

# Commissioner Setup Called Unconstitutional

## Kilby Held Without Bond On Murder Charge

### Suspect Surrenders At Jail Saturday

Jewell Kilby, 46, of Martins Creek is being held without bond in the Cherokee County Jail after being charged with murder in the death of Glenn (Penny) Moore, 52, also of Martins Creek.

Kilby surrendered to Sheriff Claude Anderson at the jail shortly after 8:00 a.m. Saturday. Anderson had led an intensive two-day search for Kilby after Moore's body was found Thursday morning at Kilby's home.

A series of coincidences led to the discovery of the body outside of the Kilby home and the fact that the suspect was at large for two days.

Deputy Sheriff Robert Hartness and Probation Officer Edwin Hendrix went to the Kilby home at 10 a.m. Thursday on another matter and Hartness found the body.

Ironically, Kilby had been released from jail about 15 minutes before the body was found. Hartness had jailed Kilby on a public drunkenness charge Wednesday at 8:30 p.m. and he was released at 9:45

a.m. Thursday.

Moore had been shot in the head twice, according to Coroner J. C. Townson.

Judge Robert Leatherwood III ordered Kilby held without bond until a preliminary hearing is held. He appointed Herman Edwards to serve as Kilby's attorney on Monday.

Anderson said Kilby's wife told him she left the home around 1 p.m. Wednesday and at that time, her husband and Moore were at the place and they were drinking.

The Sheriff said he had a report that shots were heard in the area of Kilby's home around 4 p.m. Wednesday.

Kilby's wife told the Sheriff her husband came to her father's place around 7 p.m. Wednesday and gave her a rifle.

Anderson has the 22-caliber rifle, a shotgun found at the Kilby home, a pint of white whiskey found there, and three 22-caliber shells in his possession. Two of the shells were found within five feet of Moore's body, Hartness said.

The Sheriff said the rifle had been fired recently and the shotgun had not been fired recently.

Kilby was acquitted of the murder of Ross Dockery of Rt. 3, Murphy during the July, 1965 term of Cherokee County Superior Court. Dockery was shot to death at Kilby's home on March 9, 1965. The home was on Fain Mountain.

S.B.I. Agent James Maxey of Bryson City assisted Anderson, Hartness, and Deputy Glenn Holloway in the investigation of Moore's death.

Funeral Services for Moore were held at 2 p.m. Saturday in Grape Creek Baptist Church.

The Rev. Ernie Young and the Rev. Raymond Carroll officiated and burial was in the church cemetery.

Mr. Moore was a native of Cherokee County, a son of the late Will and Mary Hartness Moore.

Surviving are two sisters, Mrs. Margie James and Mrs. Onia Carringer, both of Murphy; six brothers, Paul of Gastonia, and Gus, Oliver, Leonard, Ed and Raymond Moore, all of Murphy.

Townson Funeral Home was in charge of arrangements.

### Rail Crew Kills Snake

A Southern Railway bridge construction crew turned snake killers recently, according to Bob Barker of Andrews.

Barker said Foreman Bob Miller of Brevard and his Murphy Branch helpers, James Bryant, Lee Meadows and J. C. Tollet, killed 17 copperhead snakes on July 24 at the Valley River trestle east of the Rhodo Tunnel. One of them was over two feet long.

The next day, at the trestle just west of the tunnel, the crew killed a copperhead that measured 44 inches in length.

It was reported to be as big as a man's arm.

After the head was chopped off with an ax, one of the men "walked down" the huge snake and, Barker said, "out came a rabbit, then a squirrel, then another rabbit which the snake had eaten."

It appeared that the snake had eaten the animals three or four days before.

## Swain Team Takes District Championship

Teams from Bryson City and Andrews took home the major trophies as Jim's Laundry team of Bryson City swamped A and P of Andrews 11 to 12 to win the Slow Pitch Championship of the Far West Softball District Tournament last Saturday in Robbinsville. The winners were awarded the Championship trophy by Tom Price, President of the sponsoring Robbinsville Lions Club. In addition, the most valuable player trophy went to Lionel Brooks, the outstanding short-fielder for the Laundrymen.

