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COUNTY COURTS WHAT THEY ARE

Voters to Decided if We Are to Have a County Court

SPEEDY TRIALS NEEDED

What the Law Provided the County Court Shall do— How It Works

It was provided by an act of the General Assembly of South Carolina, approved February 25th, 1922, that at the next general election which will take place early in November 1922, at the same time that State and County officers are elected the question of establishing a county court in this county shall be submitted to the voters; that the ballot will be printed as follows: "Shall a County Court be established for the county of Horry?" and upon the ballot the electors will write either yes or no, for which, of course, a separate election box will be provided for each precinct in the County.

The Herald had an article published in one of its issues last spring in which attention was called to the need of such a court and to the provisions of the act which had been passed to provide for this election on the subject. If the court gets a majority it will be established. If the people do not want the court it will not be established. It is therefore important that the people understand the increasing litigation of this county and the impossibility of having it attended to with any degree of promptness with the courts as they stand. If the court is established by the vote of the people the new court will have concurrent jurisdiction with the Court of Common Pleas in the civil cases and such proceedings in law and equity where the amount demanded in the complaint does not exceed \$3,000.00, or where the valuation of the property involved in the case is not over \$3,000.00. The law provides that the County Court shall not try titles to land. It will have the right to hear appeals in civil cases from the Magistrate's Court. It will be known as a court of record, which means that permanent records of its proceedings will be kept through all time to come, and it will have an official seal bearing these words: "County Court, Horry County, South Carolina."

All general laws and statutes which apply to courts we already have will apply to this new court and the rules of practice and proceedings for trial of cases will be the same except where they are inconsistent with the new act; but Section Six of the act provides that the same form of proceeding and the same rules of procedure and evidence shall apply in this court as in the Circuit Court where not inconsistent with the provisions of this act hereinafter mentioned, and it provides that all cases motions and trials shall be docketed as provided by section 314 of the Code, at least ten days before the opening of Court, and if a plaintiff should fail to file his pleadings within that time the defendant may file copies five days before the Court. There will be six jurymen instead of twelve.

Cases now standing on the docket of Common Pleas can be transferred and tried in the new court.

The judge of the new court will have the same powers in cases therein as the Circuit Judges have had.

Appeals from the new court will be direct to the Supreme Court of the State.

The County Court, if established, will be held once every sixty days, and at the discretion of the County Judge at such time as he may deem necessary to dispose of the business properly and the sessions will be continued from day to day for all such time as is necessary to dispose of that business but it cannot be in session while the Circuit Court is in session. The County Court will always be open for the transaction of such business as can be disposed of without a jury.

The jurors for the new court will be drawn by the same persons that draw the jurors for the Circuit Court. Not more than eighteen persons shall be drawn and summoned to attend at the same time at any session of the County Court, unless the Court shall otherwise order. Jurors may be summoned by mail and must have five days notice before the day of attending. No person can be summoned to serve oftener than once in every half of the calendar year. Service as juror in the County Court will not exempt a man for service in the Circuit Court the same year.

The Clerk of the Court will be the Clerk of Common Pleas and General Sessions. At the present time Mr. W. L. Bryan would have to fill the position as to both courts.

The Sheriff of the County will have to attend all sessions of the County Court and perform all of the orders thereof and execute the writs.

Jurors will receive the same pay allowed in the Circuit Court. The

HE OPPOSES A COUNTY COURT

I desire space in the columns of your paper in order that some explanation may be made relative to the county court which is to be submitted to the voters on November 7th.

I have read the act; but have not made it a study. From what I learned this court will try only civil cases to the amount of \$3000.00, and to hear appeals from magistrate courts. I am glad the Delegation saw fit to let us vote on it. The lawyers say that the civil docket is badly behind and perhaps it will take three weeks to catch up. Then I ask what will the county court have to do every sixty days? Why not let us ask the Delegation to grant us a few weeks of extra term of civil court in order to catch up with the docket and save so much expense to the taxpayers. I understand the act provides for a judge at a salary of \$2500. per annum 18 jurors are to be summoned every sixty days this alone will cost not less than \$350.00 for each session. And there will be six sessions each year, which will cost \$1200. per annum. The judge and jurors alone will cost Horry county \$4600. say nothing of the time the farmers will lose out of their crops during the busy season.

