

# SALISBURY EVENING SUN

THE FLOWERS COLLECTION

VOL. XVIII—NO. 113

SALISBURY, N. C., SATURDAY EVENING, MAY 13, 1905

TWO CENTS

## PROCEEDINGS OF THE COURT SLOW

### State has not Finished Examining Its Witnesses Yet--Will Probably do so Monday--Photograph of Church and Grounds Objected to by Counsel for Defense.

The following evidence was given yesterday after the Sun went to press.

#### EXPERT WITNESS

Dr. E. J. Buchanan of Lexington, was then called to the stand to give expert testimony, and to show the nature of the wounds. He said: "I was called to the home of Mr. Davis Monday morning and found three wounds. The first entered the right side of the chin and came out about the left clavicle. The wound made in the body was about six inches to the left of the backbone at the scapula and came out about four inches below the right nipple. This wound, in my opinion was the most dangerous. The third was in the left leg above the knee, going into the flesh, breaking the femur. I think it would have been impossible for the deceased to have stepped after the wound." Cross examination brought the opinion that if the dead man to draw a weapon as the defense alleges, the wounds could not have been made as they were.

Two more witnesses were introduced by the State, J. W. Sharp and a Miss Burton. Their testimony was that they had seen the two men as they came together. Mr. Sharp declaring that he saw Grubb draw his before he left his buggy. When Davis was shot, he put up his hands. The rest of the testimony was similar to other witnesses.

Court met promptly at 10 o'clock, and without delay the business of the trial was begun.

J. B. Palmer was the first witness this morning. He said he lived about four miles from Linwood and was at the church on the day of the killing. He heard the shots fired and was near Hartley's horse, when the horse was struck by a shot. (Mr. Palmer is the gentleman who removed the bullet from the body of the horse and identified the bullet as the one he had taken from the horse.)

When questioned by Mr. Watson as to where he was as regard the horse that he was in front of the horse and when the shot was fired; answered when the shot struck the horse he had to get out of the way to keep the horse from jumping on him.

Liberty Kooz, next witness said, he lived in Davidson, two miles from Piney and was at the church on the day of the killing and he was in the church sitting on the west side close to the north end and near a window, and he heard the shots and looking out of the window saw Grubb fire twice at Davis. Grubb was on the west side of the road and Davis was near the Academy. "At that time Grubb was three or six steps from Davis, they were both moving when he saw them, Davis going in a fast walk and Grubb moving slowly.

Grubb and Davis were both between him and the academy. He did not hear anything said by either Grubb or Davis; heard a voice, but could not tell what was said.

To a question of Mr. Watson he stated that there was one man between him and the window of the church, but did not remember who it was. He did not remember whether there was a buggy near Grubb. The three shots, he thought were fired in less than one minute. He saw Davis stagger off after the first shot, and saw Grubb take a step or two for-

ward and fire twice again; he did not remember seeing anybody else standing around with whom he was acquainted, except Grubb and Davis. Witness could not say where Davis had his hands at the time the shots were fired, but thinks they were hanging by his side and Davis was in a stooping position.

When he first saw Grubb, he had the pistol in his right hand and looked as if he was going to take hold of it with his left.

Witness then showed position of Davis and Grubb on the day of the shooting.

H. M. Grubb was next called and upon being asked if he was related to H. C. Grubb, said he was not. He lives 5 miles east of Salisbury and 8 or 10 miles from Piney and was at the 10 miles from Piney and was at the church on the day of the killing, and was in the church on the west side near a window.

The first shot that was fired attracted his attention and he looked out the window and saw a man fall, but did not know at the time who it was, but later went out and recognized the man as Obe Davis.

Davis was near the academy and about 25 feet from the road.

He did not see where the team of either man was hitched.

Cleveland Leonard, next witness lives about two miles from Piney and was at the church on the day of the homicide, standing near a stump within about 25 yards of where the shooting occurred. He saw Mr. Grubb hitch his horse to a large oak tree near the school house and about 40 feet from Point road. He next saw him about three minutes later and he was going towards the church. He also saw Davis, who was going towards the church in company with Sam Crump.

Davis was in front of Grubb and Grubb overtook him and walking in front of Crump, turned and fired at Davis.

Davis started back towards the academy in a fast walk and Grubb taking a step or two in his direction fired twice more. When the first shot was fired Grubb was in about 30 yards of the place where he hitched his horse and 12 feet from road. Grubb's manner was very violent and he had his pistol in his hand and said to those who were near him, "stand back, I do not know who my friends are in this crowd."

When questioned by Mr. Watson, he denied having heard Grubb say that Davis had tried to hire someone to kill him.

