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# THE JONES COUNTY JOURNAL

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## Lengthy Session Jones Recorder's Disposes of Assortment of Cases

In an unusually lengthy session Friday, Judge Joe Becton handed down Recorder's Court decisions in an assortment of traffic and minor criminal offenses.

In cases that came before him to be tried, Judge Becton found Floyd Vance Spence, 64, of West Highland Avenue, Kinston, not guilty of failing to drive on the right side of the road.

Robert Phillips Wells, 24, of Swansboro, who was charged with speeding 80 mph in a 60 mph zone entered a plea of guilty of speeding 75 mph in a 60 mph zone which was accepted by Judge Becton. Wells was ordered to pay a \$15 fine and costs.

Melvin Sharp of Maysville, charged with being drunk and disorderly and causing a disturbance, had his case dismissed.

Dean Camell and Albert Camell, two Trenton Negroes charged with common law robbery, had the case against them dismissed.

Hubert Harding Ellis, 42, of Belgrade was found guilty of reckless driving and given a 30-day suspended sentence upon payment of restitution and costs.

Floyd Chavis, 29, of New Bern was found guilty of driving under the influence and speeding 80 mph in a 60 mph zone. He was given a 60-day sentence, suspended on payment

of a \$150 fine and costs and that he surrender his operator's license. Chavis, who was charged with the two offenses by Patrolman B. O. Mercer, appealed his case to Superior Court and bond was set at \$300.

J. B. Murphy of Trenton had the assault case against him dismissed.

In other Court action, a large number of defendants waived appearance and paid fines and costs. Those forfeiting trial for issuing worthless checks were: George Mateja of Maysville charged with passing three worthless checks totaling \$691.05 had the warrants against him withdrawn and the cost paid by the plaintiff.

Thomas Carlyle of Beulaville paid restitution for a bad check and had court costs paid by the plaintiff.

Paul Johnson of Jacksonville paid restitution for three checks amounting to \$209.19 and also paid \$13 for failing to comply with the inspection laws.

Speeding violators included the following: John Henry Davis, 26, of Hubert paid \$26 for speeding 70 mph in a 60 mph zone; Fannie Padgett Padgett, 68-year old white man from Jacksonville paid \$21 for speeding 55 mph in a 45 mph zone; David Speed McLean, 22-year old Marine temporarily stationed at Camp Lejeune, paid \$26 for speeding 70 mph in a 60 mph

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zone.

Other speedsters were: Durwood Belmont Stokes Jr., 42, of Jacksonville paying \$26 for speeding 70 mph in a 60 mph zone; Richard Lee Bender, 20, and Sgt. Kenneth Lewis Weaver, 29, of Camp Lejeune, \$26 for speeding 70 mph in a 60 mph zone; Gerald Edgar Powell, 30, of New Bern and Ernest Dewey Ross, 24, of Lowland, \$26 for speeding 70 mph in a 60 mph zone. William Henry Hampton III, 20-year old Camp Lejeune marine charged with speeding 70 mph in a 60 mph zone was given a prayer for judgment continued on payment of costs.

Defendants paying for public drunkenness were: James Godley, 52, of Maysville, \$16; Lawrence Haywood Carter, \$16; and William Everett Simpson, 31, of Fayetteville, \$16 James Peter Wells, 38, of Jacksonville, charged with driving under the influence (second offense) paid \$216 in fines.

George Nicholson Nobles of Trenton and Sgt. Murray Graham Brown Jr. of Camp Lejeune paid \$13 for disobeying stop signs.

Nanola Forrest Teachey, 28-year old New Bern woman and Judge Brimmage, 44, of Route 1 Pollocksville, and John Lewis King Jr. of Route 2 Dover all paid \$13 for failing to comply with the inspection laws.

## Chief Justice Answers Criticism of Lawyers' Fee Paid in Johnson Case

Editor's Note: This paper and its editor strongly objected to the \$10,000 fee paid to attorneys who tried to break the will of the late Robert T. Johnson of Jones County. Copies of this criticism and a letter asking for comment were sent to Chief Justice R. Hunt Parker of the North Carolina Supreme Court. Following here is Justice Parker's comment on this practice.

November 20, 1967

Mr. Jack Rider  
P. O. Box 609  
Kinston, North Carolina 28501  
Dear Jack:

Replying to your letter of recent date in respect to General Statutes Section 6-21, Judge N. A. Sinclair of Cumberland County, who presided at the November Term 1932 of Franklin County, tried then the case of In re Will of M. T. Howell, 204 N. C. 437. This case involved a caveat to Howell's will. In this case there was a mistrial and Judge Sinclair ordered that the propounder should pay out of the proceeds of the estate certain attorney's fees for the caveators. On appeal the Supreme Court vacated the order of Judge Sinclair and used this language:

"The authorities on the precise question here presented are variant, as will appear by reference to Annotations in 10 A.L.R. 783, and 69 A.L.R. 1052, where the whole subject is elaborately discussed. There seems to be no precedent in this jurisdiction for ordering an executor, pending the proceedings, to pay out of the estate counsel fees to attorneys for caveators. Nor is the authority supported in tendency by our decisions. They point in the other direction. The order appealed from will be stricken out or vacated."

