

Ashe County History, A Work in Progress, First Edition

Copyright © 2004 by Jerry Brown

All rights reserved. No part of this book may be reproduced in any form, without permission in writing from the Author/Publisher.

ISBN 1-59196-764-3

Printed in USA by instantpublisher.com

Published by Jerry Brown, Ashe County, North Carolina

Cover by Stephen Shoemaker, West Jefferson N.C.

E-mail rjibrown@skybest.com

Still researching this event, any information, written or pictures

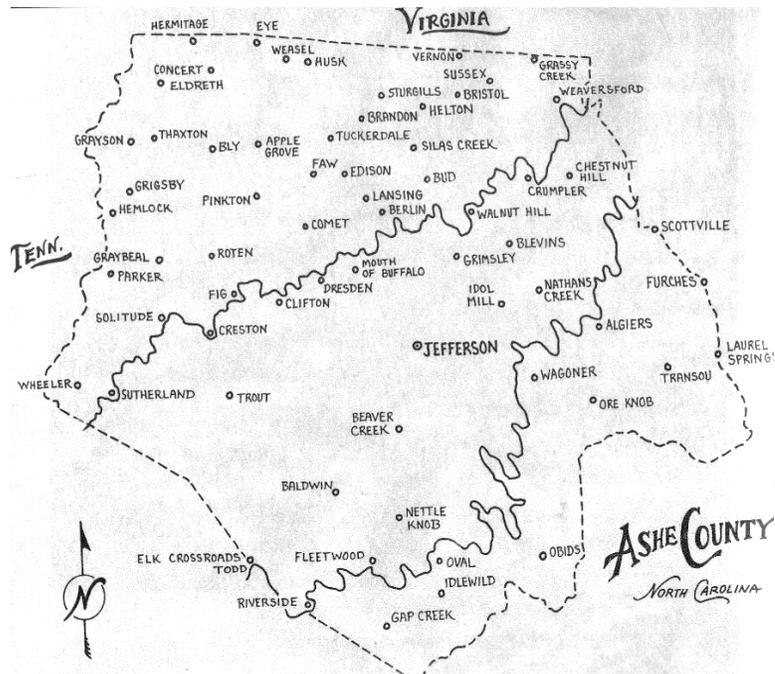
Contact me. Jerry Brown 249 Dogwood rd. West Jefferson N.C.

