

Pfc. Booker T. Spicely & the Dangers WWII Black Veterans Faced in their Fight Against the Jim Crow South

Overview

Despite voluntary enlistment and service in World War II to defend democracy overseas, Black veterans often encountered suspicion, resentment, and - in some cases - brutal violence on the homefront. In this lesson, students will learn the story of Pfc. Booker T. Spicely, who was stationed at Camp Butner, NC in 1944. While on a pass into the nearby city of Durham on July 8, 1944, he boarded a bus, owned and operated by Duke Power. After being told to move further to the back of the bus by the white driver, Pfc. Spicely questioned why he should have to do so. Despite eventually moving seats, upon disembarking, the driver followed Pfc. Spicely and shot him point blank. In this lesson, students will review WWII and the Double V Campaign, read about Pfc. Spicely's murder, and then analyze a series of primary source documents to learn more. The lesson culminates with students designing a bus shelter to educate today's public about the multi-faceted resistance of Black veterans to Jim Crow.

Grades

8-12

Materials

- Double V Campaign image, attached
- Durham Historical Marker Will Commemorate a Black Soldier Killed for Standing up to "Jim Crow" in 1944, reading attached; the reading is excerpted from:
 - Price, J. (2018, Sept. 21) [In The Jim Crow Era, 'After-The-Fact Lynching's' Spread Racial Terror In Durham And Elsewhere](#)
 - Center for Race and Radical Justice, [Historical Marker Will Commemorate 1944 CRRJ Case](#) [2023, Oct. 28]
- Booker T. Spicely Primary Source Analysis worksheet, attached
- Primary Source Documents Set, attached
- This document set contains 14 primary source documents related to the murder of Booker T. Spicely. Teachers should choose how many/which documents to provide to students in a set. Teachers can also choose to create different sets of documents for students, or have all students work on the same documents. Available documents that are attached include:
 - Certificate of Death for Booker T. Spicely
 - Carolina Morning Times, Political Cartoon (Sept. 1944)
 - Durham Herald article (July 1944)
 - Durham Herald article (Sept. 1944)
 - Department of Justice – Memo to FBI
 - Letter to Julia Hunter Denying Federal Investigation
 - Letter to Carlisle Higgins Denying Department of Justice Investigation
 - Letter from Camp Butner to NAACP
 - NAACP Agrees to Prosecute Jim Crow Slayer
 - Letter from Thurgood Marshall to Durham Lawyer Hugh Thompson
 - Response to Thurgood Marshall from Lawyers Gates & Thompson
 - Letter from R.A. Young, on Behalf of Durham NAACP, to National Branch of NAACP (*letter mentions [Lewis Austin](#))

- Response from National Branch of NAACP to R.A. Young of Durham NAACP branch (*letter mentions [Ella Baker](#))
- Article: Duke Power Provides \$3500 Settlement
- (Optional) Design a Bus Shelter for Booker T. Spicely, attached

Duration

45 minutes

Preparation

- Students should have a basic understanding of the Jim Crow South in general and its impact on US Armed Forces in particular, as well as World War II's "Double V Campaign."
- Students must understand expectations for respectfully discussing "[hard history](#)" such as Jim Crow, segregation, and racial violence. While this history brings up difficult topics, it represents a critical part of our shared state and national narrative that students must understand in order to comprehend its impact on the present and build a better future. To ensure students are able to respectfully and empathetically discuss such topics, teachers must ensure a foundation of civil discourse, respect and empathy in the classroom. For techniques on building such a classroom community, see Carolina K-12's classroom management activities in the Database of K-12 Resources under the "Activities" section and specifically [Tips for Tackling Sensitive History & Controversial Current Events in the Classroom](#).

Procedure

Warm Up: Reviewing the "Double V Campaign"

1. As a warm up, share the following quote from historian Stephen Ambrose: "The world's greatest democracy fought the world's greatest racist with a segregated army." Discuss:
 - Who do you think Stephen Ambrose is referring to in this passage? Who is "the world's greatest democracy" and "the world's greatest racist," and what war is Ambrose referring to?
 - What message is Ambrose conveying? What commentary is he making on America, segregation and Jim Crow?
 - Why do you think African Americans risked their lives for a country that denied them equal rights?
 - How did segregation and Jim Crow condescend the concepts of American democracy and freedom?
 - In what ways did Black servicemen and women push back against segregation and Jim Crow?
2. Project the attached image of the "Double V Campaign" and ask students to review their understanding of it. Remind students that this was one example of the ways in which African Americans in the US called attention to and resisted the hypocrisy of Jim Crow during World War II:
 - Originating in *The Pittsburgh Courier*, a newspaper founded in 1907 that had long used its voice to champion the rights of African Americans, the Double V Campaign made the connection between the United States' treatment of African Americans and Nazi Germany's treatment of Jewish people.
 - World War II in particular was a turning point for African Americans, in part because so many served. At the beginning of the war, there were fewer than 4,000 black troops. By the end, there were more than 1.2 million. Over six million more African Americans worked in defense plants.
 - Many had enlisted in hopes of better lives and/or gaining respect. Instead, they were viewed with suspicion and resentment upon their return. So, during World War II, black leaders in the U.S. began promoting what they called the "Double V" campaign. One "V" represented victory over fascism in the war, while the second called for victory over racism at home. They would not allow Jim Crow to remain unchallenged either during or after the war. Many historians see the Double V campaign as the prelude to the Civil Rights Movement of the 1950s and continued protests for racial justice.

