some of the members of the executive committee. They rung my phone off the wall until I resigned, and not one of

them had the decency or the guts to ask me how I felt or what I wanted," he told The News Record.

"The only thing I promised to do when elected was be fair and honest, and that's exactly what I tried to do when I was on the board, but eventually that's not good enough for some people," Hensley said.

Although disappointed by the committee's decision, Hensley said he wasn't surprised.

"I didn't play politics at all. I didn't pull for the Republican party as much as some wanted me to. I made my decisions based on what was good for the school system, not on what was best for the Republican party, and I

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Jewel Church  
... new school board member

## Hensley To Board: No Hard Feelings

By MARGARET A. STUDENC  
Staff Reporter

Monday was a day of beginnings and endings for the Madison County Board of Education with the official acceptance of Jimmy Dean Hensley's resignation and the induction of new board member Jewel Church.

Hensley, who had resigned from the board on Sept. 8 and then failed in his attempt to regain his spot on the board after a change of heart, spoke to the board and persons present at the meeting.

"This (speaking to the board about the resignation) is the hardest thing I've ever had to do, but I owe it to the board members, the people who

elected me and to myself," Hensley said.

"I'm not mad at anyone," he said. Hensley said he had made one promise when campaigning for the board position, which was to be fair and honest with no politics involved. "I have lived up to that promise," he said.

Hensley ended by saying that he still loves the kids of Madison County and will still do all that he can for them.

Hensley's replacement on the board, Church, was nominated by the Madison County Republican Party's executive committee last week (See

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## 2 Mars Hill Brothers Face Murder Charges

From Staff Reports

Two Mars Hill brothers are being held in Madison County Jail pending extradition to Greene County, Tenn., on murder charges stemming from a Friday night barroom brawl.

Jeffrey Eugene Massey, 17, of Turkey Branch Road, Mars Hill, has been charged with second-degree murder in connection with the death of Herbert Norton, 34.

Massey's brother, James Bruce Massey Jr., 22, also of Turkey Branch Road, Mars Hill, has been charged with aiding and abetting second-degree murder, according to arrest warrants filed in Madison County Courthouse.

The brothers were arrested by the Madison County Sheriff's Department Saturday on the charges after being contacted by the Greene County Sheriff's Department.

According to authorities, a fight broke out at about 8 p.m. Friday at the Starlite Club on the Asheville Highway in Greeneville. Norton died after having his throat slashed in the fight, according to authorities.

The Massey brothers, handcuffed together, appeared in Madison County District Court on Monday, where they received court-appointed attorneys to represent them during the extradition process.

District Court Judge C. Philip Ginn appointed Forrest Ball to represent

Jeffrey Eugene Massey, and Joseph Huff to represent James Bruce Massey Jr.

Madison County Sheriff Dedrick Brown said he attempted to convince the brothers not to fight extradition, but was unsuccessful.

An extradition hearing will be held, but has not yet been scheduled, Huff said.

The Masseys remain in Madison County Jail on \$50,000 bond each.

