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PITTSBORO, N. C., CHATHAM COUNTY, THURSDAY, JAN. 27, 1927

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Mitchell Convicted of First Degree Murder

Slayer of Wm. Fogleman. After Hard Fought Battle by His Counsel, Convicted of 1st Degree Murder.

SENTENCED TO DIE MARCH 11

Great Crowds Attend Trial—Fine Order—Fair Trial—Hard Fight for Second Degree Verdict.

Within a week and an hour of the murder of William Fogleman at Ore Hill Saturday night, January 15, Pearl Mitchell, the negro charged with the crime, was convicted of first degree murder and sentenced to be executed on Friday, March 11.

The court house was packed with interested spectators the three days of the trial, yet the best of order prevailed in the court room and in town. There was a latent feeling that might have broken out if the culprit had received a less penalty than the death decree, though the danger of that was materially lessened by the able defense made by his counsel. The newspaper stories, including that in this paper, were largely responsible for the extent of the extreme degree of hostility that might have resulted in behavior discreditable to the good name of the county, since the stories as published and generally accredited made the negro's crime appear much more cold-blooded and treacherous than the evidence bore out. Accordingly, the opinion prevailed that the trial was only a matter of form.

Defense Counsel Criticized

Consequently, when the counsel for the defense, Senator W. P. Horton and Attorney R. H. Dixon, Jr., appointed by the court, showed a determination to make a real fight and turned down more than a hundred men before securing a jury, resentment was more or less freely expressed at what was supposed to be an unnecessary waste of time and money, and men were wondering on what possible grounds the defense's counsel could hope to make even a shadowy defense. But so soon as young Cheek's story had been told on the witness stand, it was clear to the discriminating mind that the case was vastly different from that supposed from the published reports of the crime, and that the defense had a fighting chance for a second-degree verdict.

The Story of the Trial

A venire of a hundred men had been drawn Wednesday to report Thursday. The selection of a jury began early Thursday afternoon, and continued till the venire of a hundred was exhausted and only 10 jurors had been selected. Another venire of 50 was drawn and there was scurrying by the sheriff's forces to have them present Friday morning. But the elimination continued. Man after man declared that he had already formed an opinion, and mostly subject to no change. At last all but one man had been chosen, but the venire was exhausted and another of fifty was drawn. Again the telephone and deputies were put into commission and summons were hurried to every township in the county. The court was at a standstill, and it was late in the afternoon before the jury was rounded out with the choice of Mr. J. Q. Covert as the twelfth man.

The Testimony

Solicitor Williams had ready an array of witnesses—in fact, a good many more than were necessary to establish the crime as revealed by the testimony. But it was clear that the defense was preparing for a stubborn battle, and every man was put on.

The first witness called was Dr. Thomas, of Siler City, who told of the condition of the body when examined, describing the wound as made by a pistol ball of probably 32-calibre, which entered an inch below the right eye and traveled toward the left of the head, lodging in the back of the head. The bullet was not recovered.

Allen Cheek's Story

Allen Cheek, the 19-year old hero of the tragic night, was next called, and told a vivid and straight-forward story of the events of the evening when his companion was slain and he himself was engaged in a desperate encounter with the robber and killer.

The young man, weighing one would judge scarcely 140 pounds, came to the stand with the whole scalp covered with a white bandage, resembling slightly a skull cap, and his arm in a sling. There were no scars visible, as his face had escaped injury.

He told how he and Mr. Fogleman had watched in the store three nights since tracks in the snow on Tuesday morning had revealed the means of entry to the thief who had been entering the store occasionally for months. He was inept in giving the dimensions of the store, which were afterwards definitely given by Mr. N. H. Heritage as 45 feet long and thirty feet wide, with a fifteen-foot section of the 45-foot length cut off at the rear by a partition, leaving the store room thirty by thirty.

He and Mr. Fogleman had come to the store about seven o'clock. They had sat by the fire and talked for a few minutes and had then gone back and partly undressed and gone to bed on a mattress on the side of the rear room opposite the window through which the thief was expected to make his appearance.