[\(Source\)](#)

Introduction to the Story of Pvt. Booker T. Spicely

3. Explain to students that pushing America to live up to its stated ideals of democracy and freedom, and challenging the entrenched laws and expectations of Jim Crow, was courageous and dangerous – especially for Black people in uniform. As they returned home from war, proud of their service, Black veterans in the south often encountered suspicion, resentment, and - in some cases - brutal violence. Tell students they are going to learn about the murder of Pvt. Booker T. Spicely, a Black soldier who was stationed at Camp Butner, NC, and murdered by a white bus driver for standing up to Jim Crow laws in Durham.
4. Provide students with a copy of the attached background reading, “Durham Historical Marker Will Commemorate a Black Soldier Killed for Standing up to ‘Jim Crow’ in 1944.” Either individually or in reading partners, students should read the article and then answer the accompanying questions. Afterwards, have students discuss the questions as a whole class:
 - Who was Booker T. Spicely? What parts of his story, and the context of what Black veterans during WWII faced, do you find most compelling and why?
 - In what ways might serving in World War II have empowered Black Americans? Why was Pvt. Spicely, like many Black WWII soldiers, unwilling to follow North Carolina’s Jim Crow laws and etiquette?
 - How did Spicely appeal to the white soldiers on the bus?
 - What evidence does historian Tim Tyson cite that he believes illustrates that the bus driver was not acting in self-defense? Nevertheless, what happened at the bus driver’s trial?
 - Post-WWII, there was an escalation in violence against Black people, especially those in uniform. Why was this the case?
 - Considering that journalists have many potential stories they could write, why do you think the author of [In The Jim Crow Era, 'After-The-Fact Lynching's' Spread Racial Terror In Durham And Elsewhere](#) thought this story was important enough to research and write about?
 - Teachers may be interested in listening to [this interview](#) with the reporter, Jay Price, in which he discusses how he first learned about Pfc. Spicely’s story.
 - Some people advocate for not discussing history such as this, because it might illicit an emotional response, or they feel it doesn’t make sense to pay attention to negative and unjust actions that happened in the past. What are your thoughts? How might you respond to someone who says “leave the past in the past?”
 - Why do you think several North Carolinians came together and advocated for a marker to be installed in Durham acknowledging Pfc. Spicely’s service, resistance, and subsequent murder?
 - Although it highlights a difficult part of our history, why is it important to learn about and acknowledge this history?

*Throughout the discussion, students may have additional questions. Since additional details surrounding Spicely’s murder will be addressed in the primary sources students examine in the next segment, it is recommended teachers write their questions on the board and return to them after the document analysis.

Examining Primary Source Documents

5. Inform students that they’re going to examine several primary source documents to learn more about Pfc. Spicely in partners or small groups. Teachers should review and select which of the documents are best suited to each classroom’s level and learning goals. (Students can review anywhere from one of the provided documents to several in a set. Teachers should determine whether to provide each pair/group of students the same document(s), or to have them examine different documents/sets.)
6. Distribute the selected documents and the attached handout for reviewing the sources, and let students know how long they have to work on analyzing the sources. Students should also prepare to present their findings with the rest of class. Remind students of class expectations for grappling with “hard history” respectfully and productively, and circulate around the room as they work.

7. Afterwards, summarize the documents as a class and have groups report out on their responses to the questions provided, as well as what they learned about Pfc. Spicely and/or life for many African Americans during World War II in general. Discuss:
- What did you discover in the documents that you found most interesting, surprising, and/or compelling? What questions do you have that these documents are unable to answer? Where could we go to find potential answers and additional facts?
 - How do these sources contribute to your overall understanding of the history of North Carolina and America?
 - How do you think Black North Carolinians viewed the justice system during this time, and what evidence in these documents makes you think this?
 - In your opinion, how might past wrongs such as this impact today's justice system, or impressions of the justice system?
 - Booker Spicely was only 34 years-old when he was murdered in Durham, in uniform, for hesitating to move to the back of a bus. His killer was acquitted, and his family only received \$3,500 of their requested \$50,000 in damages. What is modern-day society's responsibility in acknowledging historical injustices such as this? Is there anything that should be specifically done to attempt to right past wrongs like this, in your opinion? If so, what and why? Explain.

Optional: Design a Bus Shelter Commemorating Booker T. Spicely

8. Teachers should take some time to check in with students regarding how they are feeling after learning about Pfc. Spicely's story. Let students debrief honestly, expressing any emotions they are left with. This will likely range from shock to sadness to outrage. Ensure they understand that while this might be "easy" history to comprehend, one way we can commemorate, and try to right past wrongs, is through education and acknowledgement. This includes people like journalists who research and report on such stories with facts, engaged community members such as the team who worked to get the marker installed in Durham that commemorates Booker T. Spicely, and students like them who honor the past by facing and learning it. Ask students to share additional examples that they can think of as you discuss. Finally, show them samples of nearby Chapel Hill's bus shelter project, in which the town commemorates local civil rights history via public art designs: <https://chapelhillhistory.org/news/historic-bus-shelters/>.
9. As an optional processing activity, provide students with a copy of the attached Booker T. Spicely Memorial Bus Shelter handout, in which students will design their own bus shelter that commemorates the ways Black veterans resisted Jim Crow during WWII & the Double V Campaign. Review the instructions as a class, provide a project deadline, and answer any questions the students may have about the project. (Teachers will want to pre-determine how in-depth the project will be. It can be as simple as an in-class activity where students sketch their ideas, or it can be stretched over time and students can actually design models of their installations. Teachers may also want to allow students to use various software platforms to create their designs.)
10. On the due date provide time for students to place their final designs around the room and engage in a [gallery walk](#) to view each others work. Students can leave Post-It Notes at each design, on which they write what they learned from the design, what they like about it, and/or any questions they have.
11. Once everyone has had a chance to view each project, review the Post-Its for each group and allow groups to answer any questions about their work.
12. As an exit ticket, teachers can refer students back to the quote the lesson opened with: "The world's greatest democracy fought the world's greatest racist with a segregated army," and ask them whether and how their interpretation of the quote has changed since learning about Booker T. Spicely.

DEMOCRACY



Source: <https://newpittsburghcourier.com/2018/05/30/memorial-day-historic-double-v-campaign-still-raiqing/>

Name: _____

Durham Historical Marker Commemorates Black Soldier Killed for Standing up to “Jim Crow” in 1944

A North Carolina state highway historical marker, to be installed in December 2023, will mark the 1944 killing of a Black soldier in Durham, North Carolina. On July 8, 1944, Pvt. Booker T. Spicely was murdered after refusing to give up his seat on a bus in Durham, NC.