In addition to the above expense we will have to pay the court crier, the staff officers, a stenographer, also to furnish the record books. The real expense of the county court will be not less than about \$6000.00 per year. It will require one and one half mill levy on the property of the county to pay this court expense.

A member of the Grand jury has stated that they wanted the county court abolished as soon as the docket had been cleared. Don't you tax payers be fooled with this idea.

I notice that Spartenburg county which has eight times as much property and about eight times as much population as Horry voted down a county court last spring. I notice that very few counties in the State have county courts and they are wealthy counties.

It would be much better to spend the cost of the county court each year on roads and bridges than to have the court.

I am writing this article for the information of the farmers, because we are the fellows who will have to pay this expense.

E. G. Stanly

Nothing applies to witnesses. The judge of the new court will be appointed by the Governor with the advice and consent of the Senate and the Judge must be a resident attorney-at-law of this County who shall have been a licensed attorney for at least five years. He will hold office for four years and until his successor shall be appointed and qualified. His salary will be \$2,500.00 per annum and will be paid by the County in monthly installments. In case of a vacancy on the bench of the County Court the Governor will fill the vacancy by appointment to the unexpired term. If the Judge of the County Court shall be absent at the time of holding any Court the Governor can appoint some other suitable person, who is an attorney-at-law, to hold the Court as Special County Judge. The Judge cannot act as counsel in any case in which the County Court has concurrent jurisdiction with the Circuit Court nor shall he act in any Court inferior to the County Court except the Probate Court.

The judge of the new court will have the right to appoint not more than two bailiffs to attend the court. These bailiffs would have the same power as constables and receive \$2.00 per day for the time actually engaged.

The County Judge will appoint an official stenographer who will attend all sessions of the Court and perform all duties as performed by the circuit stenographer. The stenographer would receive \$6.00 per day for the time actually engaged in the Court and would be paid upon the warrant of the County Court.

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The same costs and disbursements allowed in the Circuit Court will be allowed against the losing party in the County Court.

If the new court is established county commissioners are required to make provision by setting aside suitable quarters in the courthouse for holding the sessions of the Court.

From the reading of the above paragraphs the voters of the County will obtain a fair idea of what the new court will mean.

Those who are uncertain about the need of such a court should make inquiry at the courthouse to see how the dockets of the common pleas are congested and how long many causes have been standing thereon. There has been many a failure of justice because of the unusual de-

MARTIN GAINS WHISKEY CASE

Jack Vereen Says That Martin Owned the Still in Question

The preliminary investigation of the whiskey case against W. A. Martin, a farmer of Dogwood Neck township, took place before Magistrate A. P. Thompson, in that township, on last Friday, October 20.

The defendant was dismissed after the examination of several witnesses.

Reports from the hearing are to the effect that all witnesses were admitted in their testimony to March 24th, 1922, and since that time, and allowed to tell on the stand, any facts they may have known as to violations of the whiskey laws by Martin, before that date.

March 24th, 1922 is the date on which rural policeman D. Frank Bellamy, walked up, on a still at which he found the negro, G. Jack Vereen, and placed Vereen under arrest. The negro says he had been employed by Martin to go to the still and get the wood ready for running off a charge, and that he, Martin, was to arrive later and run off the whiskey; that the still belonged to Martin and that he had operated it; that circumstances would tend to show that Martin had been suspected of owning and operating this still and that he had found it necessary to involve the negro in the mess in order to get the negro charged with the crime and he himself allowed to go free.

According to an account of the investigations brought to Conway by one of the witnesses who was sworn at the trial, Jack Vereen was placed on the stand as a witness against Martin and testified to these facts in substance. Notwithstanding this testimony which would show a prima facie case against Martin, all that it seems is required in a preliminary hearing, the defendant was discharged.