They had not lain there long when some one opened the window, came in, passed through the rear room and into the front store room through a middle door in the partition, and lighted a lamp in the store room.

way to the partition door. Ready, Cheek opened the door, with Fogleman at his heels, saw a negro behind the counter on the right front of the store, wrapping up goods. He threw the light from his flashlight upon the negro and called "Halt!" The negro threw up his left hand, but was stuffing the bundle in his pocket with his right. He saw him reaching his hand in his pocket and supposing that he was getting a gun fired upon the negro with the 45-automatic he held in his hand. The negro, with left hand still raised and his right in his pocket, hollered not to shoot and ran toward the front (presumably around the end of the counter near the front door—Ed.) By this time the witness was at the left of the stove approaching from the rear and pulled down upon the negro again as he turned (with left hand still up and right hand in pocket) and fled down the other side of the vacancy between the counters, but his pistol had jammed and failed to fire. As the negro ran down the store toward the back-room door, Mr. Fogleman, with double-barreled gun to his shoulder, called to the negro to surrender, saying that he did not want to kill him. The negro continued running till he was within arm's reach of the muzzle of Fogleman's gun, when he whipped out a pistol and shot Fogleman dead. The negro hadn't drawn the pistol before nor made any attempt to attack the man who had shot at him once and was still attempting to shoot again.

By the time Fogleman had fallen, the witness had reached across the stove and attempted to shoot the negro at close range. The gun failing to fire, the witness hurried himself at the negro, the negro turning his fire upon him and a bullet glancing his head, knocked him to the floor. The negro fell upon him and they struggled upon the floor. The witness managed to get on top. He felt the muzzle of the negro's gun against his body and pushed it far enough to avoid a fatal wound, but was grazed on the side. The negro again had the muzzle of the gun against his forehead and pulled the trigger but the gun failed to fire, there having been only three bullets in the pistol as it was afterwards discovered. Now began a desperate tooth and nail struggle. They were up; the negro pommelled him over the head with the pistol. The witness had lost hold of his pistol when he fell. The struggle wavered from one end of the store to the other. They were near the scales not far from the front of the store; the negro had seized two of the fingers of the witness in his teeth and was biting so hard he could not pull his hand away; with the other hand he managed to get hold of a scale weight and began to hit the negro over the head with that; finally they struggled through the partition door into the rear room. The witness, growing weak, told the negro if he would turn loose he might go. The negro said he would not go till he killed him. Finally they were at the outside door of the partition and the witness lifted the latch and shoved the negro toward the open door. They fell down the steps together. The negro rose and fled. He pursued, hollering murder. The negro fell but got up and ran on. At Mr. Hannah's house he stopped and there he told the story to several persons. He didn't know whether Mr. Fogleman was dead, but feared that he was as he didn't hear anything from him, even when he called him. Here Dr. W. Song came and dressed his wounds. He had bitten the negro's face in the struggle.

The Newspaper Story

The story as reported and published in the papers had differed essentially in the matter of the first shooting. As published, the negro had thrown up his hands when called upon to do so and when the men approached, supposing that he had surrendered, he had drawn a gun and shot Fogleman dead and then turned it upon Cheek, who shot about the same time.

The recognition of this important discrepancy first indicated the fighting chance of the defense for a lower degree and from this point onward the theory of the defense began to reveal itself, to the effect that the negro had surrendered before he was shot by Cheek, that his right hand according to the evidence of the state's witness was engaged in ramming the goods in his pocket when he was called upon to surrender, that in the excitement he failed to raise his right hand, that his neglect to draw his gun and fire at the man shooting at him and running down the store room on the opposite side of the stove from his assailant indicated that he was thinking not of resistance but of escape, and only drew his gun and shot when he had run squarely into the man with the leveled shot gun at the partition door and found his way of escape blocked and two men assailing him after he had surrendered.

Court had adjourned after Cheek's testimony Friday evening, assembling for the continuation of the trial Saturday morning at nine o'clock. The jury had been kept together under the charge of Officer Paul Farrell.

Mr. Cheek, owner of the store and father of Allen, identified certain goods, ladies' hose and garters, as like those he kept. Witness after witness corroborated Cheek's story by relating a similar story told by him after the battle. Mr. D. T. Vestal related that Mitchell had come to his house about eight o'clock that evening and called for his sons, who were not at home. Another witness stated that he came to his house and asked if he knew where he could get any whiskey. Will Frazier, a small negro boy,

swore that Mitchell was at his home that afternoon and borrowed his cap to wear to Ore Hill. Robert Burnett went with him to Ore Hill. Robert swore that he had paid two dollars he owed Mitchell and given him two dollars more to buy them some whiskey; that he had also loaned him that morning a second overcoat of his which Mitchell still wore; that at Mitchell's request he had borrowed his brother Harry Burnett's pistol and given it to Mitchell; that he stopped at Sam Barber's while Mitchell went to find the whiskey; when Mitchell did not return he went to the Frazier home where they were to return and not finding Mitchell there went on over to Mitchell's house and learned that he had not been there.