He heard Grubb call for his double team, but did not hear him say, he wanted to surrender and go to Lexington.

When he was asked if he was not really about 125 yards from the scene of the shooting, he said he was not, and stuck to his first statement that he was within 25 yards of the shooting.

However, Mr. Watson got this witness tangled up pretty badly.

He also denied telling anybody that he did not see the shooting. There were two buggies between he and the shooting, but he could see over them.

The witness was very dense and when asked to show where he was on the

map, and did not understand the map and in attempting to show where he was got badly tangled. He denied that he saw Grubb step in front of Davis and fire at him. Grubb left his buggy and started for the church at a rapid gait and overtook Davis, who was in front. Grubb walked around on the right of Davis in front and turning fired at Davis; after the first shot Davis started to run towards the academy, and Grubb advancing a step or two fired twice again. There was a distance of 6 or 8 feet between Grubb and Davis.

He was looking at Grubb when he fired, but did not see Davis until after he was shot and then Davis's hands were going up and down at his side.

Dr. Cathell was next called. He lives at Tyro shop, Davidson county, is a practicing physician and has been practicing for about 6 years. Said he knew Davis, and witness Shoaf. Witness Shoaf told him about Grubb having shot Davis, and told him he saw the shooting and also how it was done. Asked him not to tell anybody, as he did not want to be a witness, he did not give any reason. Dr. Cathell saw body of Davis twice. First time shortly after he was killed and second time on Monday. The clothing worn by Davis were then brought forward and identified by Dr. Cathell. When he examined Davis he found three wounds on the body, first being two inches from middle of the chin, the bullet, in his opinion, passing below the jawbone as the bone was not broken, second wound entered six inches from the backbone, ranging upward and coming out in the right breast. Witness indicated on vest and then coat where the ball entered. The wound at entrance measured almost round, at point of exit measured 1-2 inch and was ragged. The third wound entered near the knee cap in left leg; breaking the bone.

To questions asked by Mr. Watson Dr. Cathell admitted that he was indebted to Davis to the extent of \$16.00. He and Davis were great friends, having gone to St. Louis at one time together and being much together when alone he denied that he or Davis had ever made any threats against Grubb's life.

Mrs. Mittie Myers, next witness lives between Salisbury and Spencer and was at Piney church on the day of the killing and was sitting in a buggy in front of the church. She saw Mr. Grubb when he first drove up and drove on down near the school house and hitched his horse to a large oak tree. She heard the shot fired and looking in that direction, saw Mr. Grubb with a pistol in his hand and Mr. Davis running toward his carriage; Mr. Grubb was pursuing him and fired twice again.

When questioned by Mr. Watson, she remembered seeing Mr. Grubb hitch his horse to an oak tree, but she had a very vague recollection of the day of the killing, and to Mr. Watson's questions she repeatedly said she did not know.

Jacob Sowers, J. A. Miller, P. J. Thompson, Philip Sowers, Locke Grubb, were called as character witnesses and each testified that the character of the witnesses were good.

Miss Minnie Rice testified that she was at the church on the day of the killing, and before going to the church was at the home of Mr. Davis.

On Sunday morning protracted meeting began at Piney. Miss Rice went to the church with Mr. Davis and family that morning.

She had only been there a few minutes when she heard the shots and heard Mr. Grubb say:

"I have killed Obe Davis; where is Henry and Charles and Lester Davis? When I kill them then I will be satisfied."

She was standing at the right hand corner of the church, when the shooting occurred and said Mr. Grubb seemed to be very much excited and was using profane language.

Miss Rice saw Grub with a pistol but did not see anybody else have one. Grubb had his pistol in his right hand waving it around.

To Mr. Watson's questions

Said she had not been cautioned not to call Davis Uncle Obe, but admitted that she had done so on several occasions. Said she did not know whether there was anything in the surry or not, and if there was a shot gun under the lap robe she did not see it.

RBe.fJn Pmlw

Walter Leonard was called and asked if photographs shown him were a correct representation of the church and grounds.

Counsel for the defense objected on the grounds that the photographs had been taken by Leonard under the direction of the attorneys for the prosecution and that the camera had been placed according to their direction and did not cover the ground properly.

#### AFTERNOON SESSION

The afternoon session was not called until 2:44 o'clock.

Mr. Justice for the prosecution called for David T. Fritts, brother-in-law of both Grub and Davis and an important witness to be recalled. His testimony was delayed until the accused was brought in, who was accompanied by his wife and child.

Mr. Fritts said last time he was at Piney, before the shooting occurred, several weeks before. (Showing a recent view of the tree near the shooting) he said the top of the tree was cut off at the fire. View does not embrace site where academy stood. Another picture also contained nothing new except that tree had been topped four or five feet since shooting.