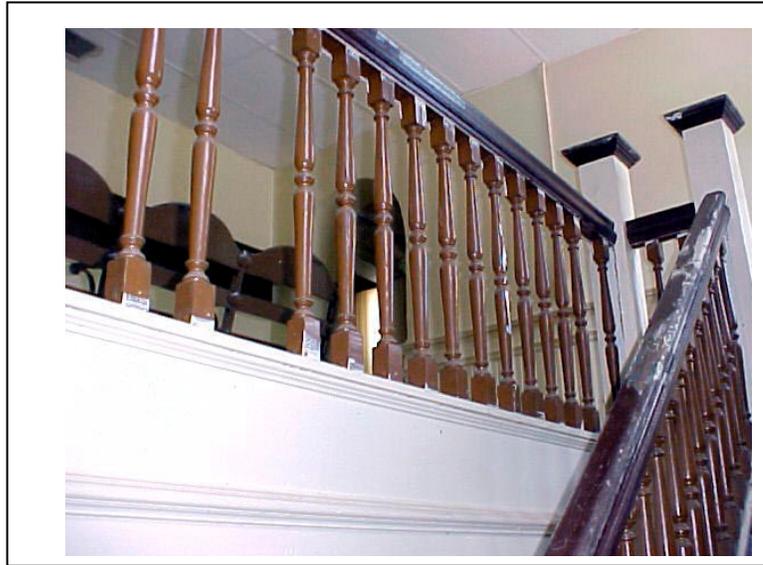


West Jefferson as it looked in those days



The Main Street in Jefferson circa 1900





The steps leading up to the courtroom

Will Banks would have sat here





Ashe County Court House

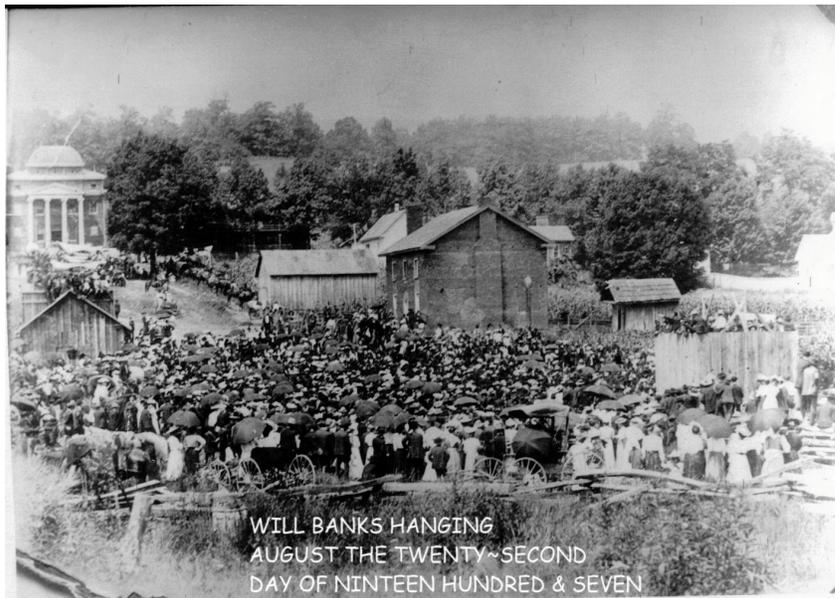
The trial was held here



BANKS CROSSING

THE HANGING OF WILL BANKS

BY JERRY BROWN



It all began Saturday, May 6, 1905
Ended on Thursday August 22, 1907

This was the first and last legal
hanging in Ashe County.

CONTENTS

| | |
|------------------------------------------------------------------------------------|-----|
| THE MAIN STREET IN JEFFERSON CIRCA 1900 | 3 |
| THE STEPS LEADING UP TO THE COURTROOM..... | 4 |
| WILL BANKS WOULD HAVE SAT HERE | 4 |
| ASHE COUNTY COURT HOUSE | 5 |
| ACKNOWLEDGMENTS | 8 |
| INTRODUCTION..... | 9 |
| PEOPLE INVOLVED | 10 |
| THE BALLAD OF WILL BANKS | 11 |
| THE LAW OFFICE IN JEFFERSON 1867-1967..... | 13 |
| WILL BANKS TELLING THE HUGE CROWD HIS STORY HE SPOKE FOR ABOUT 45 MINUTES!..... | 17 |
| WILL BANKS LAST MOMENTS..... | 24 |
| INTERVIEWS..... | 25 |
| THE HOME OF TAM BOWIE IN W.J..... | 30 |
| THE BOWIE MOSLEM IN W.J. | 30 |
| GEORGE B AUSTIN..... | 31 |
| THE SHERIFF WHO HUNG WILL BANKS | 31 |
| THE TWELVE JURORS..... | 33 |
| THE FOLLOWING EVIDENCE OFFERED FOR THE STATE, AS FOLLOWS . | 35 |
| JUDGES CHARGE TO JURY | 44 |
| INSTRUCTIONS REQUESTED BY DEFENDANT | 44 |
| JUDGEMENT | 61 |
| BILL OF INDICTMENT | 62 |
| APPROXMENT AGES AT DATE OF HANGING..... | 73 |
| R.A. DOUGHTON | 74 |
| GWYN L. PARK..... | 75 |
| JUDICIAL HANGING | 76 |
| STANDARD DROP HANGING | 80 |
| HISTORY OF HANGING..... | 80 |
| EARLY EXECUTIONS IN NORTH CAROLINA..... | 82 |
| CONCLUSIONS | 95 |
| THE COURT HOUSE AS IT LOOKS TODAY | 97 |
| THE LOCATION OF THE HANGING | 98 |
| AS IT LOOKS TODAY..... | 98 |
| AUGUST 22 1907 | 98 |
| SHERIFF AMBROSE CLARK..... | 99 |
| EYEWITNESS ACCOUNTS | 100 |
| WHAT THE WORLD WAS DOING IN 1905-07..... | 103 |
| COAL MINING..... | 105 |

