## THE SENTINE

THURSDAY, JULY 6, 1876

THE SWEPSON TRIAL

## Complete Record of the Case.

MONDAY MORNING'S PROCEEDINGS Court met at 9 o'clock. Dr. Mebane's examination was taken up from the point where he left off, when the State proposed to prove by him the dying dec-

laration of Moore. He said:

The ball entered the spine and went through and through. It hit the back-bone on the left side higher up than it bone on the left side higher up than it came out. The fence in front of Swepson's house, where Moore was shot, is about four feet high. The ball went through the second plant from the top of the fence. I walked up to the fence and looked over it. I could scarcely see over it. This was owing to the fact that the read is washed out at this point, leaving a bank by the side of the fence. When I first went up I did not think the ball, which passed through the fence, could have hit a man on the shoulder, but satisfied myself on closer examina-tion that it would. Moore was about live feet ten inches high. I am six feet. I think Moore's arm must have been thrown back somewhat, and elevated laterally. [Here the witness took a position supposed to be like that in which Moore stood when the wound was re ceived, and holding a stick in his hands aiming at a point indicated, and supposed to be in the same direction from infinedit at swepson's front window—that one from which the shots were fired-was fro n Moore, and said that the wound might have been received in that position.] It seemed to him, the witness, however, that it would have been a strained position to shoot from— a very unnatural position. He could not have brought his gun to the shoulder easily, but the butt of the gun might have been against the inside of the elbow. If he had faced any further toward Swepson's, the ball would not have entered as it did. The ball cut through the arm straight, at the same angle which it preserved in its after been removed from the body laterally.

The flesh of the arm was cut squarely.

Cross-examined.—A man could have had a gun to his shoulder by straining. That would not have been the ordinary position. Moore must have been a little stooping. If Moore had been pointing his gun at the window through the crack of the fence, between the top plank and the second plank from the top, there being obstructions between him and the window, it would have accounted for the stooping, strained position of hold-ing the gun. I saw no bushes—nothing but the fence. Moore could not have opinion, without putting his gun over his left shoulder. The ball entered about an inch or one and a-half inches below the shoulder joint. A man could not lay the fingers of the left hand on the shoulder of Moore with his thumb ou the arm-pit, and then the mouth of the wound have been below the fingers. I did not see Long put his hand in the position indicated. When I first got to Moore and commenced to probe, the probe would not follow. Long told me I was not in the right direction, and took hold of my hand, showing me that the ball had gone to the front of the bone rather than to the back, as I at first thought. The ball went inward and downward. I could not say how a man places himself when he stoops to shoot. I examined the mouth of the wound and do not think the upper lip of the wound had the skin inverted. I called Dr. Long and Dr. Murphy's attention to the fact that the side of the wound toward the back had a bruised appearance.
There was a bruised appearance above
the wound, a red scorched appearance,
what we call "eccymosis." The same eccymosis was to be found at the axilla, or arm-pit. The ball went through the centre of the 6th rib. I found afterwards where it had gone through the body of the spinal column. I have no doubt that it cut the spinal chord; it either cut it or pressed it so severely as to produce the same effect as cutting. The ball went through the lower lobe of the left lung. I thought it en-tered the 8th vertebra. I think the ball went straight from the 6th rib to the 8th vertebra without deflection. From the 6th rib to the 8th vertebra showed that the ball was going downward. I have no doubt about its going through the lung. Moore showed no symptom of a wounded lung. I thought I discovered a symptom of wounded lung at first but could not say upon further examination that I was right. The ordinary symptoms of a wounded lung are coughing and spitting blood, attended with great pain. It is possible for a man to be shot through the lung with a Winchester rifle and still live two days. The wound was not on the front of the arm. There is nothing inconsistent with the elevation of the arm, as I have spoken of it, with the idea that the left hand was raised suf-ficiently to hold the gun so that it could think it possible for the wound to have been received if the arm had been the human frame as with a chicken. It hanging in the natural position by the side. The wound was in front of the arm bone. Moore might have been

pointing his gun at Swepson's house.