Cross examined by Mr. Watson. He said the road did not show in the picture. The blackjack shown is 8 inches in diameter on bank of road. Tree in question is 15 steps away.

Mr. Cansler objected to Mr. Watson's questions, whether or not witness had taken much interest in the case, had talked about who should go on jury. Mr. Fritts denied he had asked Tom Harris or anyone else to serve on the jury. Said he went back to Piney this morning with the surveyor, who made the map to look at the trees. Went at Lester Davis's instance. The judge permitted the questions whose answers made a decided sensation.

W. J. Leonard, the photographer was recalled and asked where pictures were taken from. Said there is nothing on either picture except what is natural. On cross questioning by Mr. Watson. Said there were three views taken where lawyers for State told him. I took no other pictures.

Mr. Justice offered the third picture. T. F. Klutz, Esq., defense, objected to pictures. Mr. Klutz, in Davis case, 137 N. C. ruled that photographs of persons taken just before or after accident are admissible in negligence cases, but there is no North Carolina authority for this admission in capital cases. Cited several cases in other states, notably South Carolina, Indiana, New York, but are not admissible (Mississippi case) when taken on orders from prosecution as prejudicial against the defendant. Photographs taken by witness and proven to occurrence and proven as such would be admissible, but not when taken after there had been striking changes instituted, without notice to defendant not even by the solicitor. These pictures do not profess to show entire situation but only such parts as selected by counsel for the State. Admission of these photographs would be establishing a precedent.

Mr. Justice said every case except 75th Mississippi sustained the claim that photographs are admissible and that was purely an artistic picture arranged by the witness for prosecution. The photographs are testimony with reference to the part of the grounds covered by them and are exact and fair reproductions.

### AN INSANE MAN CLIMBING IN THE WHITE HOUSE

Washington, May 13.—An Italian, thought to be insane, was arrested last night, trying to break into the rear entrance of the White House. He said the spirit told him his wife who he alleged was murdered in Italy several years ago, could be found in the corridors of the White House. Six men were required to subdue him at the station, after he made the attempt to escape.

### "NAN" HAS A "HOME COMING"

Washington, May 13.—Nan Patterson, with J. Morgan Smith, his wife and father and both girls are arriving this morning. They were greeted by three hundred persons usually out to greet the President, when he returned to Washington. Nan bowed to the crowd and said to newspaper men she was awfully glad to get home. The party then took cabs and drove to the Patterson home, where the mother of the girl was waiting to greet her.

### OLD SOLDIER PASSES AWAY

#### Died Suddenly, While Trying to Persuade Woman to Give up Life of Disrepute

Special to the Sun.

Raleigh, N. C., May 13.—The annual debate of the Pullen Literary society at the A. & M. College was held last night and resulted in a victory for the negative. The query being: Resolved, That cooperation should be practiced in agricultural, mechanical and commercial industries." B. R. Egerton for the affirmative and C. C. Clardy for the negative. The debaters were: Clarence Myrick and B. B. Egerton for the affirmative and Jas. E. Moore and C. C. Clardy for the negative.

J. A. Adams, an old Confederate soldier, who has been in the Soldiers Home here since 1902, died suddenly yesterday afternoon in the home of Fannie Adams, a woman in a disreputable section of the city. The woman was a relative of his and he had gone there to try and induce her to give up the life she was leading. He was subject to fits and in the midst of his conference with the wayward relative he fell over in a fit and died before medical assistance could reach him. He was 62 years old and served during the Civil war, as a member of Co. I; 44th regiment North Carolina troops.

The most violent wind and rain storm that has visited this section in a great while passed this way last evening, doing considerable damage. The wind registering 50 miles an hour and the rain fell in torrents for nearly an hour. Two fine oaks in capitol square were blown down; also twelve on the campus of St. Mary's school were blown down. A number of the fine oaks for which Raleigh is noted succumbed to the storm. All the telephone exchanges were practically put out of business. It is reported that the town of Garner, on the Southern railway, east of Raleigh, was damaged to the extent of having as many as twenty-five houses blown down. The wires are all down and the report has not been verified from here. A west bound Southern passenger train passed the town in the midst of the storm and passengers say they saw a giant oak tree fall across a residence. The storm seems to have assumed almost the proportions of the cyclone there.

Revenue Raders destroyed a still at Hannah's Creek, in Johnson county last night, capturing 60 gallons of whiskey and destroying 500 gallons of beer. The owner was not arrested.

It is reported from the office of the State superintendent of public instruction that a local tax for the improvement of public schools has been carried in Jacksonville, Onslow county, by 15 majority.