ACKNOWLEDGMENTS

My research started locally in the Ashe County Court House records and in the Ashe County Library. Also in Raleigh at the North Carolina State Archives, Archives and Records Section. Ashe County Marriage Records, and Ashe County Census Records, Ashe County Cemetery Records. I would like to thank the Ashe county Library and Ashe County Court House for their kind help and support. Also Mr. Ron Vestal at North Carolina State Archives, Archives and Records Section. I would also like to thank Stephen Shoemaker for his continuing encouragement and support for this project.

Also thanks to my wife Robin and daughter Nikki for their patients.

Ashe County has a rich history. It is given to us by our ancestors and we must embrace it. We are the keepers of our heritage, it is our duty to record and pass it on to our descendents.



INTRODUCTION

Growing up in Ashe County, the phrase “The Last Hanging in Ashe County” or the name Will Banks, has come to my attention more than once over the years. I just happened to be in the studio of Stephen Shoemaker, admiring his talent, when I saw what he was working on. To my amazement he was doing the Hanging of Will Banks. I could not stop gazing at the painting. What a story his brush was telling!

I need not say this started a spark, I began trying to remember what I had heard about this event, and discovered I knew very little. Being a person who bases most everything on the facts, I began my quest. I soon found that very little had ever been written about the hanging and maybe more importantly about Will Banks.

Almost 100 years have passed since Will's Crossing. I will now present you with everything that I have found about this extraordinary event. History is history; no one can change the past or the facts. But we can examine it. Was Will Banks hanging a mistake, was he innocent, was this self defense, did Frank McMillan receive his due and just rewards, both accounts are told and both are of course very different. So I leave it in your hands, YOU DECIDE.

People Involved

Will Banks, b. 1875 d. Aug 22 1907

Lucinda Reed Banks, Will's wife b.1878

Bertha Banks McMillan Will's daughter

John Banks, Will's father

Emmer Banks, Will's mother

Sam Maxwell, Will's uncle

Frank McMillan Will's uncle, the one Will shot

Onney (Onna) McMillan, Frank's son b. 1889

Ambrose Clark, Ashe County Sheriff b.1862 d.1938

Made the arrest of Will Banks

George B. Austin, took Ambrose Clark's position, as Sheriff, the man who hung Will Banks

Thomas Contee Bowie, (TAM) lawyer for
Prosecution

R.A. Doughton, from Sparta N.C., lawyer for defense,

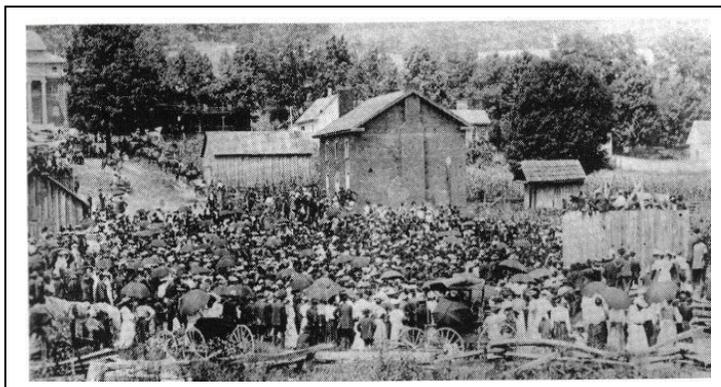
Honorable Judge J. Ward, judge

Witness testified, Sam Maxwell, Jesse Reeves, J.C.