It appears that a number of witnesses can be produced to show violations of the law before March 24, 1922 and another warrant may be sworn out for Martin. This statement was made by two different persons in Conway last week following the disposition of the hearing before Thompson.

The hearing took place at the junction of two public roads where George Bessent had started the erection of a new dwelling.

YOU MUST VOTE ON NOVEMBER 7

Important to Pile Up Biggest Vote Possible in the Election

On Tuesday, November 7, the general election will be held in this county, for representatives in Congress, by one set of managers, and for State and County officers by another set of managers, both sets holding open the polls at the same time and place.

Some of the people have failed to read and study enough to understand the difference between the general election which will now take place and the Democratic primary election, which has already taken place. To those who do not understand we will say that the primary election already held was for the sole purpose of selecting Democratic candidates to be run as candidates of the Democratic party in this general election.

There are two great parties to those who do not understand we will say that the primary election already held was for the sole purpose of selecting Democratic candidates to be run as candidates of the Democratic party in this general election. There are two great parties in this county: the Democrats and Republicans. Most of the negroes belong to the Republican party. Most of the white people belong to the Democratic party; speaking of course as relates to the State of South Carolina. Now in the general election to be held on November 7, the purpose is to decide the issue as between the Democrats and the Republicans. Doubtless there will be a Republican candidate for governor run at some or all of the precincts, and there may be candidates for the other offices in that party. South Carolina is more Democratic than Republican; has been for years past. There may not be a chance for any republican candidate provided the Democrats can be interested enough to come out to the polls and vote in the election.

It should be remembered that we are rated in many ways by and in proportion to the vote cast in the general election. There is no other way to get the figures in the apportionment of representation in congress, and in the management of other things that are important to us. Therefore it is the duty of all the electors, both men and women, to go cast their votes for the Democratic

lay that attends the bringing of cases to trial in this County. It was different in former years when there were not so many lawyers and not so much litigation.

SHERIFF GETS THE MURDERER

Was Walking Public Road Near Gallivants When Overtaken

The negro man, Richard Ellerbe, who shot his wife to death here on last week, was caught by the sheriff of this county, within about three miles of Gallivants Ferry, about 12 o'clock on Thursday following the shooting.

The sheriff discovered the negro ahead of him, walking the road, with the same gun on his shoulder. To avoid the chance that the man might take the woods and again try to escape the clutches of the law, the sheriff turned out another road and came back meeting the negro. He was placed under arrest and lodged in the Horry County jail a few hours afterwards.

The negro appears to be a good sample of the desperado type. He is described by many other negroes as being a mean man. Most of them speak well of the woman he killed and sentiment among them is strong against her slayer. Some of them offered to aid in paying a reward for the man's arrest, and also offered to pay a part of the cost of getting bloodhounds on the work.

On Thursday morning the city authorities wired to Raeford, N. C., for the hounds. Before the dogs could be placed on the trail, however the sheriff had picked up the man near Gallivants Ferry.

The details of the shooting are horrible in the extreme. The negro went to the house where the woman lived and broke out a panel from one of the back doors. Inserting his gun through the hole he fired the first shot into the top of the house calling on occupants to get out and scatter or he would kill the last one of them. The deceased ran out with a child in her arms. Going round the corner of the house he fired a load of shot from a breach loading shot gun into the woman's side and she fell to the ground. Crawling into the house the woman was lying on the floor mortally wounded even then. Other negroes, neighbors of the place, heard the shot and several of them came to the house. About five minutes passed when Ellerbe returned to the house saying he had come back again and presenting his shot gun. The other negroes fled without a word. Then the man went into the house and fired another load of shot into the stomach of his wife.

The shooting took place about midnight. The woman was shot to pieces but lived until about five o'clock on Thursday morning when she died.

All the circumstances show this to be a case of deliberate homicide, a cold-blooded murder for which the perpetrator will have to answer in the criminal court next March. Sentiment at this time is strong against him.

The deceased lived in the home of Cora Johnson. At the time of the shooting the woman was sewing while the other members of the household had gone to bed and were asleep. The place is located on the side street in rear of the restaurant operated by William Johnson, and is about one half a block from the long narrow street running through that section of Conway and known as the Race Path.