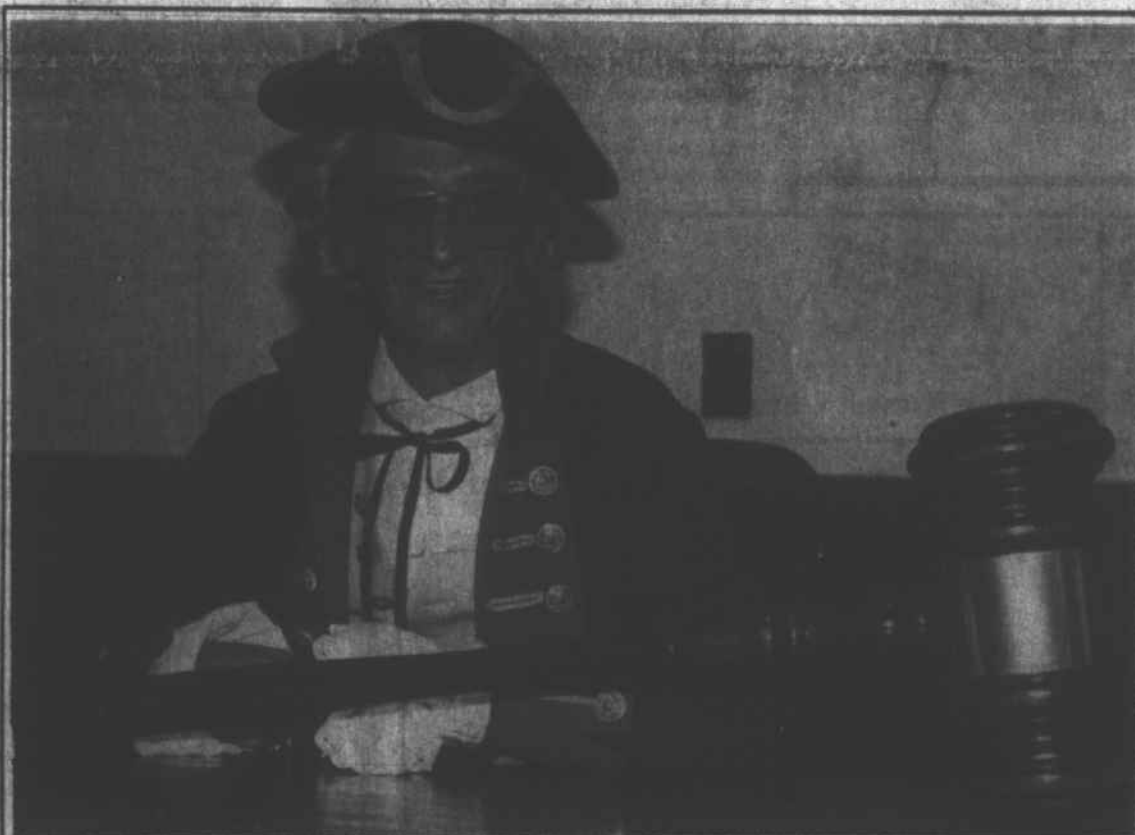
Two Madison County men were sentenced last week to three years in prison for attempting to snatch the purse of an elderly woman at the Asheville mall.

John Eric Ramsey of Mars Hill and Johnny McCarter of Hot Springs pleaded guilty in Buncombe County Superior Court last week to attempted common law robbery.

The two men were charged with knocking down Maglee Ray, 64, and her sister, Mildred Ledford, 79, at the Asheville Mall and attempting to swipe Ray's purse.

Five students from Reynolds High School saw the incident as they drove by in a van. The boys jumped out of the van and subdued Ramsey and McCarter.

The students held the men until the authorities arrived.



BILL STUDENC PHOTO

## Constitutional Costume

District Court Judge Robert H. Lacey donned 1780s-era garb while presiding over court in Marshall last Thursday. Lacey, and judges across North Carolina, recessed court at 11 a.m. for a brief ceremony in commemoration of 200th anniversary of the

U.S. Constitution. Churchbells all over the nation rang for 200 seconds Thursday afternoon as part of the festivities — one second for each year since delegates signed the constitution in Philadelphia on Sept. 17, 1787.

## Weaverville Won't Require Manager To Move Into Town

By BILL STUDENC  
Editor

Weaverville Town Manager Charles Horne won't have to sell his home in Flat Creek and move into the Weaverville town limits — at least not immediately.

The Weaverville Town Council agreed Monday to rescind an ordinance passed in July requiring the town manager and police chief to live within the corporate limits, and the fire chief within the North Buncombe Fire District.

Town attorney Bill Barnes, at last month's council meeting, cautioned town officials that the ordinance could set a precedent in North Carolina — and could pave the way for a lawsuit against the town. Barnes continued to voice that concern Friday.

I feel the matter could be something the N.C. Council of

Municipalities could easily take on as a test case because of changing policy with town employees already in place," he said.