A and P received the runner up trophy and the much coveted Sportsmanship award.

In winning the Championship, the Laundrymen outclassed all opposition and won each of their five games by nine runs or more. Only once during the tournament did they trail the opposition and this only lasted one inning when Hiwassee Dam took a short-lived 1 - 0 lead in their encounter.

The Champions were sparked by Donnie McGaha in the final game as he hammered out three hits including his fourth homerun of the tournament. Pitcher Burgin Edwards and shortstop Gene Shuler also had home runs for the winners as they took a 3 to 0 lead in the second inning and were never headed despite a three hit performance by Terry Marr of the losers.

The semi-final game of the tournament matching A and

P and the Contractors of Robbinsville proved to be one of the more exciting games as A and P took a hard earned 11 to 10 win, their fifth one-run win of the tournament. Trailing 8 to 0 in the top of the seventh and looking woefully weak at bat the Contractors exploded for ten runs and a 10 to 8 lead. Third-sacker Bill Smith led the uprising with two hits and Richard Fife drilled a long hit to centerfield to score Smith with the go ahead run. Fife also scored when the return throw-in was errored.

A and P refused to give in and came back to score three runs after two were out and hitting but one ball out of the infield. This lone smash was a blast over first by Lonnie Postell allowing Jerry Postell to score from second with the winning run.

Other highlights of the final weeks play saw Little Alarka and Lauda score an amazing 51 runs between them before Little Alarka came off victorious by a 28 to 25 score. Trailing 26 to 18 going into the last inning Lauda scored seven runs and had the tying run resting on third base when the final out was made. Roy Jones and George Oliver each had five hits to lead the winners 29-hit attack while pitcher Dick Enslay of Lauda added 5 hits of his own in a losing cause.

The next night found the Little Alarka bats almost silent as Ernest Reed scattered eight hits and led his A and P mates to an

## Tax Publication Switch Explained

Chairman W. T. Moore of the Cherokee County Board of Commissioners told Scout Publisher Jack Owens Monday morning that political retaliation "probably had some bearing" on the selection of another newspaper to carry the delinquent Cherokee County tax listings that have traditionally been carried in The Cherokee Scout.

Owens appeared at the Commissioner's regular August meeting to determine why the change had been made.

"There was arguing and see-sawing different ways over this," Moore said, "then Harry (County Accountant Harry Bishop) up and give it to them" (the other paper).

The Scout Publisher pointed out to the Commissioners that The Cherokee Scout:

Is a local corporation that paid \$405.10 in Cherokee County taxes last year.

Provided employment for seven people with a payroll of \$36,140.48 last year.

Willingly bought \$5,000 worth of bonds when the Cherokee County Development Corporation asked for funds to secure new industry in Murphy.

Willingly bought \$2,000 worth of Andrews Furniture Industry bonds when funds were raised to secure that industry.

When Owens first ask the question about political retaliation, Moore said "I don't know that it was", but then added, "in a way, it had some thing to do with it."

Moore said that some members of the Board disapproved of various news reports that appeared in The Cherokee Scout. He told the publisher that he thought a newspaper should be "neutral and open."

Owens replied that "The Cherokee Scout is a neutral and open publication."

Luther Dockery said "a lot of people down our way don't get that Andrews paper and there was no vote on this."

Jack Simonds called the change "a one sided affair. All of the Commissioners should have been consulted. We should take some kind of

vote on it."

Moore told the Board "it probably shouldn't be done this way, but it's done."

Carlyle Matheson made a motion to revert to the traditional method of publishing the lists next year. Moore seconded his motion.

"It (The Scout) serves the purpose it is intended for" because the lists are readily available to more people, Matheson said.

A delegation of six Topton men, led by Wendell Ulm, asked the Board to oppose the operation of an asphalt plant by the Asheville Paving Co. at Topton.

The plant was originally planned for Robbinsville, but the Robbinsville Town Board voted against allowing it to operate there.