During the 1940s, World War II brought thousands of Black soldiers to military bases in the South, including Camp Butner, NC, an army installation less than 30 minutes from Durham, which trained infantry, artillery, and engineering combat troops for deployment and redeployment overseas during World War II.

Black men in uniform (like Pvt. Spicely) were risking their lives for America, so following the South’s “Jim Crow” laws and expectations became even more intolerable.

In one incident, some soldiers turned over buses that were used on the Camp Butner-Durham route because they were forced to wait until all the white soldiers were transported. So many Black soldiers challenged the “Blacks-in-the-back” law on Durham city busses that drivers complained it had become nearly impossible to enforce.

Historian Tim Tyson says Black soldiers from the north hadn't dealt with the daily humiliation of Jim Crow laws and were unfamiliar with the code that Black southerners were raised under. In the Jim Crow South, if you were Black, you were expected to use submissive body language, a deferential tone, and pick your words carefully. Those were things Private Booker T. Spicely -- who was from Philadelphia -- did not do after he boarded a Durham bus in 1944.

Spicely, then 34, was serving as an army private at Camp Butner near Durham. At the time, the military was segregated, and Black personnel faced pervasive official discrimination while serving. Jim Crow policies were enforced within bases and on buses like the one Spicely was on when he was murdered. However, when he got on the bus in Durham, Spicely sat in front. Then two white soldiers got on. The driver, Herman Lee Council, told Spicely to move to the rear.

"As they're coming onto the bus," Tyson said, "Spicely gestures to the driver and says, 'This man says I must go to the back of the bus. But aren't I wearing the same uniform you're wearing? Aren't I as just good to stop a bullet as you are? Why should I have to go to the back of the bus?'"

Spicely did eventually move to the back, but spoke out. He mocked Council for being unfit to serve in the military. "But he must've sensed that he'd crossed the line with the bus driver," Tyson said. "When Spicely got to his stop, he got off and he went out the rear door of the bus. 'If I said anything that offends you sir, I apologize,' Spicely told the driver."

But as Spicely exited via the back door, Council pulled a .38 caliber pistol from under his seat. "Council went out the front door quickly, down the side of the bus, and shot Spicely in the heart," Tyson said. The gun was so close that the first shot scorched Spicely's uniform shirt. The bullet punched through the soldier's dog tag and he doubled over. Council fired again, and Spicely fell to the sidewalk. Council climbed back into the bus, then drove off to finish his route.

Military police officers took Spicely to a nearby hospital, which refused to treat him because he was Black. He died just after reaching another hospital that would treat him.

Later, Council surrendered to police and was charged with murder. "The Durham conservative Black leadership...got assurances that there would be justice," Tyson said. That helped tamp down anger and protest in Durham's Black community and the city's Hayti neighborhood - a self-sufficient African-American neighborhood that was called "the Black Wall Street" for its relative affluence.

At his trial, Council testified that he had fired in self-defense, and that Spicely had put his hand in his pocket as if he had a weapon. The all-white, all-male jury deliberated just 28 minutes before acquitting him, a verdict that Tyson says doesn't hold up to logic. "When you get off of the bus to go shoot somebody, obviously that person is not running at you threatening your life," Tyson said.

Seventy years later, in 2014, Shaneka Louise Davis, then a college student working with the Civil Rights Restorative Justice Project (CRRJ) at Northwestern University, was assigned to investigate Spicely's case on behalf of CRRJ. CRRJ supports the research of historical cases in which civil rights were denied and justice was not carried out, in the hope that restorative justice measures can raise awareness and assist in the reparation of past wrongs.

Davis' research on the case inspired others to take action. When James Williams Jr., a retired death penalty defense attorney, discovered Davis' essay on the case, he decided to launch a committee to advocate for the marker and other restorative measures in the Spicely matter. The marker was approved and will be installed at the end of 2023.

In addition, earlier this year North Carolina Central University Law School officials announced that the school was awarded a \$100,000 grant from the Duke Energy Foundation to create the Private Booker T. Spicely Endowed Scholarship Fund.

The case had a deep impact on the student whose essay first attracted Attorney Williams' attention. "CRRJ was one of the highlights of my law school experience," said Shaneka Davis, a public health care attorney practicing in the Boston area. "I lived in Durham briefly as a child and was honored to work on Pvt. Spicely's case specifically. It allowed me to use the law in the way in which I intended, to right the wrongs of historical injustices that far too many Black Americans experienced for no reason other than systems of racial bias and prejudice."

This handout is excerpted from:

- Price, J. (2018, Sept. 21) [In The Jim Crow Era, 'After-The-Fact Lynching's' Spread Racial Terror In Durham And Elsewhere](#)
- Center for Race and Radical Justice, [Historical Marker Will Commemorate 1944 CRRJ Case](#) [2023, Oct. 28]

DISCUSS:

- Who was Booker T. Spicely?
- Why was Pvt. Spicely, like many Black WWII soldiers, unwilling to follow North Carolina's Jim Crow laws and etiquette? Why did the period of WWII lead to an escalation to the fight for civil rights?
- How did Spicely appeal to the white soldiers on the bus?
- What evidence does historian Tim Tyson cite that he believes illustrates that the bus driver was not acting in self-defense? Nevertheless, what happened at the bus driver's trial?
- Where was Private Booker T. Spicely from? How might this influence his reaction to the driver's demand to move to the back of the bus?
- Why do you think several North Carolinians came together and advocated for a marker to be installed in Durham acknowledging Pvt. Spicely's service and murder?
- Post-WWII, there was an escalation in violence against Black people, especially those in uniform. Why was this the case, and although it highlights a difficult part of our history, why should we learn about and acknowledge this history?

Document Title, Document Type, & Description	What stands out to you from this document? What do you think is most important from this document?	What does this document tell us about Booker Spicely, the times/society in which he lived, and/or the circumstances surrounding his murder?

After analyzing the documents provided, answer:

- How do you think Black North Carolinians viewed the justice system during this time, and what evidence in these documents makes you think this?
- How do these sources contribute to your overall understanding of the history of North Carolina and America?
- Based on your review of these sources and what you learned in class, what do you think is most important for North Carolinians to know about Pfc. Booker Spicely's story and why?
- What questions do you still have?