"In the sense of fairness, when employees are recruited, that (requiring them to live in the town limits) should be a requirement coming in," he said.

Barnes suggested that the council should either give a compelling reason for requiring certain employees to live in town, or rescind the July ordinance.

But Councilman David Lenford, who originally made the proposal, said he would prefer to let the ordinance stand and allow the council elected in November to change it if desired. Lenford is not seeking reelection.

The ordinance, when adopted, would have required Horne and his Police Chief Gerald Harrison to

move inside the town limits within 90 days — by the middle of next month. Rathburn has since been fired as police chief, and Horne would be the only employee affected by the ordinance.

Weaverville Mayor Reese Lasher said he thought the town could require future town managers — and, in fact, any department heads — to live in town.

Lasher recommended that the council rescind the old ordinance and allow the new council, which may hire a new town manager, to dictate standards to its employees.

The council took that recommendation by a 3-2 vote.

"I can't see a compelling reason to change in the middle of the stream and require the town manager to live here when he's already taken the job," said Councilman Rathburn Young.

## SBI Won't Extradite Ex-Police Chief

By MARGARET A. STUDENC  
Staff Reporter

Although it has been more than four months since former Hot Springs Police Chief John Barrett was formally charged with driving while impaired, it appears that charge will not come to trial.

Barrett is living in Florida, according to the State Bureau of Investigation, and will not be extradited on the DWI charge.

Barrett left Hot Springs unannounced in mid-March during the midst of an SBI investigation into charges he was intoxicated when he crashed Hot Springs' only patrol car a New Year's Eve accident.

The SBI filed the DWI charge in May, after county law enforcement agencies agreed by Hot Springs

ings residents' claims that Barrett had been drinking prior to the crash.

But, according to Bill Matthews, assistant director of the Asheville office of the SBI, warrants on misdemeanor charges do not require extradition from other states.

And that means the SBI will not extradite Barrett from Florida to stand trial on the misdemeanor DWI charge.

The SBI office does have certified copies of the warrant on file in the event that Barrett does return to North Carolina, Matthews said.

Barrett was charged with driving the town's only patrol car "on U.S. 25-70 near Hot Springs, a highway,"

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## Injured Trucker May Sue DOT

From Staff Reports

The N.C. Court of Appeals has paved the way for the settlement of a \$100,000 lawsuit filed by an Ohio trucker injured in 1985 when his rig plunged over the side of U.S. 25-70 near Hot Springs.

Michael Zimmer, 31, of Covington, Ohio, sued the state of North Carolina after he was forced to take U.S. 25-70 as a detour when a rockslide closed Interstate 40 through Haywood County on March 5, 1985.

The N.C. Department of Transportation has attempted to have the case dismissed, but the N.C. Court of Appeals ruled last week that the matter should be heard by the state Industrial Commission.

DOT has the option of appealing that ruling to the N.C. Supreme Court, said Bill Stephenson, commissioner with the state Industrial Commission.

State officials have about two weeks to make that decision, Stephenson said.

Zimmer has claimed that the I-40 detour on U.S. 25-70 near Hot Springs was improperly prepared, resulting in the accident. The detour for east-bound traffic ran from Newport, Tenn., to U.S. 19-23 in Buncombe County.

Zimmer suffered multiple leg fractures when he jumped from his tractor-trailer rig moments before it tumbled over the side of U.S. 25-70 and into a ravine some 450 feet deep, according to reports.

Zimmer, who had been driving for Shenandoah Motor Express, has been unable to work since the accident, according to the lawsuit.

The lawsuit, filed under the Tort Claims Act, alleges that the detour route was "an extremely treacherous, curvy, narrow, steep mountain roadway" unsuitable for travel by large tractor-trailer rigs.

The suit contends that DOT was negligent in failing to install signs warning truck drivers of the winding, narrow nature of the detour and in failing to install guardrails, reflectors or other devices.

DOT has responded that the detour was a necessary emergency measure to reroute traffic around the rockslide.