Harry Mitchell told of loaning the pistol and of Mitchell's coming to his house that night and telling that he had had a fight and of his shoulder being cut of place and of his trying to pull it back right, and of Mitchell's saying he must go somewhere and of his telling him that it looked like he had better go and in a hurry. Officer Pickett of Siler City told of Mitchell's surrender at his uncle's home at Siler City, and that he voluntarily told him he shot Mr. Fogleman, and when asked why he had not surrendered said that he "didn't know—that he was for getting out of there." Various witnesses told how there were evidences of a struggle in various parts of the store; how blood had oozed from the wound in Fogleman's head and formed a puddle and even bloodied a box two feet distant. There was blood on the counter and blood on the back door sill, etc. The gun was found by Fogleman's side with two loaded shells in it. Two bullet holes were found in the ceiling of the store. One had gone straight through, from a point near the partition door and had lodged in a rafter, from which it had been taken and found to fit the Mitchell pistol. The other, apparently also a 32-calibre, the size of the Mitchell gun, had gone slantingly through the ceiling as if shot from near the rear door, entering the ceiling near the front of the store. No bullet from the 45, the gun Cheek said he shot, was found, and this became the basis for a motion by defense counsel later to have the body of Mr. Fogleman disinterred and the bullet taken from his head to see whether it is a 45 or a 32, arguing that the non-discovery of the 45 and the natural excitement of young Cheek inevitably raised the question of the possibility of Fogleman's having been killed by the bullet fired from Cheek's gun. This motion was overruled by Judge Harris.

Coroner Brooks, Officers Edwards, Burns, and possibly others also gave evidence as to goods, guns, etc., and it was well along in the afternoon of Saturday before the state announced the close of its evidence.

The motion referred to just above was made by Attorney Horton. This overruled, the defense after a conference announced that it would also rest, thus securing the first and the last speech in the argument.

The Argument

The opening address to the jury was made by defense attorney R. H. Dixon, Jr., who devoted his time to a review of the evidence and particularly raised the question of the possibility of Fogleman's being killed by a bullet from Cheek's pistol, since no sign of the 45-calibre ball had been found in the walls of the store.

Mr. Dixon was followed by Solicitor C. L. Williams, who made an exhaustive and effective argument for a first-degree verdict, citing the statute that places killing taking place while the slayer is in the act of robbery as murder "deemed" to be in the first degree.

Next came Senator Horton, who throughout the trial had manifested the deepest concern that his client, even though a poor negro, should have the fairest kind of a trial. It was manifest that Horton was not only determined to fight for a second-degree verdict but actually believed that his client did not deserve a death penalty, on the grounds that despite the presumption of premeditation and deliberation in that the crime was committed while a robbery was taking place, as the statute states, the evidence, verbal and natural, implied that the shot had been fired in panic and not with deliberation and after premeditation. He developed his theory as outlined in the beginning of this article, suggesting that the robbery of the store was a secondary thought that night and that there was no evidence that Mitchell was the man who had robbed it on former occasions. It was in the evidence that Mitchell was seeking whiskey, that he was to go back to Cora Frazier's, where a Bass girl lived, and that when he failed to get the liquor he decided to carry the women some nice hose and proceeded to get them. He had his whole heart in the address, yet it was evident from his words that he feared that he might be injuring himself with the people for his unqualified defense of the friendless negro, but professed himself ready to take the consequences of his act rather than for a moment to feel that he had not done his duty to his client. To this address, as well as to that of Attorney Dixon's and Solicitor Williams' the jury paid the strictest attention.

The Judge's Charge

It was supper time when Horton closed and adjournment was taken till eight o'clock. Hundreds of the country folk went home but when court reassembled the house was again packed, the vacancies being filled by town folk, black and white.

Judge Harris's instructions were

clear and unequivocal. He showed that, while the statute presumed murder under the circumstances to be of the first degree, an actual proof of lack of deliberation and premeditation would overcome the presumption. Thus the jury was left free to sustain the presumption of first degree murder or to accept Attorney Horton's theory of the shooting's being done in a panic after the negro had been fired upon by Cheek and when, in attempting to escape, he had run squarely into the muzzle of the gun.