Ulm called the plant a health hazard and said it is located within 1500 feet of 95% of the houses in Topton. "This thing will pollute more in one day than a whole summer's traffic on US 19, he said. He presented a petition signed by several property owners in the area.

The asphalt operation had not yet begun, but the residents are already concerned about dust caused by the unloading of gravel from cars at a railroad siding.

"We've been forgotten too long in Topton," Ulm said. He

added "up until Glenn Holloway got to be deputy sheriff, we didn't have any law in Topton. He's doing a good job."

The Board agreed to investigate whether it had any authority to intervene in the matter. The Commissioners will consult with County Attorney L. L. Mason, Jr. to determine whether such authority exists. Mason was not present at Monday's meeting.

In the meantime, a letter was drafted informing the paving company that the Board is concerned about the matter. The letter invited the company to present its views on the question to the Board.

The Commissioners voted to make \$500 donations to the Cherokee County Rescue Squad and the Andrews Rescue Squad.

Mrs. Ruth Cheney was named to serve as the registrar of vital statistics, succeeding her late mother, Mrs. Bessie Dewese. Moore, Barton, Sims and Dockery voted in favor of the appointment. Simonds and Matheson abstained.

The Commissioners voted to co-operate with the Department of Archives and History in the inventory, repair and microfilming of public records. The work is expected to begin here late this month or early in September.

## Federal Suit Asks For New Election

Two Cherokee County residents, Howard West and Idris Adams, have filed suit in U. S. District Court at Bryson City charging that the present Cherokee County Board of Commissioners is "unlawfully and improperly constituted" and asking that the Court order a new election "under the general law of the State at the earliest feasible moment."

The suit was filed by Attorney C. E. Hyde Monday. Defendants named are the Board of Commissioners - W. T. Moore, Ray C. Sims, Andrew J. Barton, Carlyle Matheson, Jack Simonds and Luther Dockery; The Board of Elections of

Cherokee County - Milton Mashburn, Cleve Almond and Hayes H. Dockery, Sr., Sen. Mary Faye Brumby, Rep. Wiley A. McGlamery; Lee C. Smith, Chairman of the N. C. State Board of Elections and Wade T. Bruton, Attorney General of North Carolina.

The present Board was elected under a special act of the 1965 General Assembly from districts "created by a hodgepodge of irrational subdivision", the suit says.

The suit lists the population of the three commissioner districts as follows:

District One - 4,834, District Two - 6,813, and District Three - 4,655.

It contends that the "inequality of representation... violates the Equal Protection Clause of the 14th Amendment to the Constitution... (and) is invidiously discriminatory and repugnant to the decisions of the Supreme Court of the United States relating to equal representation and to the principal of 'one man - one vote'."

The plaintiffs ask that the present districts be declared unconstitutional and that the Commissioners be elected by the county at large under the general law of the State of North Carolina.

The suit requests that a three-judge Court hear the complaint.

Each party elected three members of the Board last November. Republican Matheson and Democrat Moore were elected from District One. Both District Two members are Democrats, Sims and Barton, Republicans Dockery and Simonds represent District Three.

The Democrats control the Board under the special act due to the method set out for electing a chairman.

Moore was elected chairman and he has two votes, under the special act, when a tie vote is cast on any issue before the Board.

## Defendants Comment On Federal Suit

The Scout contacted several of the defendants named in the complaint filed in the U. S. District Court in Bryson City against the present method of election of the Cherokee County Board of Commissioners to determine their views on the issue.

Hayes H. Dockery, Sr. said "the districts should be divided equally in population."

Sen. Mary Faye Brumby said the plaintiffs "have a perfect right to test it (the law) and the outcome will have to be left up to the Court." She added "Rep. McGlamery and I are listed at the top of the complaint

but are not listed as defendants in the body of the complaint."

Jack Simonds said "I don't think that two-vote system is right and we ought to have something done about it. The Commissioners should be elected either county-wide or from equal districts."

W. T. Moore, Carlyle Matheson, Milton Mashburn, Rep. Wiley A. McGlamery and Lee C. Smith told The Scout they had no comment to make at this time.