The General Assembly at its 1937 Session amended the above referred to statute so as to permit the court in its discretion to allow fees for the lawyers to the caveators to contest a will. In re Will of Slade, 214 N. C. 361.

According to the statutory law in this State enacted by the General Assembly, the trial court is authorized to allow fees to the attorneys for the caveators in its discretion. In some instances I think the statute has been abused. On the trial bench I had many cases before me involving caveats to wills. In some of these cases I refused to allow

any fees to the lawyers for the caveators, because I could see no reasonable ground for filing a caveat to the will from the caveators' evidence. In other cases before me where the evidence disclosed there was reasonable grounds to file a caveat and it was filed in good faith, I allowed moderate fees. I think that this is a sound policy to be followed. The allowance of fees to the attorneys for the caveators rests in the sound discretion and judgment of the trial judge. A trial judge can better understand the exigencies of a particular case, under the circumstances, than we can. I defined judicial discretion in an opinion that I wrote in S. v. Duncan, 270 N. C. 241, as follows: "Judicial discretion implies conscientious judgment, not arbitrary or willful action. It takes account of the law and the particular circumstances of the case, and is directed by the reason and conscience of the judge to a just result." S. v. Robinson, 248 N. C. 282; S. v. Morton, 252 N. C. 482." Whether I agree with the wisdom of the legislation allowing fees to the attorneys for the caveators in the trial court's discretion, that is the public policy of this State as expressed by the General Assembly. I specifically refrain from expressing any view upon the particular case to which you refer.

With best wishes always, I am  
Your friend,  
R. Hunt Parker

RHP:tt

## Four Arrests In County Past Week

Jones County Sheriff W. Brown Yates reports the following arrests during the past week: Jim Haselton, 30, of Fayetteville was arrested by Patrolman R. R. Mason for public drunkenness and resisting arrest.

Julius Jordan Jr., 30, of Pollocksville was arrested by Deputy Sheriff Milton Arthur for assault on a female.

Charles F. Bryant, 49, of Route 1 Trenton was brought in by Patrolman Mason and charged with driving under the influence.

William Everett Simpson, 31, of Fayetteville was arrested by Patrolman Mason for public drunkenness.

## Superintendent Allen on Commission Named to Study State School System

J. W. Allen, Superintendent of Jones County Schools, has been appointed to one of the nine committees which will advise the Governor's Study Commission on the Public School System.

Each committee will be composed of one or two members of the Commission. Leaders in agriculture, business, labor and the professions; and representatives of organizations directly concerned with public elementary and secondary education will make up the committees.

The Commission consists of seventeen members: eleven appointed by the Governor, four by the Lieutenant Governor, and three by the Speaker of the House.

The function of the Commission, according to Allen, is to make a detailed and exhaustive study of the public school system of North Carolina, to the end that some evaluation of the effectiveness of public school programs might be achieved."

The Commission will, on or before October 1, 1968, submit its findings and recommendations to the Governor who will transmit them to the 1969 session of the General Assembly.

## Future Teachers' Fun Night Success

Friday night, November 10, marked the third successful year of the FTA-sponsored fun night program at Jones Central. Game time began at 7:30 and the name of the game was bingo.

Prizes carried off by winners, ranged from a jar of molasses to free hair-cuts and shampoos; from piggy-banks to garbage disposals; from miracle cleaners to free lubrication jobs, not to mention scores of delicious cakes baked by mothers of F.T.A. members.



Lonely, forgotten, left to die,  
Guarded by wind and silent sky,  
Lonely for those happier days,  
When families laughed and cried,  
About its sheltering walls.  
Forgotten now for better ways,  
When all old's so oft denied,  
And just memories make their calls.  
Guarded too, by its single oak,  
Whose arms spread a leafy cloak,  
As wind whispers round its arms,  
Of younger times and vaster charms.  
By any non-super road around,  
Its dying kinsmen can be found,

Hiding under haunted air,  
And fading artisan flair.  
By the empty-paned window frame,  
Cold, smokeless chimneys flame.  
Weeded yard, rusted roof,  
Hold the good lady still aloof,  
Looking down her unused lane,  
Where kith and kin used to rain,  
At hog-killing time or holiday,  
Quilting bee or Thanksgiving Day.  
Now no more those happy sounds,  
Gone the last of its rustic clowns.  
Gone the kitchen's warm perfume,  
Gone, gone from every room,  
The living sounds that make a home.