MARKET PLANS, ARE VICTORS,

Columbia, October 21.—Sweeping victories for co-operative marketing were won in the courts of North Carolina, Texas and Oklahoma during the past week, according to statements received yesterday by the South Carolina Cotton Growers' Co-operative Association. In Texas and Oklahoma the cotton contracts, are practically identical with the contract signed by the members of the South Carolina association, were upheld by the courts and permanent injunctions granted restraining members of those associations from disposing of their cotton except through the association. Temporary injunctions had been secured against six members in Texas and against several in Oklahoma some time back.

In North Carolina a desperate effort was made by enemies of the Tri-State Tobacco Association to have dissolved an injunction which had been issued against two members of the association. Several of the ablest lawyers in the state were employed in the effort to have the contract declared unconstitutional but the court in its decision made the injunction permanent, declaring the contract sound.

Very great interest was taken by South Carolinians in the North Carolina hearing. The attempt to have the injunction dissolved was made before Judge Frank Daniels, H. G. Connor, Jr. of Wilson, chief counsel for those attacking the legality of contract, argued that the association is aimed to create a monopoly and that it is a combination in restraint of trade.

During the course of the speech of one of the attorneys for the association with farmers interested in the outcome of the trial broke forth in applause.

The tobacco association has now instituted suit against the parties who sold their tobacco outside of the association for 5 cents a pound liquidated damages.

COURT MAKING SOME PROGRESS

The court of common pleas convened at Conway on Monday morning.

Mr. W. C. McLain, by appointment, presided. He is a special judge at this term in place of Judge Moore who died several months ago.

The bar was faced by a roster of forty-nine cases, being fully as many as were set for the Spring term last April. The nature of the cases on the roster comprehended suits for damages for personal injuries, actions on notes and book accounts, and trespass and damages to land, and claim and delivery.

Several lawyers from other counties are in attendance upon the court.

The crowd this time consisted mainly of jurymen, witnesses, and the parties in suits themselves. The civil terms of the court never attract the crowds that come here to hear the trials in the criminal court.

Progress was made with the roster from the start.

The case of Carol Jones against Hammer Lumber Company was continued until the next term.

On the call of the case of R. W. Smith against W. Boyd Jones, the case was continued by agreement of counsel until the next term of the court.

A number of cases were compromised.

The first case to be tried was that of W. D. Bethea against James A. Lewis, as sheriff, and Bank of Loris, in claim and delivery for a lot of five automobiles sized here from the possession of P. W. Bethea in 1920, under an execution on a judgment in the case of Bank of Loris against P. W. Bethea and others.

After the five Fords were taken by the sheriff as the property of P. W. Bethea, W. D. Bethea, of Latta, S. C., brought the suit in claim and delivery alleging that the cars were his and not the property of P. W. Bethea; and that P. W. Bethea was only his agent to sell the machines and remit the proceeds to him. The plaintiff W. D. Bethea won the verdict of the jury who found for him the cars or their value the sum of \$4000.00.

This was the only jury trial that was disposed of on Monday. Arguments were made on Monday afternoon in the matter of a demurrer in the case of R. M. Dyson against E. M. Graham and the court reserved decision until the following morning.

The case of Cannon-Hickman Co., against G. W. Graham was continued until the next term.

NEGRO MAN IS A WIFE KILLER

The negro section of Conway was shocked to find out last Thursday morning that a negro man, Richard Ellerbe, had shot his wife, Lizzie Ellerbe, at a room which the latter rented from Cora Johnson, and that the woman had died in the early morning from the effects of the shot.

Officers were notified following the shooting and they went on a hunt for Ellerbe. It appeared that he had fled after shooting the woman and might make good his escape before the officers could locate him.

This negro did not live with his wife. He was employed last year on the National Highway work between Conway and Gallivants Ferry. Some time after that he worked on the construction of a brick building that was let by contract to Mr. H. P. Little, at Lake City.