PRIMARY SOURCE DOCUMENTS

*Teachers should review and select which of the following documents are best suited to each classroom's learning level and goals. Teachers should determine whether to provide each student (or pair/group of students) the same document(s), or to have them examine different documents/sets and then report out to one another.

MARGIN RESERVED FOR BINDING

WRITE PLAINLY, WITH UNFADING INK—THIS IS A PERMANENT RECORD.

Every item of information should be carefully supplied. The correct age is especially important. Physicians: Please write the cause of death clearly and legibly.

U.S. DEPT. OF HEALTH

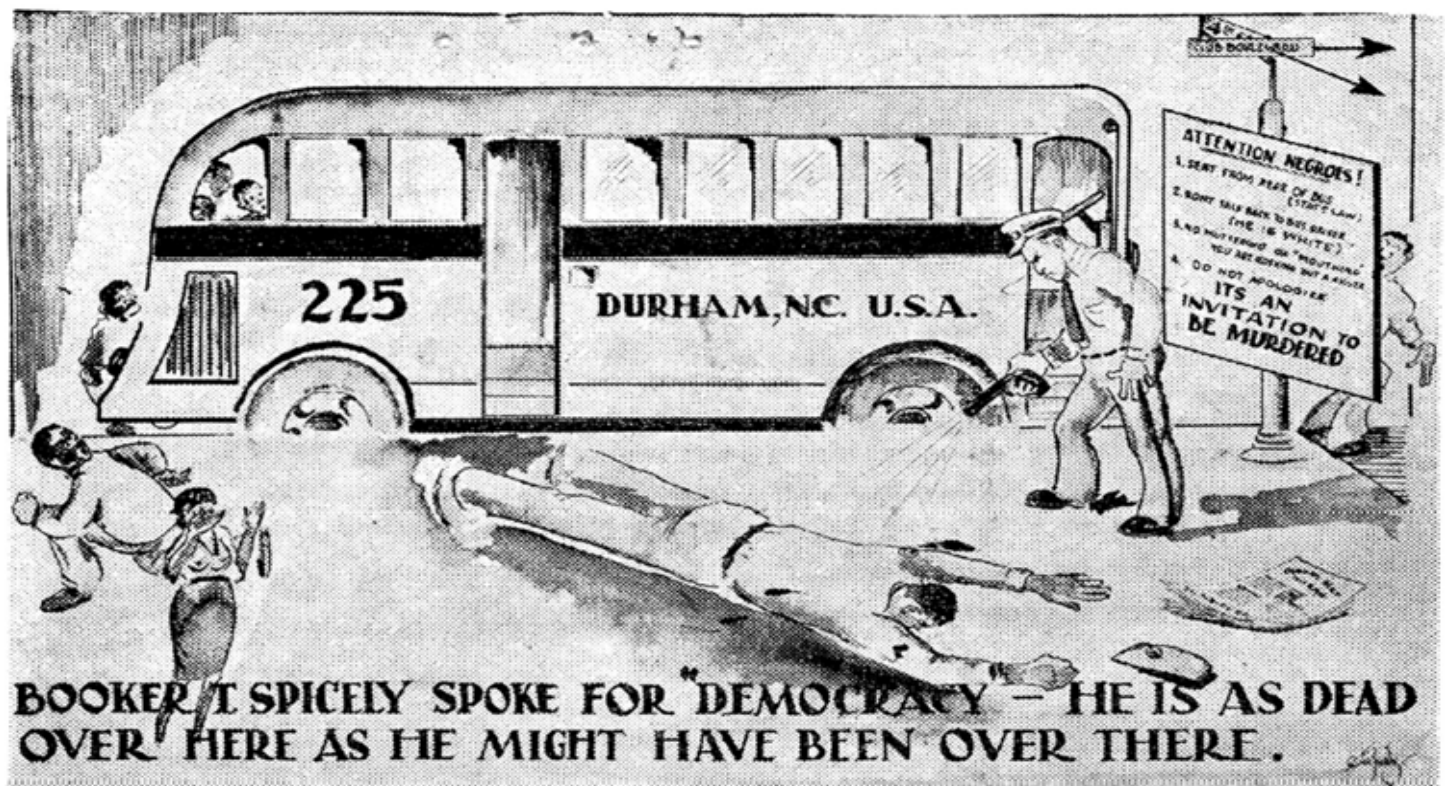
AUG 7 1944

NORTH CAROLINA STATE BOARD OF HEALTH
BUREAU OF VITAL STATISTICS

CERTIFICATE OF DEATH

14392

1. PLACE OF DEATH: (a) County <u>Durham</u> (b) Township _____ (If in town limits, leave blank) (c) City or town <u>Durham</u> (If outside city or town limits, write RURAL) (d) Street, hospital or institution <u>Duke Hospital</u> (e) Length of stay in hospital or institution <u>Emergency Room</u> (Yrs., mos., or days) In this community <u>4 Months, 27 Days.</u> (Yrs., mos., or days)		2. HOME (USUAL RESIDENCE) OF DECEASED: (a) State <u>Virginia</u> (b) County <u>Bedford</u> (c) City or town <u>Blackstone</u> (d) Street or R.F.D. <u>516 N. Center St.</u> (e) Is place of residence in corporate limits? _____ (f) If foreign born, how long in U.S.A.? _____ years	
3(a) FULL NAME <u>Booker T. Spicely, Private ASN 33809308</u>			
3(b) If veteran, name war _____		3(c) Social Security No. _____	
4. Sex <u>M.</u>	5. Color or Race <u>C.</u>	6(a) Single, married, widowed, or divorced. <u>Single</u>	
6(b) Name of husband or wife _____ (c) Age of husband or wife if alive _____ years			
7. Birth date of deceased <u>1 December 1909</u> (month, day and year)			
8. AGE: Years <u>34</u> Months <u>7</u> Days <u>8</u>	If less than one day hrs. _____ min. _____		
9. Birthplace <u>Black Stone, Virginia</u> (City, town, or county) (State or foreign country)			
10. Usual occupation <u>Cook</u>			
11. Industry or business _____			
12. Name <u>Not Known</u>			
13. Birthplace <u>Not Known</u>			
14. Maiden Name <u>Not Known</u>			
15. Birthplace <u>Not Known</u>			
16(a) Informant's Signature <u>Service Record</u>			
(b) Address <u>U.S. Army.</u>			
17(a) Removal <u>9 July 1944</u> (Burial, cremation, or removal) (Month, day, year)			
(c) Cemetery _____			
(d) Location <u>Blackstone, Va.</u>			
18(a) Funeral director <u>Ellis D. Jones.</u>			
(b) Address <u>Durham, N.C.</u>			
19(a) <u>7-17</u> <u>1944</u> <u>VE</u> Filed _____ Registrar <u>Hel</u>			
20. Date of death <u>7/8</u> 19 <u>44</u> , at <u>8 P.</u>			
21. I certify that death occurred on the date above stated; that I attended deceased from _____ to _____ and that I last saw him/her _____ at _____ on _____ 19 <u>44</u>			
Immediate cause of death <u>Intra thoracic hemorrhage</u> Duration <u>sudden</u>			
Due to <u>Pistol shot wound</u> Due to <u>Throat</u>			
Other conditions <u>Pistol shot thru liver</u> Physician _____ (Include pregnancy within 2 months of death)			
Medical findings: <u>166</u> Of operations _____ Underline the cause to which death should be charged statistically.			
Of autopsy _____			
22. If death was due to external causes, fill in the following:			
(a) Accident, suicide, or homicide (specify) <u>Homicide</u>			
(b) Date of occurrence <u>7/8/44</u>			
(c) Where did injury occur? <u>Durham, Virginia h.c.</u> (City or town) (County) (State)			
(d) Did injury occur about home, on farm, in industrial place, in a public place? <u>Public street (4 1/2 St. - Durham N.C.)</u> (Specify type of place)			
While at work? <u>Yes</u>			
(e) Means of injury <u>Shot by two drivers</u>			
23. Signature <u>R. L. Barton</u> Date signed <u>7/15/44</u> N.S.			
Address <u>Durham, N.C.</u>			



The cartoon above is the work of Gow M. Bush, North Carolina artist, who here depicts the slaying of Pvt. Booker T. Spiceley, Camp Butner soldier, by Herman L. Council, white, Durham, N.C., bus driver, who was found not guilty last week by an all-white jury