Redirect—I do not say what Moore could have done or could not have done, but the position of the gun must have pouting at Swepson's house. If Moore had been going up toward Baker's, looking towards the factory and at the same time watching the prisoner at the house, he might have received the wound in position, with the gun pointed at Swep- Mr. Moore.

the way he did. He must have been going backward, however.

Re-cross examined - Taking the range of the ball, and remembering Moore's height, I think he must have been 10 or

12 feet from the fence. I could barely see over the fence. The fence was about four feet high with a bank below of about 18 inches. The angle of the ball was, I suppose, about 234 degrees. I cannot tell how much the ball would fall in a given number of feet or inches, such calculations are out of my line of

Redirect-If Moore had been retiging in the direction of Baker's, with his gun on his left shoulder, he might have re-ceived the wound as he did. The ball did not go upwards but went straight across the arm. I know that, for I ex-

amined the course of it.
Dr. R. W. Glenn, witness for th State -Was present at the post-mortem examination of A. G. Moore. Drs. Mebane, Moore and Williamson were also present. The ball entered not exceeding 14 inches from the shoulder. The back part of the arm was first cut, The ball passed through the spinal colder the axilla. There was no deflection of the ball until after it passed the back bone, afterwards there was a divergence. The probe would not follow the course of the ball when the arm was kept straight down. Holding the elbow four inches from the body the probe would enter, if the arm was thrown back a little. This satisfied us that the gun must have been on the left shoulder or held in both hands across the body when the wound was received. You gentlemen can judge about the position as well as raised about four inches; we didn't measure it. The ball cut the muscles of the arm directly across in the same angle at which it continued. I think it was impossible that the gun was presented. The instantaneous effect of such a wound would be to cause the person receiving it to fall immediately in his tracks. The ball must have been, we supposed, not far from the size of an ordinary minnie ball.

Cross-examined .- So far as regards sensibility and motion below the point struck, a ball through the brain could not have been more instantaneous in its Oper. I never was in a battle nor on the field. I have read in the books that a man may receive a ball in the brain and still jump some distance before he falls dead. When a ball is through the brain the spinal marrow is not interfered with. The spinal marrow is a continuation of the brain. Spasmodic action might occur when a wound is received through the brain producing instantaneous death. I have seen a chicken's head wrung off and the chicken flutter afterwards. I may be mistaken about there being no spasmodic action in cases like Moore's, but I think I am not.

There is a possibility of it.

Question. Is there anything inconistent with the elevation of the arm, as you have spoken of it, with the idea that the left hand was raised sufficiently to hold the gun so that it could have borne upon Mr. Swepson's house?

Answer, I do not know anything about the ground where the shooting occurred. If Moore was stooping so as to take aim through the crack of the fence or round a bush he might have gotten into a strained and unnatural po-

Redirect.-I never was at Swepson's house. If Moore had been standing fronting the house the ball would have gone directly through the shoulder.

Dr. Moore, witness for the State Is a practicing physician; was present at the post mortem examination of A. G. Moore; was no relation of A. G. Moore. I have heard the examination of Drs. Mebane and Glenn. I concu with them in the main in every point, with the exception of the position of Moore at the time of receiving the wound. Since the tragedy I have examined the ground where Moore fell and also the fence, and I think Moore was in a stooping position. The top plank of the fence was in front of Moore's face, and he had to stoop to see under it. Moore was probably one inch lower than myself. I examined the wound

carefully and concluded that the elbow must have been about 4 inches from the body. The ball entered about I or 1; inches from the point of the shoulder and went in a direct line through to the spine. The witness here took a gun, and placing of on his left shoulder, with the arm from shoulder to elbow forward, and said that position would answer the requirements of the situation. The ball went in front of the bone just above the arm-pit, cutting the muscles straight across in the angle at which it entered to the spine, nothing diverting it until it entered the spine.