Andrew J. Barton, Luther Dockery, Ray C. Sims, Cleve Almond and Wade T. Bruton could not be reached before press time.

## Sylva, Waynesville OK Legal Liquor

The voters of Sylva and Waynesville approved the establishment of Alcoholic Beverage Control Stores in their towns Tuesday.

The vote in Sylva was two-to-one in favor with a heavy turnout. The vote was 326 for and 166 against.

There are about 600 registered voters in Sylva and 492 voted Tuesday.

The Waynesville ABC Store was approved by a 58-vote margin, 1,111 to 1,053. The total vote was 2,164 out of

4,200 registered voters.

The votes were to be canvassed Wednesday afternoon.

Waynesville Mayor Henry Clayton said the first ABC Store in the town could be in operation within 30 days.

## 2 Hurt On Scott Laney

A Murphy man and boy were injured in a car-truck collision on Scott-Laney Mountain Monday, according to Highway Patrolman Don Reavis.

Noland Wells, the driver of the car, was transferred to a Chattanooga hospital.

Jimmy Owens, 13, was a passenger in the car. He was injured and taken to an Asheville hospital.

The truck driver, Raymond W. Watts, 37, of Bryson City was not injured.

Reavis said it appeared that the Wells car, traveling west, crossed the center of the road and struck the rear wheel of the tractor-trailer rig.

Andrews Fees Less This Year

The traditional high school textbook rental fee and the Elementary school supplementary book fee will not be collected from the youngsters as school opens on August 23, however lunches will cost an extra 5 cents per plate.

Positive action by the 1967 N. C. General Assembly brought about these changes in fees to be collected from students. The legislature appropriated additional funds to the Andrews City School System so that the traditional \$5.00 per student High School textbook rental fee will no longer be charged. The students will be charged at the end of the year for lost or damaged textbooks. The traditional supplementary book fee for elementary school children will not be collected this year.

The 1967 Legislature was asked to appropriate funds to aid school lunchrooms because of the increasing cost of operation. This Legislature did not provide the additional funds, therefore the Andrews City Board of Education found it necessary to raise the price of school lunches for this purpose. The youngsters will pay 30 cents per lunch this year.

All parents are urged to send youngsters prepared to pay all fees, except for lunches, on orientation day which is Wednesday, August 23. The youngsters will attend school one half day on August 23, for the purpose of arranging schedules, paying fees and receiving textbooks. No lunches will be served as school will be dismissed at 12:00.

James A. Wood has joined the English Department at Andrews High School.

The Andrews Elementary School gained two teachers because of increased enrollment. New faculty members there are Frances De Etta Watson, Librarian; Jeannie Gibbs Biddle, Paul W. Price, and Robert Hugh Rayburn.

Mary Barnard Jones is a new teacher at the Marble Elementary

## Airport Grant Expected Today

WASHINGTON--The Appalachian Regional Commission is expected to approve a \$43,999 grant for the Andrews-Murphy Airport today (Thursday).

The grant was announced in a joint release by Senators Sam J. Ervin, Jr. and B. Everett Jordan and Rep. Roy A. Taylor last Wednesday.

The Appalachian grant, which had been expected but was delayed, will reduce the county bonds needed to finance purchase and improvement of the airport to \$106,502.

The voters authorized the county to sell up to \$150,000 in bonds last August.

The Federal Aviation Agency has already approved a grant of \$150,501 for the airport.

## Andrews Softball Tournament Set

Softball teams from Andrews, Murphy, Hayesville, Robbinsville and Bryson City will participate in a tournament beginning Monday night at Andrews.

Hayesville team number one will meet the Robbinsville runner-up in the opening game at 8:30. Graves Chrysler-Plymouth of Murphy will play the Andrews runner-up at 7:30. Andrews team number one meets Bryson City at 8:30 and the top Robbinsville and Hayesville number two team play at 9:30.

Games are scheduled on Tuesday, Wednesday and Thursday with the final championship game set for 8 p.m. on Saturday.

There will be a 25 cent admission charge.