Maxwell, Nettie Parsons, Julian McMillian Cornellus

Arthur Cooke, Cleveland McMillan, Dock McMillan

Robert McMillan and Dock Vannoy



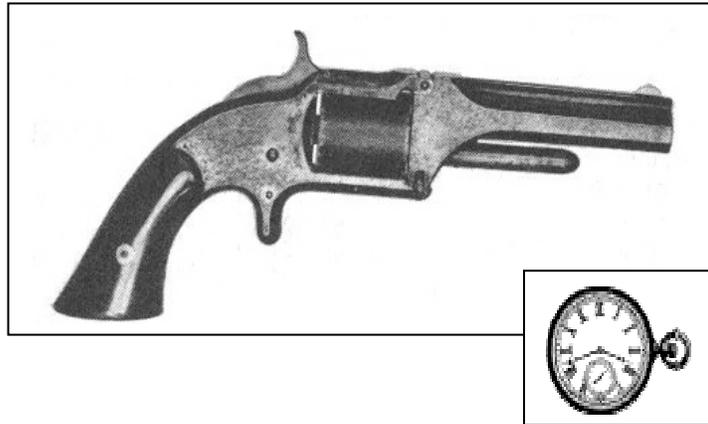


The Ballad of Will Banks

Curtsies of Gary Poe

Will Banks was a young man of 25 years
Had a wife and four children to be left off from here
He was hanged over in Jefferson in the County of Ashe
In the State of North Carolina in the land of his birth
The bell rang at the Courthouse was about 9 o'clock
When the people all gathered for to see this sad sight
When the Sheriff came walking with Banks by his side
For to hang this poor man who hadn't made any crime
At the jailhouse that morning was a very sad time
When he kissed his wife and children to be left here
behind
She said to him William I will see you no more
Till we meet in yon Heaven a partings no more
He went on the Scaffold about half after one
He politely addressed them and then he begun
He talked quite a while, he relating his case
Performing quite much which had passed his race
The witness swore a false hood, I know in my mind

For they swore that I shot him as much as six times
And I only had five cartridges and this I know well
How often I shot him I never can tell
His left arm was around me, and his thumb in my eye
His treatment so scared me I allowed up my mind
I shot him and killed him in a moment of time



This brings us to my story of the Crossing of Will Banks. It will contain many facts, and my own thoughts,

WILL (William) BANKS, (black male) Born 1875 in Crumpler, Ashe County North Carolina. Father was John Banks and his mother was Emmer Banks. He married Leucinda Jane Reed, Born 1878 in Crumpler. Her father was Wesley Reed. Mother unknown.

Will Banks and Leucinda (Cinda) were married April 11, 1896 by J E Gambill, (justice of peace) at his house in Chestnut Hill. Witness by Liky Banks and Emmer Banks and Buck Ritcherson. Their first Child was a son Bucker Banks b. 1899, next a daughter Dora Banks on Nov 17, 1900. On May 26, 1903 Will and Leucinda had a daughter named Bertha Banks.



The Law Office in Jefferson 1867-1967

This is a copy of the original marriage license of one Will Banks and Leucinda Ried (Reed). Dated April 11, 1896. The original remains on file at the Ashe County Court House.

NUMBER 512 - MARRIAGE LICENSE AND CERTIFICATE FOR USE OF MINISTERS OR J. P.'s. - Loose, 4 1/2 cts, per 100. Put up in pads, 60 cts, per 100. - Cash with order. Printed and for sale at Harrell's Printing House, Weldon, N. C. - 1-29-95 - 000.

STATE OF NORTH CAROLINA,)
 Ashe COUNTY.) Office REGISTER OF DEEDS.
 April 11, 1896

To any Ordained Minister of any Religious Denomination, or any Justice of the Peace of said County:

1. William Banks having applied to me for a LICENSE for the marriage of William Banks of Ashe Co. N.C. age 21 years, color Black, the son of W. B. Banks and Emmer Banks the father now dead, the mother living resident of Ashe Co. N.C. and Leucinda Ried of Ashe Co. N.C. age 23 years, color black daughter of Messley Ried and unknown the father living the mother dead, resident of Ashe Co. N.C.

* And the written consent of _____ the _____ of the said _____ to the proposed marriage having been filed with me. And there being no legal impediment to such marriage known to me, you are hereby authorized at any time within one year from the date hereof, to celebrate the proposed marriage at any place within the said County.