It was 8:45 when the jury got the case. Fifty-five minutes later they returned with the verdict, and the deepest quiet reigned while their spokesman, Mr. S. W. Harrington, declared the verdict to be guilty in the first degree. Inquiry revealed the fact that the first vote had stood ten for first degree and two for second degree. The writer did not ask for the names of the two.

After consulting the calendar, Judge Harris made his first death sentence, for this was his second term of court since he ascended the superior court bench, and fixed the date as March 11, ordering the Sheriff to take the prisoner in charge and deliver him to the penitentiary authorities.

It is stated that the defense will appeal, and it is a fact that the defense took many exceptions which were overruled, particularly the exception to the admission of all evidence of what followed the murder.

The Jury

The jury consisted of the following good citizens: W. J. Smith, C. R. Lambert, J. H. Snipes, Ruffin Farrar, John Irving Moore, J. L. Stephens, Joe Tysor, F. A. Smith, N. W. Yow, James Greaves, S. W. Harrington and J. Q. Covert.

Four were chosen from the regular panel for the term. Accordingly, it took a venire of 200 men to get 8 more jurors, though only part of the last venire of 50 were called.

The Criminal

Pearl Mitchell is evidently a bad egg. The evidence disclosed that he spends his money for liquor, while evidence debarred by the decision of the defense not to put on any witnesses would probably have shown that he neglects his wife and children and gives his devotions to another woman, while the fact of his being in the store shows him to be a thief and a murderer and following the fight a very devil. Yet he comes from one of the best negro families in the county. His father is a good, reliable negro; his grandfather was the venerable Calvin Mitchell who died here less than two years ago at the age of 97 and who was noted in this section as a wood workman. Yet it was Pearl's other meanness that made a defense possible. He was stealing for his woman, and debarred evidence might have shown that he was armed on this occasion because of threats of some one to kill him if he should be found again at the woman's house.

Moncure News Letter

Moncure boys basketball team played Goldston team on home grounds last Friday afternoon. It was a good game, but the score was 24 to 22 in favor of Goldston's team.

We are glad to state that little James E. Cathell, who was recently operated on for appendicitis, is improving fast and will soon be able to come home from the hospital.

We are sorry to hear that Dr. P. D. Laster is very sick at this writing. Mrs. C. T. Dezern, his daughter, is at his bedside. We hope he will soon be better.

Miss Mamie Sockwell, the 7th grade teacher, who has been sick, is able to be at school today, Monday. Mrs. W. T. Udey taught for her while she was sick.

An interesting Epworth League meeting was held last Sunday evening at seven o'clock at the Methodist church. Miss Annie Lambeth, the president was in the chair and called the meeting to order. The secretary being absent, the meeting was turned over to the "Juniors." Little Misses Lois Ray and Camelia Stedman were the leaders for the evening, who presented a play on "Service" with the following as characters: Lois Ray, Camelia Stedman, Dorothy Lambeth, Lucile Magnard, Beatrice Wilkie, Emma Lee Mann, Ruth Stedman, Roberta Lambeth, Margaret Strickland, Mary Helen Lambeth, Margie Lee Ray, Melba Moore, Ruby Womble Julian Ray, and Miss Annie Lambeth.

Mr. and Mrs. J. T. Canady of Goldsboro have moved to Moncure and occupy Mr. Min's house on Cathell avenue. We welcome them to our town.

CLUB NOTES —

The music department met with Mrs. R. G. Shannonhouse on Tuesday evening with sixteen present. This department pledged \$25.00 towards the club piano and will sell candy at the quilting party on February 14th to help raise this amount. A delightful musical program on the violin was rendered by Dr. R. M. Farrell accompanied by Mrs. Farrell, he playing Traumerie and Humoresque, and by Miss Annie Byrom who played Miserere from Il Trovatore. Mrs. Bynum playing the accompaniment. Mrs. C. M. Lance read a paper of vital interest on "Music and Art in Education."

Dr. Farrell and Miss Bynum then closed the program, playing as a duet Cavalier Rusticani.

Twelve squares for the quilt the club is making were then completed, after which delicious refreshments were served. The department will meet with Misses Cordie Harmon and Bertha Jones in February.