## MHS Students To Register

Registration will be held at Murphy High School on Monday and Tuesday for those students who did not register last spring.

All students who did not attend Murphy High School last year will have to register during this time. The Office will be open for registration during the hours of 9:00 AM to 3:00 PM on these days.

## Moose Lodge Sought Here

Efforts are being made to organize a Loyal Order of Moose Lodge in Murphy.

Persons interested in information about the organization are invited to write to Loyal Order of Moose, Box 463, Murphy.

There are presently more than 2,000 Moose Lodges in the English speaking areas of the world and membership is reported to be near one million.

## Salvage Lumber Donation Made

Henry Ridgeway, plant controller of Andrews Furniture Industries, has donated salvage lumber to the Tri-County Technical Institute for use in craft courses.

The courses, with emphasis on small wood projects, are open to the general public, 18 years of age and older, and are free except for the cost of materials used.

## Man Found Dead In Car

Coroner J. C. Townson said Guy Brittain of Murphy, who was found dead in his car Wednesday morning, died of natural causes.

Sheriff Claude Anderson found the body in the car which was parked along the Harshaw Road.

Anderson said he received a report that the car was seen parked there Tuesday night and was in the same place in the morning.

## Health Council To Meet Here

The Murphy Hospital Authority will host the August meeting of the State of Franklin Health Council. The meeting will be held at the Murphy Elementary School at 7:30 p.m. Monday.

"State of Franklin" is a non profit Corporation serving the 7 most western counties of North Carolina--Cherokee, Clay, Graham, Haywood, Jackson, Macon and Swain. The purpose of State of Franklin is to study and plan in the areas of Health and Medical facilities for this 7-county area.

Cherokee County Committee members are Dr. Charles Van Gorder, Doyle Burch, Frank Swan, Sister Mary Francis Xavier, Dave Moody, Hans Berkins, Mrs. Edgar Wood, John Smith, Holland McSwain, Jack

## Miller Memorial Planned At MHS

An effort is being made to raise funds to place a set of reference books in the Murphy High School Library as a memorial to the late Mrs. Harry (Emily) Miller. These books will be chosen at the discretion of the school Librarian.

A plaque engraved with an inscription in appreciation of Mrs. Miller's efforts toward educating the youth of Murphy and Cherokee County will be given by Davis Jewellers and placed in the library along with the books.

The funds toward this memorial, which have been received by Verlon E. Carter of Marietta, Georgia, and formerly of Murphy, have been turned over to Mrs. Bob Minor, librarian of Murphy High School. Any additional funds which he receives as a result of earlier communications with former classmates will also be given to Mrs. Minor who will acquire the books for the library.

Any person, former students or friends of Mrs. Harry Miller, who wish to make a contribution toward this effort may do so by sending contributions to the Murphy High School to the attention of Mrs. Bob Minor, librarian.

## Miller Memorial Planned At MHS

First Base-Jerry Postell of A and P; Second Base-Buddy Jenkins of Jim's; Third Base-Snake Norton of Wiggins; Shortstop-Bob Manuel of Triplets; Ut. Infield-Berry Shoch of Little Alarka; Left Field Don McGaha of Jim's; Center Field- Monty Armitage of Jim's; Right Field-Ray Spangler of Triplets; Short Field-Lionel Brooks of Jim's; Ut. Outfield-Roger Webster of Contractors; Catcher- Henry King of Lauda; Pitcher-Burgin Edwards of Jim's; Pitcher-Ernest Reed of A and P; Infield-Pitcher-John Manuel of Triplets.

The strength of the All-Stars is evidenced in that only one of its members hit below 500. An oddity occurred in the selection of the Father-Son combination of John and Bob Manuel of the Triplets.

In winning the most valuable award, Lionel Brooks hit a cool .667 and led his mates on defense in the free wheeling defensive system Manager Ernest Welch uses with his teammates and the tournaments leading hitter, Donnie McGaha.

Jim's Laundry now advances to the state tournament in Burlington opening Saturday playing the champion of the North Central District (Burlington) at 8:00 p.m.