You are required, within two months after you shall have celebrated such marriage, to return this License to me, at my office, with your signature subscribed to the certificate under this License, and with blanks therein filled according to the facts, under penalty of forfeiting two hundred dollars to the use of any person who shall sue for the same.

Willard F. Smith
 Register of Deeds.

| | | | |
|----------------------------------------|-----------------------------------------------|----------------------|---------------------------------------------------------|
| 1 Name of person applying for license. | 7 Mother of man to be married. | 12 Residence. | 18 Living or dead. |
| 2 Name of man to be married, in full. | 8 Living or dead. | 13 Age. | 19 Residence, if known, if not, state unknown. |
| 3 Residence. | 9 Living or dead. | 14 White or colored. | * If both parties are over 18 years of age, strike out. |
| 4 Age. | 10 Residence if known, if not, state unknown. | 15 Father's name. | |
| 5 White or colored. | 11 Name of woman to be married, in full. | 16 Mother's name. | |
| 6 Father of man to be married. | | 17 Living or dead. | |

_____ being duly sworn, says: That the parties applying for License are of lawful age, and as far as he is informed and believes, there is no lawful cause or impediment forbidding said marriage.

WITNESS _____

STATE OF NORTH CAROLINA,)
 Ashe County.)
 I, J. C. Sambile, a Justice of Peace, united in matrimony William Banks and Leucinda Ried the parties licensed above, on the 11 day of April 1896, at J. C. Sambile in Chestnut Hill Township, in said County, according to law.

This is a copy of Will Banks daughter's birth certificate.

Name: Bertha McMillan Last Residence: 15221 Pittsburgh, Allegheny, Pennsylvania, United States of America Born: 26 May 1903 Last Benefit: 15221 Pittsburgh, Allegheny, Pennsylvania, Died: Jan 1984

STATE BOARD OF HEALTH 9-25-57 STATE OF NORTH CAROLINA
 OFFICE OF VITAL STATISTICS DELAYED CERTIFICATE OF BIRTH PAGE NO. 24

NAME AT BIRTH: Bertha M. Banks DATE OF BIRTH: May 26, 1903

SEX: Female BIRTH PLACE (City or Town): Grapeland, N.C. COUNTY: Ashe

FATHER: FULL NAME: William Banks MAIDEN NAME: Sindy Jane Reed

MOTHER: FULL NAME: Sindy Jane Reed BIRTH PLACE (State or Foreign Country): Grapeland, N.C.

COLOR OR RACE: Negro BIRTHPLACE (State or Foreign Country): Grapeland, N.C.

Signature of Registrant or Representative: Bertha M. McMillan

Sworn to and subscribed before me this 19th day of September, 1957

Notary Public: Paul Swanson, Notary Public in and for the State of North Carolina

REGISTRANT: DO NOT WRITE BELOW THIS LINE. TO BE COMPLETED BY REGISTER OF DEEDS.

| PART | ABSTRACT OF SUPPORTING EVIDENCE | DATE OF ORIGINAL RECORD |
|------|-----------------------------------------------------------------------------------------------------------------------|-------------------------|
| | Family Bible Record now in the possession of Dora Maxwell, residing at Piney Creek, N.C. | May 26, 1903 |
| | Affidavit of personal knowledge made by Dora Maxwell, sister, age 57 years, now residing at Piney Creek, N.C. | Sept. 20, 1957 |
| | Marriage License issued to J. Frank McMillan and Bertha Banks, now on file, Register of Deeds office, Jefferson, N.C. | June 30, 1924 |

INFORMATION CONCERNING REGISTRANT AS STATED IN RECORDS LISTED ABOVE

| PART II | BIRTHDATE OR AGE | BIRTHPLACE | NAME OF FATHER | MAIDEN NAME OF MOTHER |
|---------|------------------|-------------------|----------------|-----------------------|
| 1 | May 26, 1903 | Ashe County, N.C. | William Banks | Sindy Jane Reed |
| 2 | May 26, 1903 | Ashe County, N.C. | William Banks | Sindy Jane Reed |
| 3 | age 21 years | Ashe County, N.C. | Not Stated | Not Stated |

ADDITIONAL INFORMATION: Family Bible Record inspected; Affidavit of personal knowledge made before Paul Swanson, Notary Public, Scottville, N.C.