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The Legislature

WHAT THE LEGISLATURE HAS DONE THE PAST WEEK

Our Raleigh correspondent wrote the first of the week that nothing is being done in the legislature; that the bodies are marking time till the bills prepared by the commissions are brought before them for their o. k. He bewailed the lack of leadership, and said that Col. Watts was on the grounds and had probably been sent to tell the fellows what to do. Former leaders are not leading.

On the other hand, the same paper bore a comparative report of the session of 1925 and this one, showing that this body had introduced more bills and passed more than the 1925 one had at the same stage. Moreover, the three big bills of the session are before the committees. Accordingly, it is evident that nobody is splitting his shirt about anything simply because it is not necessary. It is a good sign when men capable of leading are content to let well enough alone and not start something for the mere sake of being in the limelight.

The Australian ballot bill is booming along and seems sure of passage. Senator Horton reports that the senators are generally favorable to the repeal of the absentee voters' law, but that newspaper men have quizzed him as to his reasons for wishing the repeal, the demand for its repeal being rather unsuspected on the part of the correspondents, who probably have not seen the law working as it can and does work in Chatham county. The time is apparently ripe for the passage of laws making elections fair and decent.

It seems probable at this writing that horse-drawn vehicles will have to be provided with tail lights when on the roads at night. It is generally recognized that to drive without a light is suicidal, yet there will doubtless be a number of legislators who will refrain from helping put this little trouble upon the "poor farmer." The bill making it incumbent upon car manufacturers to fix the lights in accord with the requirements of the state law before the cars are shipped into the state is likely to pass too. Those two bills, with the third introduced requiring drivers entering a main road from a side road to stop should lessen the toll the automobiles are taking from the lives of the state, which is almost at the rate the battlefields took them a few years ago.

The University trustees are back with a request that the University receive the full amount asked for, which is \$600,000 more than proposed in the budget committee's bill, \$600,000 additional to the \$1,700,000 assured in the bill compares—no it has passed that stage of comparison—contrasts with the measly \$20,000 a year which the University felt lucky to get thirty years ago. Very probably the institution can irk along with its \$1,700,000.

It has been estimated that the revenue bill before the assembly will produce nearly a million more than revenues of this year. It takes money from the places where it is in big chunks. But it will be needed in even bigger chunks if the pensioners are to get a million more, the school equalization fund three millions more, the institutions, each, a bigger appropriation.

New bills are being daily introduced. One introduced Tuesday would provide for a school for delinquent negro girls, similar to that at Sam-areand for white girls.

But it is not likely that any very important measure will have been passed before this paper reaches its readers. It takes time to get a measure in perfect shape. For instance, there was Brother Scott Poole about ready to put his monkey bill in the hopper Monday, when he found it had bad grammar in it, and he withheld the righteous ardor with which the dauntless defender of the faith is introducing it. But a little bad grammar would not bother the average supporter of such a bill, as he would never recognize it.

NEW ELAM NEWS —

New Hill, Jan. 24, 1927.—News has been received here that Mr. Linwood Crowder of Richmond, Va., was seriously injured in an automobile wreck last week. Mr. Crowder married Miss Alma Dickens of this section. We hope it will not prove fatal for him.

Mr. and Mrs. G. L. Mann and Miss Dora Holt attended the funeral of Mrs. Julianna Farrell, which was held at Zion Christian church in Lee county last Thursday. Mrs. Farrell was an aunt of Mrs. Mann and was near eighty years of age.

Mr. and Mrs. J. T. Hughes of Kingston were week-end guests of his sister Mrs. G. F. Carr.

Mr. and Mrs. F. M. Mann and children of Raleigh were Sunday guests of Mr. and Mrs. W. T. Mann.

Mr. J. H. Webster has gone to Atlanta to attend the banquet which the case company is giving. He will be gone a week.

Mr. E. H. Holt continues in bad health. We wish he could get well and enjoy good health for a long time.

Miss Nina, and Bailey Sturdivant of Pittsboro, spent Sunday with their parents.

Mr. Glenn Tysinger will return to Davidson county today.

We had a very good attendance at C. E. Sunday night. The subject was a very good one. Mrs. Carr was leader. We were glad to have so many visitors and had some very good talks from them.

Miss Grizell Copeland of Raleigh spent the week-end with her father.