which deliberated only 28 minutes. Many white citizens shared in the general disgust attending the verdict. Sign at right says:

ATTENTION NEGROES!

1. SEAT FROM REAR OF BUS. (STATE LAW)
2. DON'T TALK BACK TO BUS

DRIVER. (HE IS WHITE).

3. NO MUTTERING OR "MOUTH-ING." YOU ARE NOTHING
4. DO NOT APOLOGIZE. ITS AN INVITATION TO BE MURDERED.

Carolina Times, September 1944, included in U.S. Department of Justice File.

Hearing Waived As Driver Is Sent Up To Superior Court

Council Charged With Slaying Of Camp Butner Man

Charged with the Saturday night pistol slaying of a Camp Butner Negro soldier, Pvt. Booker T. Specely, Herman Lee Council, 36-year-old Duke Power Company bus driver yesterday waived preliminary hearing in Recorder's Court and was bound over to Superior Court under bond of \$2,500.

R. L. Lindsey, Duke Power Company official, signed the bond that was in the same amount he signed Saturday to give Council freedom until his appearance in court.

Investigating police officers quoted Council as saying that he shot the soldier twice in the chest with a .38-calibre pistol after the Negro came towards him with his hand in his pocket, and threatened to get him.

Council, who operates the bus run from Fayetteville Street to Watts Hospital, said that Specely on two or three other occasions threatened to "cut my throat."

The driver said that Specely was ordered several times to seat from the rear of the bus according to the North Carolina State law, but that the soldier ignored his orders, persisted in cursing him and berating him for not being in the Army.

When the vehicle halted at the corner of Club Boulevard and Fourth Street, Council said that Specely got out of the back exit of the bus and yelling that he was going to get him, the Negro advanced toward the front of the machine.

Standing on a step of the bus, Council said he pumped two bullets into the soldier when he came threateningly near him.

Sheriff E. G. Belvin reported that powder burns upon the soldier's shirt attested to the fact that the gun was fired at close range.

Coroner Dr. R. A. Harton reported that Specely, who was about six foot one inch tall and weighing about 185 pounds, died almost as soon as he was carried to Duke Hospital after the shooting.

Other cases heard before Recorder A. H. Borland were:

David L. Barbee, Negro, carrying concealed weapon, \$10 and costs.

Ronald V. Crabtree, drunkenness, \$5 and costs.



Missing In Action

Seaman 1-C James Charles Smith, son of Mr. and Mrs. Will Lewis Smith of 1826 Vance Street, West Durham, has been officially reported missing in action by the Navy Department.

Seaman Smith entered the Navy in February, 1942, and after five months' training has seen continuous service in the Pacific area. His parents received the official notice of his being missing Sunday morning. Details of his whereabouts at the time of his disappearance are withheld for obvious reasons.

New York Professor Will Speak At Duke

W. S. Schlauch Will Give Two Lectures

Prof. W. S. Schlauch of New York University will give two lectures today in the West Duke building on Duke University's East Campus in connection with the Institute for Teachers of Mathematics. Prof. Schlauch is the leader of the

Governor At Race

Keynote By State

Plans to meet here today, afforded by the State of North Carolina for its education, health, and other public agencies were the initial session of the wide Race Relations Conference which opened in the North Carolina Auditorium.

Gov. J. M. B. Smith's speech on "New Race Relations" in Duke Auditorium will be one of the highlights.

The conference was opened by Dr. N. State Department, yesterday afternoon, by Dr. Erwin, State public instructor Spaulding, president of Mutual Life Insurance Co. Dr. John Hope, Carolina College, and Dr. R. E. Jones, agricultural college, Green College, Green. Ernest J. Arno, secretary of the Churches; Pres. Elizabeth City College; and G. I. State Department.