Cross-examined, -As to the necessity of Moore's falling when he was shot, I have not expressed an opinion. I think it likely that the more affect about have caused him to change position. It is a fact that when the spinal column is cut that all below the point cut is killed immediately; but if does happen that there is sometimes spasmodic action of the muscles after the cutting. I have read of instances of this kind. I have read in the books of instances of the lips having been seen to move after the have borne upon Mr. Swepson's house. head had been severed from the body at The ball entered in front of the arm a blow. The books give an instance of bone; did not touch the bone. I don't a woman's face actually blushing after decapitation. It is the same thing with is a well authenticated fact that spasmodic action has occurred after the spinal chord has been severed. The mere motion of the nerves might have caused Moore to move. I think it very probable that, under the circumstances Moore did move. This necessity of a been an unnatural one if he had been man's falling in his tracks when shot as Moore was, is purely a matter of specu-lation. Bird bunters shoot from any position so as to cover their game. Moore could have stood in a stooping

son's house, between the top and the second plank. There are bushes in Swepson's yard, between the road and Swepson's yard, between the road and the door. Moore would have been forced to take an unnatural position if he had been trying to aim at the door, on account of shooting through the fence with bushes between. From the character of the wound, and from the examination of the state of the sta nation I have made of the ground, I think if Moore had been in a stooping position, aiming at Swepson's house through the top crack of the fence, he

might have received the wound as he

Re-direct .- My science does not teach me that the effect of such a wound would be such as that the man would fall immediately in his tracks. Whatever motion there was must have been involuntary. As soon as he fell he must have remained motionless.

Aller d Thoripson —I live at Haw River; work at Holt & Moore's factory.

I was at the scene of the tragedy while Moore was lying there. When I got there, about 4 p. m., there were several there. I have since gone and measured the distances from the north-east corner of the house and from the door to where Moore was lying. From the corner of the house to the first bullet hole it is 61 feet, to the second 66 feet, from the corner of the house to the front door it is 20 feet. The north widow is about half way between the door and the corner of the house. From first to second bullet hole in the fence, it is six feet two inches. Both holes are on the same plank; the second one from the top, from the second bullet hole to where Moore lay, was twenty feet, making 86 feet to the corner of the house, It was twelve feet from where Moon was lying to the fear. Tuessiring it a direction perpendicular to the fence. I measured this last line from about the centre of his bedy. Moore was lying right across the road, with his head toward Swepson's yard fence. His feet were midway between the usual wagon tracks. Mr. Holt and I went up there together; several women and children from the factory were there. I did not see the prisoner. (Here witness was asked if any of the prisoner's family were there, Objected to and excluded) I examined the holes in the fence with a view to ascertain whence the balls making them had come. I sighted through the first hole from the point where it struck the fence on the opposite side of the road. I think that that was fired from the front window, the window between the front door and the northeast corner of the house. The fence on the other side of the road is a rail fence. I placed my pencil in the second hole and sighted through it, and was satisfied it came from the same window. I was satisfied from the examination I made that the balls could not have come from the east porch. A diagram of the yard measurements above The road is about 30 feet wide where He said Swepson came out on the front Moore was lying. I never measured it but suppose it was about that wide. Moore was lying about in line with the east fence of Swepson's lot. From the east bullet hole to the window I do not think there was any bush to obstruct Did not say where Swepson shot from. the view. From the first hole to where I am certain he told nothing else, very Moore was lying was 25 feet, Supposing Moore to have been in line with the first shot, he must have moved 12 or 15 feet east, that is towards Baker's,

Baker's. (The defence here admitted that the from the front porch. road was a public road.)