Cold Down in Florida

Pittsboro Girl in Orlando Has Thinking of Home and Home Folk

Orlando, Fla., Jan. 12, 1927

Greetings!—

Geel it must be cold in North Carolina, 'cause its cold enough here to have a fire—and this is the very first time we've had to have one since I've been here. If it gets any colder I'll have to be getting out the old faithful red flannels even if I am in such a warm climate. (I hope the above won't be censored by the gracious editor.) The birds, the trees, the bees, the flies do not sing, and rustle and sting, and hop so merrily the they did—you see, Florida is not as comfortable for 'em as it was. Even I am less disposed to be on the go. So much for Florida weather, though one would think from the foregoing that I had, mayhaps, exchanged places with the weather man.

And, another vital subject which I wish to discuss—and a very vital question which I wish to ask is this: "What has become of Virginia Mae Connell?" When one has been in a habit of receiving long epistles from her almost daily and they suddenly cease coming, (I haven't heard from her in three days) one is likely to judge that said young lady is ill—bedridden, as it were—or, perhaps, a paralytic stroke. All information will be very gladly received in regards to her.—Has she eloped—been abducted? Is some one holding her for ransom? I wildly cry and tear my hair and sob to the four winds—"Some one give me information about my Jennie Connell!"

Has Pittsboro changed much? Any new skyscrapers? Is the courthouse still there? Do all the school kids still congregate in the local drug store? (Ah—hit me that is getting so old and decrepit. Pity the poor "goil" that wants news of her ole home town.) And can anyone tell me if Lester Farrell, handsome and debonaire, is still the ladies' man of yore? Ah—Lester, me lad, "tis a great life if you don't weaken."

While the birds do twitter, and the leaves do rustle merrily—(Pardon. Perhaps I'm getting my date a trifle mixed. Maybe I'm contradicting myself—I stand corrected. It's too cold for the aforementioned things to happen.) Essie Modena does sit by the fire and read scenes of her childhood and how she is always getting tickled in the wrong places. Evidently, I have not outgrown this childish habit. I relate the following incident which happened at a very formal reception at which I was present the other day:—Going down the receiving line I was the essence of dignity 'til one kind lady grasped my tender paw and in a very cordial manner said, "Dowdy Hoo!" I looked right at her and said "Haw! Haw!" The poor woman had her tongue became twisted and she "dowdy hood" me. I went giggling down the rest of the line, and the more I thought about it the more tickled I became. The harder Aunt Nellie looked at me the more I laughed. I'm afraid that I was rather silly; but—oh, well, it was a good joke and I enjoyed it, so why worry!!

Maybe when I come back to Pittsboro I can get a job on "The Chatham Record"—I'm all for journalism—maybe papa will let me have the marriage, birth and death column, and I'll head it—"Matched, Hatched and Snatched"—What cher say, O. J.?

Well, owing to the fact that I've written about six pages of nothing I'll quit. Here's hoping all you folks are in good health and spirits (not spirits that come in a fruit jar). The very best regards to each and every one of you.

Sincerely,

ESSIE

MRS. T. W. HACKNEY BEREAVED

Mrs. T. W. Hackney received news as we were preparing for press last week of the death of her mother, Mrs. Julianna Farrell, at the home of her son Mr. Paul Farrell, in Fayetteville, on Wednesday afternoon.

The burial took place at Zion church just across Deep River in Lee county on Thursday. The funeral services were conducted by Rev. Mr. Underwood of this community, where Mrs. Farrell was long a resident.

Mrs. Farrell was the relict of Henry Farrell. She reared 15 children, only one of whom, Mrs. Hackney, resides in the Pittsboro community. They scattered far and wide.

THE MARTINDALE CASE

Young Martindale, tried last week on the charge of murdering Lewis Tillman, was convicted of manslaughter and sent to the penitentiary for six months, though the term in the penitentiary seems to be rather for the hospitalization of the feeble-minded and physically ailing youth.

The boy is said to need four operations, and it is directed by the judge that such surgical attention as he needs shall be given him while in the prison.

Martindale shot Tillman while the latter was riding along the road on a truck with his two brothers. The boy was not seen nor the shot heard and Tillman did not know what caused the wracking pain that set up in his side.

The boy did not, of course, know that he had wounded Tillman till later informed.

There was evidence of a quarrel between the two.

Martindale was defended by Attorney A. C. Ray.

Mr. Lonnie Copeland.

Mrs. W. A. Drake spent the week-end with her mother Mrs. J. A. Thom-