After he married the second time, the woman whom he killed last Wednesday night, disagreements came up and they parted.

On more than one occasion since they separated the man tried to get his friends to bring his wife to meet him at different places in the negro residence section, but none of these would be interviews resulted in anything.

His wife was known as Lillie Frazier before her marriage to Ellerbe and was employed as a cook in some of the best families of Conway.

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FARMER SUED ON CONTRACT

Interested in the Decision to be Rendered This Week

GREAT ARRAY LAWYERS

Lawyers Come From California to Take Part in the Prosecution

The courts have already heard the trial of one case for breach of a co-operative tobacco marketing contract. It is the case brought by the association against Z. A. Harrell, of Nashville, Tenn.

Several suits were entered in this State, but so far as the Herald has been able to learn, none of these have yet come to trial; and it may indeed be that those in this State have been compromised or discontinued on terms proposed by the defendants.

In this section of the State, about two months ago, there was some interest shown when a news item appeared in the daily and weekly papers to the effect that all farmers who broke their contracts that they had with the association would be tried in the courts of the State.

Many growers in his county, as well as in Marion and Dillon, became interested in knowing what the law is in relation to such contracts.

Now that a case has been tried out the report of it will be of great interest to all of those who read the articles last Spring.

The Tennessee case, however, at last accounts had not been decided by the judge as he took it under advisement and said he would render his decision later, possibly this week.

The Herald has secured the following interesting report of the hearing before the court at Nashville.

Full Report.

With the largest array of counsel ever seen in any civil case of recent years in Eastern North Carolina the suit of the Tobacco Growers Co-operative Association against Z. A. Harrell and W. T. Jones, alleged contract breakers and members of the big co-operative, came to a close at Nashville last Friday after more than a thousand farmers from all parts of Eastern North Carolina had crowded the court house during the greater part of three days.

Never has such interest in any civil case in this section been evidenced by so many people as hung upon the words of opposing counsel which represented the best lawyers of the State and included such names as H. G. Connor, Jr., of Wilmington, Frank Spruill, Jos. B. Ramsey, and L. V. Bassett of Rocky Mount for the defense; Aaron Sapiro and Lawrence Levy of San Francisco, James H. Pou of Raleigh, Stephen C. Bragaw of Washington and W. T. Joyner from Raleigh for the Association.

Judge Frank Daniels after a three day hearing of the case reserved decision until this week with the statement: "I have had no case in my court that involved greater issues or one that was discussed with more ability and learning by counsel."

The very able argument of the lawyers for the defense was largely centered on what they termed the unconstitutionality of the law and the creation of what they argued would become a monstrous monopoly in tobacco which they claimed would threaten the welfare of North Carolina and the United States.

The lawyers defending Harrell and Jones, who plead not guilty to a breach of contract, pointed out in the case of Harrell that he was in partnership with a non-member and that, therefore, it would be impractical to grant an injunction for one partner that would not affect the other, namely, B. F. Eagles, who is not a member of the Association.

In the case of Jones it was pointed out that he has tenants who are not members of the Association and that it would be difficult to make an injunction apply to him without affecting the rights of his tenants.

When Aaron Sapiro, who opened the case for the Association, was called away there was general gloom among the many supporters of the Association present in the court house, but Lawrence Levy, Sapiro's young assistant, made such a masterful plea backed by an amazing knowledge and command of modern constitutional law that the enthusiasm of the spectators was only restrained from breaking into applause by repeated warnings from the presiding judge.

Affidavits and testimony to the effect that Jones and Harrell had signed the contract unconditionally as bona fide members of the tobacco co-operative were presented by the attorneys for the Association and James H. Pou of Raleigh made a forceful plea for the integrity of the contract, stating that the co-operatives were asking no public favors, were spending no public money and had no selected membership. Its only capital is the loyalty of American citizens and the good faith of North Carolinians. Take that away from them and the cause of the co-operative was hopeless, he declared.

Whatever this week's decision of Judge Daniels may prove, the Tobacco Growers Co-operative Association (Continued on Editorial Page)