to have got to where he was lying. I

was satisfied from my examination that

the object shot at through these holes,

If he had been in line each time, must

have been moving in the direction of

My diagram represents the points I have been speaking of correctly. The ground falls off considerably from the front gate to where Moore was lying. The road bed has been washed out at the point where Moore lay. It was, I suppose, 70 or 75 feet from the front went on down the road towards the gate to where Moore lay. I did not measure it and only speak from my recollection of the ground. When I first got there I remained some five or tenminutes. The body was not moved the house. He hollered at one of his

corner to second hole, from each hole to where Moore lay, from fence in a perpendicular line to where Moore lay, from the south window to the corner of the house and from the window to each hole. I made two measurements, both the same day, Thursday or Friday next after the shooting. Colonel Holt asked me to go and make the measurements and I went with the sheriff and made them. Swepson's house stands east and west. The road is north of Swepson's house. Moore's feet were north, his head south, the body lying on the back. If his face had been toward the form the second the shot. he must have turned partially; he could not have been in the position in which I found him without turning somewhat, he had to change position. I took no measurement from the body on the day of the tragedy; my recollection now is that the body was in a line with the east fence of the yard, but it is mere recollection. I do not know this for

Redirect .- I measured from where I supposed his body was to the fence; my recollection is that the body was in a line with the east fence. The change of position of the body after receiving the wound was away from Swepson's

Re-cross examined.-Between the holes in the fence and the north window there are no bushes that I know of. I don't know whether there are any bushes between the holes and the east platform.

McCulloch Whitsell : I am going on 15 years old; live at Haw River ; know

the presence and not allowed.

I know Sam Oliver; saw him on the ing Moore was killed, about 4 or 5 'clock; saw him next morning again bout 7 o'clock. I was at the wood pile at the boarding house. I talked over the matter of the killing of Moore with him, He said he and Moore went hunting that evening, and hunted round and came out at Joe Baker's, and that they bought some ducks there; that they then went on in the direction of the factory and bought more ducks at Andy Baker's, and they then went on by Swepson's to the factory. I can't recollect what he said about it; I forget. He said Swepson was out on the front porch. I can't re-collect that he said that Moore said he would not fight with him, nor shoot with him, in his own yard, but that he would fight or shoot with him if he would come out in the open road.

Here the prosecution proposed to refresh the witness' memory, which was objected to by the prisoner on the ground that the law only allowed a witness' memory to be refreshed as to what he himself might have said or written on a former occasion. The court refused to allow writing recollections to be refresh-ed as to what Sam Oliver had told him. I don't know anything more that Sam said. We were not talking more than

five minutes. The State here proposed to refresh witness' memory as to what Sam said about what Moore was doing at the time.

Prisoner objected.

Objection overruled and the witness answered; I think sam told ine that Swepson came out and asked Moore. 'Are you ready?" and Moore said 'Yes." Sam told me nothing about what Moore was doing when the shots were fired. He said Moore was going up the road, looking towards the factory, with his gun on his left shoulder.

Cross-examined .- I have told every thing Sam told me. I was examined about this matter at Grabam; have not talked it over since I have been in Raleigh, nor since Saturday. I have not talked it over to any of the lawyers. Benton and I were not here in the court house on Saturday. We were here Thursday. Mr. Thompson was with us. We didn't talk over this matter. I am certain Sam told me nothing more than I have repeated here. He didn't say anything about Moore's cursing. Said nothing about brick walls; nothing about Moore's dogs jumping over into Swepson's yard, nothing about Moore's taking a drink at Swepson's gate. He said there was a man at the gate ; that son's house. Told me nothing about Moore's singing. He said they went porch that looks toward the horse-lot. There was where Swepson was standing when he asked Moore if he was ready. He said Swepson had a rifle. Did not say whether it was a long or short one. certain. I was examined at Graham, and told this there—what Sam told me

about Moore. Redirect,-I was examined in the ourt-house in Graham. Was not asked, about what Sam said about the shooting, in the court-house. Sam said it was the front porch. I am certain Sam said it was the front porch Swepson came out on. Sam did not say Swepson shot