I certify that the evidence described above was examined by me or my agent.

DATE: September 20, 1957 SIGNATURE: J. D. Stansberry, by Beryl S. Coy REGISTER OF DEEDS

I certify that the above named person has no prior birth certificate on file in this office.

DATE FILED: SEP 24 1957

Signature: Charles H. Council, Deputy

A very ironic fact was the marriage of Will Banks daughter; she married J. Frank McMillan. The same name of the man her father shot. This Frank McMillan was from Allegheny County, his father was Ellick McMillan born 1875.

This is a copy of her marriage license

State of North Carolina, County of Ashe
Office of Register of Deeds

No. 109

To any Ordained Minister of any Religious Denomination }
 or any Justice of the Peace of said County } Jefferson, N.C., June 30, 1924

J. Frank McMillan having applied to me for a LICENSE for the marriage of
J. Frank McMillan of Ashe and Bertha Banks of Ashe
 age 21 years; color Col.; the son of Ellick McMillan and Melba McMillan age 21 years; color Col. the daughter of
Will Banks and Cindy Banks
 the father now living the mother living the father now dead the mother living
 resident of Lurches resident of Crumpler

And the written consent of _____, the _____ of the said _____, to the proposed marriage having been filed with me.

And there being no legal impediment to such marriage known to me, you are hereby authorized, at any time within sixty days from the date hereof, to celebrate the proposed marriage at any place within the said County. You are required, within two months after you shall have celebrated such marriage, to return this License to me, at my office, with your signature subscribed to this Certificate under this License, and with the blanks therein filled according to the facts, under penalty of forfeiting \$200.00 to the use of any person who shall sue for the same.

J. Frank McMillan being duly sworn, says: That he knows of his own certain knowledge that the parties applying for License are both over 18 years of age, and, so far as he knows or is informed and believes, there is no lawful cause or impediment forbidding said marriage.

Sworn and subscribed to before me, this June 30, 1924

J. Frank McMillan
 Register of Deeds

By Nona Neal
 Deputy

STATE OF NORTH CAROLINA—COUNTY OF ASHE.

R. F. Wellons Minister of M.C.C. South united in matrimony
J. Frank McMillan and Bertha Banks, the parties licensed above, on
 the 30 day of June, 1924, at Jefferson Office, in Jefferson Township, in said County, according to law.

WITNESSES PRESENT AT MARRIAGE
J. L. Shatter
H. W. ...

R. F. Wellons
 OFFICIATING OFFICER



Will Banks telling the huge crowd his story

He spoke for about 45 minutes!

Following are the words of Will Banks

This is the story as told by the Jefferson Recorder a newspaper that was published on the day of the Hanging, August 22 1907.

At 1:30 o'clock following the ringing of the courthouse bell, Will Banks, murderer of Frank McMillan, was conducted from the county jail to the scene of execution about fifty yards away. The scaffold had been erected by the direction of the sheriff last week. The lower part was in an enclosure and extending up about four feet from the platform.

Arriving at the scene of the execution Sheriff Austin announced to the thousands of people who had come to town from adjoining counties and nearby states to witness the hanging, that Banks would make a statement.

With a strong voice, which could be heard quite a distance; the condemned man made the following statement, in part:

“Lord be with me in this moment of death. Lord be with me in my talk that every word may be true. I notice a great number of people are here today. I am glad to see some people here who do not believe I killed Frank McMillan without a great cause. The beginning of my troubles, I am now going to tell you about:

Onny McMillan son of Frank McMillan, whom I shot, came to me and borrowed \$4.95 to go to West Virginia where his father was at work at Tug River. The boy’s mother asked me to lend the money to the boy and said she would see that it was paid back to me. I loaned the money to the boy, but he did not want to go back to his father, but wanted to go back to West Virginia and work with me at Landgraft; that if he went to his father he would take his wages away from him. I took the boy to Landgraft with me, where I got him and myself a job. We were at work in the mine grift on the third day, when the boy wanted to step aside alone, and I told him to go into the breakway, a hole in the side of the grift. The boy had been gone for some time, when I got uneasy and went to look for him. When I had been looking for Onny for fifteen minutes a driver of one

of the mine cars passed and I asked him if he had seen the boy, and he said he had not. I went to the mine opening and inquired of the doorkeeper if he had seen the boy, and he said he has seen him pass out a few minutes before a run and that I had better go to my house, as the boy would steal my things. I went to my house and the boy has been there and pulled the steeple out of the door and gone into the house and stole fifty cents and a hat. I went to the depot, but on the way learned that the boy had been to the office and took up his time for two days work. I found Onny on the depot platform and asked him why he ran away, and he said he wanted to go to his father. I then asked him why he had gone to my house and took fifty cents and a hat. He said he thought I would not care. I persuaded him to stay and he went with me and I gave him a place to sleep that night and his breakfast the next morning. He went to his father the next day.

A few days after that I got a letter from his father, Frank McMillan, and he wanted to know why I brought this boy out there and treated him so badly and that if he, Frank had been there, there would be a hot time, but he would see me when I came home. The boy's mother insisted on my taking the boy because he was no account at home, and that maybe he would be better if he went to West Virginia.

When I met Onny and ask him if he had the money that I loaned him, and he said that his father had it, and if I would come over to his house his father would pay me. Well, I did not go until Friday, and Uncle Frank was at home, and when I asked him where Onny was he said he was gone over to

Healing Springs for a sewing machine. I told Uncle Frank what I came for and he said he did not have any money belonging to Onny. I told Uncle Frank that Onny had told me, and he said that Onny had only made \$3.20 while in West Virginia, and he only got \$3.00 of that to pay for some corn, and that Onny still under his thumb and I could not make it by law. I told Uncle Frank that I could not and would not try to him if he would see that Onny make it by law. Then I asked if he would pay me, and he then said if he told me he would, I would make it by law before night. Well, when I got to leave, Uncle Frank told me I had no business to take his boy off to West Virginia, and then I told him that his mother asked me to take him and to lend him the money, that he was no good at home.

On Saturday morning after that I went to church and during the meeting Uncle Sam Maxwell got up and went out and motioned for me to follow him. I went out with him and we took a seat on a log outside. While we were sitting there talking, Onny came up and wanted to know what kind of lie I had been telling his father. I told him I had told no lie, but had gone and asked him for the money as he told me to do so. Onny said I had told him lies and I told Onny not to call me liar again or I would smack him. Uncle Frank was then standing at the corner of the church with a shotgun on his right shoulder. Onny then called me a liar again, and when I started toward him to smack him, he steps back and put his right hand back on his hip. About this time his father walked up and said that no man or women on earth should smack any of his children without his saying so. Onny said again I had been telling lies on

him, and said that I did not owe him any money, I owed him, that I borrowed money from him in West Virginia. When Onny called me a liar again I went toward him holding my hand up to smack him, when Uncle Frank took his gun off his shoulder and grabbed me.

If was not for hatred of Frank, but for fear of my life, and I was scared. What he said the day before scared me and I did not know which of the two I shot. I want to tell the whole world that the tails told against me by Nettie Parks, Jesse Reese, Robert McMillan, Cleve McMillan, and Dock Vannoy were false. I see here today John Taylor, George Taylor, Bill Hudler, and Jim Hartzog who know I am innocent.

On Sunday Jim Hartzog asked me to go with him to George Taylor's to get him to make a coffin for his daughter, but he had no lumber. Then he went on the John Taylor's to ask him, but found that he had gone to the river fishing. At Jesse Reese's we met John Taylor and he said that he did not have the lumber. But his son had it and if we could get the lumber for him, he would make the coffin. We came on back towards John Taylor's but before we got there a big rain comes up. John Taylor asked me to stop and eat dinner, but I didn't. I only went in on the porch and asked him to lend me a coat, as I was in my shirtsleeves. Taylor gave me his gum overcoat; John Hartzog and Tom went away angry. I went on to George Taylor's.

Now I want to tell the whole world it is said that I have made many great threats, against the people,