Starting this afternoon, the Duke Auditorium session will be held. Seabrook, president of Teachers College, "North Carolina Relations As Viewed by the Negro."

Dr. Ellen B. pointed committee will speak at 6 o'clock session, and Race Relations "is her to discuss will follow."

A wide variety to be discussed. State welfare workers will be present. Participation by W. Blackwell of North Carolina "Public Welfare Community Organization," Durham, and "Public Relations in Community"; Mr.

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Following article appeared in the DURHAM MORNING HERALD, Durham, N. C., on September 1944.

Driver Acquitted In Bus Shooting

Council Charged With Killing Negro Soldier

After 23 minutes deliberation, a Superior Court jury yesterday afternoon returned a verdict of "not guilty" in the case of Herman Lee Council, 36-year-old Duke Power Company bus driver who on last July 8, shot to death Booker T. Spicely, Camp Butner Negro soldier.

On hearing the decision, Council, who had testified that he fired two 38-calibre bullets into the Negro after the soldier advanced upon him with his hand in his pocket, gulped, heaved a short sigh of relief and smiled slightly.

The case that started last Wednesday and has claimed a great amount of attention, resulted when Council shot the soldier at the corner of Fourth Street and Club Boulevard as the aftermath of an alleged argument over the North Carolina bus seating law.

During the morning session yesterday, Victor S. Bryant and C. J. Gates, Negro attorney, both privately employed to assist Solicitor R. H. Sykes in the prosecution of the bus driver, made forceful talks to the jury.

Bryant offered a pointed and concise review of the evidence in the case. He advised the jurors to weigh carefully the testimony of the State's witnesses.

URNS TO BIBLE

Gates, making a dramatic plea to the jury, turned to the Bible in effort to sway the group. He talked briefly but well.

W. L. Foushee, Duke Power Company attorney, argued that the North Carolina bus seating law was the "setting for this unfortunate event." He declared that the shooting was a result of disobedience of the law.

R. P. Reade, who bore the brunt of the defense, based his argument on a self defense plea. He gave a resume of testimony offered in the trial whereas Spicely is alleged to have been profane toward Council, and then added that a soldier's uniform should be a symbol of law and order.

The afternoon session opened at 2:30 o'clock with Solicitor R. H. Sykes delivering a strong argument for the State. He declared that

See COUNCIL on Page 2

—Council—

Continued from Page One

if things were so bad that a bus passenger would be shot if he talked out of turn, he would not allow himself or his family to ride a bus again.

Sykes completed his talk at 3:35 o'clock and Judge Luther Hamilton called a 10-minute recess.

M. Hugh Thompson, Negro attorney assisting in the prosecution, did not make an argument to the jury, but during the trial played a part in examination and cross-examination.

At 3:45 o'clock Judge Hamilton re-assumed the bench and began a charge to the jury that lasted until 5:10 P. M.

Judge Hamilton advised the jury that they could return one of three verdicts: second degree murder (unlawful killing of a person by one with malice and forethought), manslaughter (unlawful killing without malice), and a judgment of not guilty.

Summarizing the evidence in the case, Judge Hamilton added that the North Carolina bus seating law is a State law, whether it is liked or not liked, and that as such it is entitled to the respect by all races.

"The bus driver is empowered to eject from the bus anyone causing trouble, but he does not have the right to take a life of a violator, or to do him a great injury or bodily harm." "It is up to you gentlemen to determine whether Council's life was endangered to the extent that he was forced to use his weapon as he did," the judge advised.

"The law of North Carolina is supreme—it recognizes no distinction as to justice. Justice recognizes no creed, races or social standings—equal justice must be done for all.

"You should have no sympathy because the decedent is colored and the defendant is white—color should never be thought about in your deliberation," he advised.

At 5:10 o'clock Judge Hamilton completed his charge and the jurors retired to their ante-room to arrive at a decision.

Exactly 23 minutes after they departed from the jury box, the group started to file back into the court room, but were halted by Court Officer Howard D. Martin, who explained that Judge Hamilton was not present.

Judge Hamilton had left the Court House. He was located and at 5:59 o'clock called the court to order.

He advised the entire audience that there should be no demonstration of any kind when the verdict was given. Then he told Martin to bring in the jury.

At 6 o'clock the 12 men filed slowly in and Deputy Court Clerk A. J. Gresham inquired as to what verdict they had agreed upon.

The foreman answered: "Not guilty."

The largest crowd of the trial took the verdict with studied silence.

Then Judge Hamilton spoke up and told everyone to remain still while the jury walked through the room to receive their pay in an adjoining room.

Spectators milled through the court room doors into the lobby while many persons crowded around Council and shook his hand.

Negroes, who made up about half the audience, raised no hue and court officials remarked that the trial was one of the most orderly-conducted trials of Durham's court history.

Duke Power Company officials, who had put up Council's bond of \$2,500, said that Council was kept on the job driving a bus ever since the shooting. They revealed that he had been placed on a different route, however.

Department of Justice

Division of

COMMUNICATIONS AND RECORDS

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144-54M-2

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See also Nos.

CLOSED

July 17 1944

Mr. Butner
PERSONAL AND CONFIDENTIAL

Mr. Tom C. Clark
Assistant Attorney General
J. Edgar Hoover - Director, Federal Bureau of Investigation

SHOOTING OF NEGRO SOLDIER
July 8, 1944
Durham, North Carolina

HOLLIE

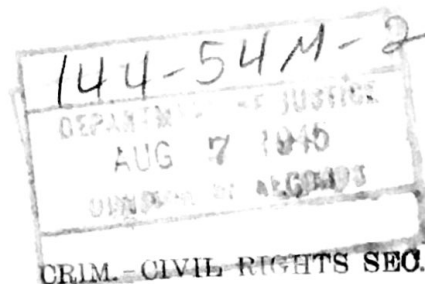
This Bureau has been advised that on July 8, 1944, Private Brooker T. Specely, Negro, Army Serial Number 33809308, of Camp Buttner, North Carolina, was shot and killed by Herman Lee Council, white, of Durham, North Carolina. Council, a bus driver, shot Specely as the latter alighted from the bus. Council, according to the information, had ordered Specely to sit in the rear of the bus and an argument ensued which continued until Specely alighted, at which time the driver stepped off the bus and shot the Negro twice.