James Harris : I live at Haw River ; lived at Andy Baker's last year. I saw Moore on the day he was shot. He and Sam Oliver came to Baker's and bought some ducks; they had some ducks when they came. I went along with them to help carry the ducks; we were going down the bill this side of the house, not more than 50 yards from Cross-examined-I measured from he cursed next in font of Swepson's of them got loose there; we stayed the two. It is good for 30 yards heard him call nobody's name. A wagoner passed along while we were there. I did not notice the wagon till there. I did not notice the wagon till the 25th of January, died on the evening there. I was along the was along in the long enough there to tie the ducks. I wards the factory. When we got near the store we saw a man at the tank. Moore said he be damned if he musn't see who that was at the tank. I went on and carried the ducks to Moore's office. I passed Swepson on my way back home. Saw Swepson; he came round the house from the side next to State here proposed to offer what the factory. He said howdy. I said Moore said, on this occasion, and to howdy. He said hold on I want to this witness, as dying declarations. ducks, and then he took out his "count- | On the evening of the 24th I made ing book" and asked me my name. I an arrangement with Moore to go told him Harris. He said what Harris hunting next day and renewed the is it, John? I never told him. He arrangement next morning to go in the asked me if Moore was cursing him, evening. I did not go. I did not see Swepson. I told him I did not Moore any more until I saw him in the know whom he was cursing; road in front of Swepson's. Moore I heard nobody's name. He told was lying about opposite the east fence

en as we passed with the ducks. They were Hill Trollinger, Hill's son, Tom, and John Richmond. They were doing nothing, only standing in the kitchen. I saw Moore's gun; it was a double-barrel shot gun; it was about 12 o'clock when I passed going home.

Cross-examined.—Moore was cursing that day, I saw the bottle. It was a right smart. I don't know what he was cursing about. Fifty yards from Swepson's gate he hallooed at the dog and cursed him,

Cursed him,

Cross-examined.—Moore was cursing that day, I saw the bottle. It was a seltzer aperient bottle, not quite full. I have frequently hunted with Moore; have hunted with him back of Swepson's gate he hallooed at the dog and cursed him,

Question. Had you hunted with Moore often before this time, and was le in the habit of carrying two guns!

To question by State he answered: I saw Moore take a drink at the gate; he took it out of a small flask which he carried in his breast pocket.

Cross-examination resumed.—Moore ose. I don't know the words he used: I never heard him call anybody's name. I don't think he said anything about "thief," "put your head out," "brick walls," "revenge;" nothing about "grabbing roots," "damned coward." I don't remember a single word that was said at the gate except to eatch the ducks. I told Swepson I didn't want to have nothing to do with it, when he took out his counting book. I don't know what Moore was cursing; don't think he was cursing Swepson. There was nothing in his language to don't think he said "by God, I can have my revenge, and I'll be damned if I don't." He cursed some more in front of Swepson's gate than he did elsewhere. I don't think he said damned thief, damned coward, nor that he didn't lear the devil. He had his gun on his shoulder, cocked I think. I told the magistrates at Graham just what I tell you, that I did not think he used the words you have asked me about. I am pretty certain the gun was cocked. I think I told the magistrates the gun was cocked. I told them I did not know whether it was cocked at Baker's or not. Moore said "Damn it, catch those ducks." I can't repeat any other words he used. When a man is cursing and another man is busy I can't understand what he is saying. Moore said he be damned if he was not going to see who that was at the tank. It was a white man.

Redired As well as I can recalled gave my evidence in Graham just as have given it bere. The reason Moore cursed most in front of Swepson's was that the ducks got loose there and we stayed there longest. Here the guns were produced and the witness called upon to identify the one Moore carried. He thought the short one was the one Moore had; didn't take any particular notice of the guns.