E. J. Hale, W. E. Kyle, John H. Thorpe, W. B. Taylor and R. H. Hicks, commissioners on the part of North Carolina for the Bethel Monument association announce all things in readiness for the joint Virginia and North Carolina unveiling ceremonies June 10th. The large monument has been completed and will be set up within a few yards of the church between Yorktown and Hampton. It is 18 feet high and bears this inscription. "To commemorate the battle of June 10, 1861. The first conflict between the Confederate and the Federal land forces, and in memory of Henry L. Wyatt, private, Co. A; 1st regiment North Carolina volunteers. The first Confederate soldier to fall in actual battle.

Erected by the Bethel Monument Association of Virginia and North Carolina, June 10, 1905. On the right and the left side of the monument will be the battle flags of 1861 and 1905. The commission has paid the contract price secured by the Virginians, for the marker at the Wyatt site. The marker is four feet high with polished face and is ready all save the inscription. This will probably be as follows:

On this spot, June, 1861, fell Henry Lawson Wyatt, a private in, Co. A,

1st North Carolina regiment, the first Confederate soldier killed in battle during the great war. He died amid the cheers of his comrades over one of the most extraordinary victories in the annals of war. There will also be inscriptions telling the circumstances under which Wyatt was killed. At the unveiling June 10, Governor Montague, of Virginia, will welcome the North Carolinians, and Governor Glenn, of North Carolina will respond. The Governors of all the Southern States have been invited. The Ambrose Parish school and Kindergarten in connection with St. Ambrose Episcopal church, colored, here announce their first graduating exercises May 15 and 16. There is only one graduate, the first they claim turned out from such a school in the State.

Governor Glenn says in speaking of the condition of his brother and private secretary, Gen. Jas. D. Glenn, that he has not been paralyzed at all, but that his trouble is from acute indigestion, and a consequent excessive flow of blood to his head. There is every indication of speedy recovery, and a weeks good rest in Greensboro will bring him around in good shape. His mental faculties are as clear as can be.

### COMMENCEMENT AT DAVIDSON COLLEGE

#### A Strong Array of Speakers.

Commencement exercises at Davidson College begin on Sunday, May 28, and close on commencement day, May 31st. Special rates are granted by various railroads from all points in North and South Carolina and from the principal cities of Georgia and Florida. These tickets are on sale each day during the exercises, and visitors are thus enabled to go and come at will. The program embraces a strong list of notable speakers and is especially attractive. Drs. Moore and Momen are among the foremost pulpit orators of the whole country, and Dr. Ken is widely known as an eloquent platform speaker. The following is the complete program:

**SUNDAY, MAY 28.**  
11:00 a. m. Baccalaureate sermon by President W. W. Moore, D. D., L. L. D., Richmond, Va.  
8 p. m.—Annual sermon before the Y. M. C. A.: Rev. Alfred H. Momen, D. D., Raleigh, N. C.  
**MONDAY, MAY 29.**  
A. M.—Class-Day Exercises.  
8 p. m.—Closing exercises of the Literary Societies.  
Speakers: President Henry Louis Smith, before the Phi. Soc.; Dr. J. E. Mills, University of North Carolina, before the Eumenean.  
**TUESDAY, MAY 30.**  
9 a. m.—Annual meeting of Board of Trustees.  
12 m.—Annual address, Dr. Chas. Kent, University of Virginia.  
8 p. m.—Anniversary of Literary Societies—Orator's contest.  
10 p. m.—Alumni Reception.  
**WEDNESDAY, MAY 31.**  
10:30 a. m.—Commencement exercises.  
4 p. m.—Athletic Exhibition.  
9 p. m.—Reception by literary Societies and Fraternities.

### LOCAL BRIEFS

Mr. J. A. Spence, attorney of Ashboro, was here to-day.  
Hon. J. R. Price, of Albemarle, spent last night and to-day here on professional business.  
Hon. Locke Craig and Mr. Frank Carter of Asheville, passed through Salisbury last night enroute to Raleigh on legal business.  
Gilbert Kerner, the popular young violinist, who has been playing at the festival performances at the opera house this week, returned this morning to his home in Kernersville.  
In the next few days the Sun will begin the publication of the great detective story, the return of Sherlock Holmes. There is not a dull line nor nor sentence in this celebrated story from the beginning to the end. You can get this story in its best form by subscribing to the Sun. Send in your subscription at once.

**THE FIRST BAPTIST CHURCH**  
Wm. H. Rich, the pastor, will speak 11 a. m. Subject "Old Time Religion."  
8 p. m. Subject: "Coming Troubles and Shining Stars."