Council was arrested, and after a preliminary hearing was released on presentation of \$2500 bond. The charge was second degree murder.

On the day following the shooting a rumor originated to the effect that Negro soldiers at Camp Buttner, North Carolina, were planning to "get even" with the bus drivers of Durham. Military Intelligence at Camp Buttner, however, reported that the rumor was entirely without basis and that no racial tension exists there. This source has advised that Negro soldiers at Camp Buttner have discussed the shooting and expressed the hope that Council will be brought to trial and convicted.

It was further reported that a prominent Negro leader of Durham, North Carolina, C. C. Spaulding, attempted unsuccessfully to have the bond for Council substantially increased. It was his claim that Negroes of Durham felt that the crime was too serious for the amount of bond which was set. In this regard it is further reported that Spaulding and other Negro leaders of the city do not anticipate any racial trouble arising out of this situation.

The foregoing is submitted for your information and appropriate consideration. No investigation has been conducted and none is contemplated unless you advise to the contrary.



File V. W. R.

TCC:EB:AEM

~~72-78-0~~

B. P.

November 25, 1944

144-54M-2
RECORD

Mrs. Julia Hunter
611 Roy Street
Durham, North Carolina

Dear Mrs. Hunter:

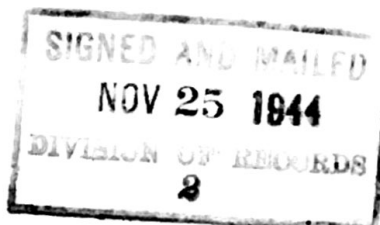
This will acknowledge the receipt, by reference from the White House, of your letter of November 1, 1944, requesting the Federal Government to investigate the trial of Herman L. Counsel at Durham, North Carolina, for the slaying of Booker T. Spiceley.

The power of the Federal Government to investigate is a purely statutory one and is limited to cases in which there is Federal jurisdiction. The acquittal of a defendant in a State trial does not involve the violation of any Federal statute and there is therefore no action which the Department can take in the matter. As you probably know, under the Anglo-American system of law, the Government has no appeal in a criminal case which has resulted in acquittal.

Respectfully,

For the Attorney General,

TOM C. CLARK,
Assistant Attorney General



TCG:EB:AM

144-54M-2

October 2, 1944

Carlisle W. Higgins, Esquire
United States Attorney
Durham, North Carolina

Dear Mr. Higgins:

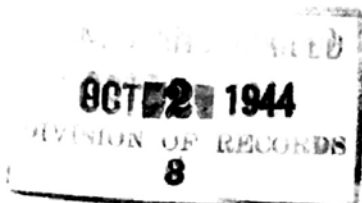
Re: State of North Carolina v. Herman L. Council

This will acknowledge receipt of your letter of September 25, reporting as to the trial of Herman L. Council for the killing of Private Specely. Since there does not appear to be any action which the Department of Justice could take in this matter, we do not desire to have a transcript of the trial. Thank you for furnishing me with the information as to this case.

Respectfully,

For the Attorney General,

TOM C. CLARK,
Assistant Attorney General



July 17, 1944
Hq. Det. #2
Camp Butner, North Carolina

15036

Mr. Walter White
N. A. A. C. P.
c/o Dr. Robert Weaver
Mayors Committee on Negro Affairs
Chicago, Illinois

Specily
JUL 24 1944

Dear Sir:

Inclosed is a clipping from one of North Carolina's leading papers, which shows the kind of freedom that the southern white man has to issue to the American Negro soldier.

In some southern states it is a mob or a lynching party, but in this state the new method is taking place. The white bus driver carries his gun along with him and shoots down one of the soldiers who is willing to give his life on a battle field for his Country.

Human life is precious. There is no substitute for life it self, but these words only have no meaning in the ears of the southern white man when he is dealing with Negro Americans. All of this because of an American soldier whose skin happens to be a few shades darker - of this same race of people that has spilled its blood on every battle field that we have been engaged in - looks forward to gaining that precious thing called freedom. That is the reason the Negro soldier is fighting this war abroad. He is winning, but as a Negro soldier he is loosing his battle in the southern states where war camps are training soldiers, because he lives in fear of being shot down or mobbed by the the southern white man. The southern white man has taken the law in his hands and also the life of his darker skinned American brother, who has throughout the history of America been loyal to his Country, devoted to his God.

Very truly yours,

Albert Hines
Albert Hines

**NAACP ATTORNEYS TO PROSECUTE
SURHAM JIM CROW SLAYER**

7/27/44

New York—Assurance that NAACP attorneys will aid in the prosecution against Herman Lee Council, white bus driver indicted by the Durham County Grand Jury for the slaying of Pvt. Boker T. Specely, July 8, was given this week.

An argument over the enforcement of the State's Jim Crow bus law was the cause of the pistol slaying of the Camp Butner soldier.

*Soldier killing
re: Spicely
Thompson*
August 1, 1944

Hugh Thompson, Esq.
P. O. Box 486
Durham, North Carolina

Dear Tommy:

Mr. Spicely, of Tuskegee Institute, has sent us a copy of his letter to you of July 26 concerning the killing of his brother.

I will be more than happy to cooperate with you in whatever action is contemplated on this case. I am wondering if you would send us a report giving the present status of the Governor's action on the case to date and the proposed plans. We will be more than happy to cooperate in every manner possible because this case has national, if not international, aspects. The bus drivers, civilian police and other civilians as well have been beating up and killing too many Negroes in uniform. We have been trying in every way possible to prevent these actions and must continue to do everything possible to protect the members of the armed forces who happen to be Negroes.