J. T. Hunter, sheriff of Alamance county, testified: The guns here produced are the same that were delivered into my custody at the magistrate's court in Graham. I got the two shotrifle from Swepson's, the day after the shooting. They were used in the trial before the magistrates, and then turned over to me again. These are the same guns. The long shot gun was unloaded at the trial in Graham. I have the shot with me; they are large sized bird shot or small squirrel shot. The shot were here produced and handed to the jury for inspection. I am not a himter and large or small one. The loads were and house was here introduced and the made around the house; told me nothing I have the cartridges—six of them. stated. about Moore's cursing on the fence. [The balls were produced and handed to the jury. I do not know what sort of a gun the rifle is - never saw one before. The short shot gun has the same loads in it that it had when turned over to me in Graham. The long gun is the one they call the Seawell gun. [The short gun was here taken by the sheriff, the loads drawn, and the shot taken there-from and exhibited to the jury.] Sheriff resuming: The shot are large

ized squirrel shot. Cross examined .- I got the guns from Holt & Moore's office on Thursday. I don't undertake to say that the shot taken from the long gun at Graham were the same that were in it when Moore had it.

Redirect.—Col. Tom Holt was present when I got the guns out of the office. I think Dr. Glenn was also present. N. W. West : I am in the hardware

business; am somewhat acquainted with guns. I don't know much about rifles. know the rifle exhibited here is the Winchester rifle ; can't say exactly what calibre it is ; suppose it to be about 42.

It was here admitted by the defence that the gun was an 18 repeating rifle. commenced cursing his dogs as we Witness after examination of the short shot gun said it was a fine gun ; would sell now for \$30 or \$35. The shot exhibited as taken from it were a large sized squirwhile I was there. Some fifty people dogs and the dog paying no attention rel shot. The gun with such shot would were there, women, children and all. to him, he commenced to curse him; would be good for 30 to 35 yards. The long gun being examined was pronounced corner of house to first hole, from house. He was cursing the ducks; two by the witness to be the better gun of

A. T . Benton : I am book-keeper for after he was shot; he was lying in the public road in front of Swepson's. No one was there when I arrived.

Question. What did Moore when you first arrived?

The question was objected to on the part of the prisoner. The

me if I was summoned to court to recol-lect all Moore said. He reckoned I the road, parallel across the road, with would teil the truth, and I told him I this feet from Swepson's. The muz-would. I thought he put down some-thing in his book when he asked me my name. I saw three negroes in the kitch- towards the factory. I don't know which one of the guns it was. It was about 4 o'clock; he was lying on his back; there was no appearance of his having moved; he could not move him-self, I stayed with him about two hours. He was not under the influence of liquor at any time during the whole of that day. I saw the bottle. It was a

them when hunting with Moore. I have found them there frequently when by myself.

Gross examined .- The gun was either cocked or half cocked. The caps on it attracted my attention when I first say

Redirect .- The guns were carried to Redirect.—The guns were carried to the office that evening at the same time that the body was taken down. I saw them all the time they were there. I put them in a particular corner of the office myself, and saw them every time I went into the room. I was only absent one evening. Wednesday evening. They were not interfered with in any way that I know of way that I know of.

Court then adjourned until 3 o'clock

MONDAY AFTERNOON. Col. Thomas M. Holt, witness for the State examine the guns; said the short gun was the Sewell gun. The long one is my own; my son carried it over to the office and Moore used it hunting. I saw it up in the road the day of the shooting and had it brought down. Some ten or twelve were there when I arrived. Benton was there. I did not notice the gun at Moore's feat; they were brought to the office with the body. They were after that in our business office, I was there all the time until Moore died. is my own; my son carried it over to They were under my eye all the time. I have no idea that they could have been discharged or interfered with without my knowledge. I gave them to the sheriff myself. Nobody but factory hands were at the body. When I reached there Moore was lying, as near as I could see, about the middle of the road, bout opposite the east fence of the yard. gun Moore carried that evening. I don't know which gun it was at his feet. I didn't take his pistols from him that morning. He gave me his pistols, I went to Linwood, and Wm. Scott came while I was there never but once, that was last year. I never told him, Scott, that for three or four years I had kept Moore from killing Swepson. Moore was my brother-in-law; relations were

intimate. Question -- What were the wtate of Moore's feelings toward Swepson, Objected to by State. Court adjourned to Wednesday morn-

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