With all best wishes,

Sincerely yours,

Thurgood Marshall
Special Counsel

TM:AG
uopwa-19
oio

CC: Messrs. Spicely
Perry
Houston

C. JERRY GATES
ATTORNEY AND COUNSELOR AT LAW
106 1/2 W. PARRISH STREET
P. O. BOX 488
DURHAM, NORTH CAROLINA

August 11, 1944

*Soldier Trouble
Spicely*

National Association for Advancement of Colored People
69 Fifth Avenue N
New York 3, New York

Atten: Thurgood Marshall, Esquire
Special Counsel

Re: State v. Herman Lee Council
(for murder of Booker T. Spicely)

Dear Sir:

Replying to your letter of August 1 in respect to the above captioned case, may we advise as follows:

That on July 8, 1944 Herman Lee Council, bus driver for Duke Power Company, shot and killed a soldier by the name of Booker T. Spicely, on the corner of Fourth Street and Club Boulevard in the City of Durham; at the time, the soldier had gotten off the bus, and was on his way where he was going and from our investigation, which includes the interviewing of several witnesses by Mr. Thompson and myself, consisting of white and colored, we are of the opinion that this killing was cold blooded and without provocation.

The evidence also tends to show that the victim, Booker T. Spicely, before he got off the bus, was riding on the last seat in the bus where he had a perfect right to be, and that at no time did he refuse to move his seat in the bus when it became necessary, or when he was requested, if so requested by the bus driver. The evidence further tends to show that the bus driver told the deceased, five or six blocks from where the deceased was shot and killed, that "he had something that would cool him off", or words to this effect. After this, the deceased did not desist in carrying on a friendly conversation with two white soldiers who were also sitting in the rear of the bus at the time. That when the deceased, Booker T. Spicely, was in the act of getting off the bus just before he was shot, he said to the bus driver, Herman Lee Council, that if he had said anything which offended him (the bus driver) he wanted to beg his pardon or apologize, or words to this effect, and that the bus driver replied (at this time the bus had come to a stop where Spicely was about to get off), "Come up here". Spicely then said, "You come back here if you want to see me; I am getting off here". Just as soon as Spicely could alight from the bus, which was about two feet from the curbing or sidewalk, and turned to his left to go up the street in the direction in which he was headed, the bus driver got off the bus, the evidence tends to show, and shot

16560

C. JERRY GATES
ATTORNEY AND COUNSELOR AT LAW
106 1/2 W. PARRISH STREET
P. O. BOX 486
DURHAM, NORTH CAROLINA

Thurgood Marshall, Esquire

9-11-44

AUG 14 1944

(2)

Spicely two times, killing him almost instantly. Then, the bus driver got back on the bus and drove to police headquarters and told that he had shot and killed Spicely. Whereupon, he was put under a \$2,500 bond signed by R. L. Dindsey, one of the officials of the Duke Power Company.

*We were not at the preliminary hearing which was held the following Monday morning in the Recorder's Court of Durham County. We are advised and so understand that the State did not put on any evidence and that the Recorder's Judge, A. H. Borland, bound the defendant over for trial in the Superior Court of Durham County on the same bond of \$2,500.00. At the July Term of the Superior Court (which is a court of general jurisdiction) the grand jury returned a true bill of first degree murder against the defendant, Herman Lee Council. Whereupon, Mr. Thompson and I had an extended discussion with Mr. W. H. Murdock, Solicitor of the Tenth Judicial District (known in some states as the district attorney) to the effect that the defendant ought to be rearrested and imprisoned and held without bond according to our state law, first degree murder being not bailable; or, that if the defendant was to be allowed bond on the ground that Mr. Murdock had already said that the defendant would be tried for second degree murder (penalty in this state for second degree murder being from two to thirty years), then in that event the bond ought to be at least \$10,000. Mr. Murdock bitterly opposed and differed with us, but over his protest we went into court the next day after the grand jury had returned this bill, and made a motion to the effect as stated above, but Mr. Murdock, the solicitor, opposed the motion in open court and stated that the defendant would be tried for second degree murder, and that the bond was amply sufficient to assure his appearance in court on the day of his trial.

We are informed and believe that the Governor of North Carolina, as well as the Inter-racial Commission and other civic-minded and public-spirited organizations, both white and colored, as well as mixed in some instances, have manifested a decided interest in the prosecution of this case in order that justice may be done, and that in their opinion, they believe that this end could be achieved by the employing of local white counsel.

In view of the fact that we are appearing with the solicitor of the district as private prosecution, which can only be done by the consent and permission of the solicitor, in North Carolina, it will be necessary for the Association to get this permission in order to assist the prosecution in this case. But so far as Mr. Thompson and I are concerned, we would be tickled to death for the Association to appear with us. However, in the

C. JERRY GATES
ATTORNEY AND COUNSELOR AT LAW
106 1/2 W. PARRISH STREET
P. O. BOX 486
DURHAM, NORTH CAROLINA

Thurgood Marshall, Esquire

8-11-44

(3)

interest of the case we are wondering, with a great many others who are concerned in the successful prosecution of the case, whether the NAACP will help or prejudice the case by coming in to assist the prosecution. Therefore, we are inclined to think that it is advisable for us to talk this matter over face to face before the Association makes any commitment as to its participation in the prosecution. Please bear in mind that we are assisting in the prosecution and not defending. As to the participation of the Association, this is our honest and sincere opinion; if for any reason you have a different opinion we will very graciously submit to it, and do our best to collaborate with you.

Mr. Murdock, the Solicitor, advised us that this case will be tried at the September Criminal Term of Superior Court of Durham County, which convenes the 4th of September and will be in session for two weeks. This case will be tried the second week.

Very truly yours,
C. J. Gates and M. Hugh Thompson


C. J. Gates

CJG A

P. S. EXPLANATION - We were not employed at the time of the preliminary hearing.

CJG - MHT

Mr. Walter White
NAACP
New York City

Dear Mr. White:

The Durham Branch NAACP was invited to meet with a city-wide group of Negro citizens called together by the editor of the Carolina Times, Louis Austin. The purpose of the meeting was twofold: a memorial to Booker T. Spicely-the soldier who was wantonly shot by the "white" bus driver, Herman Lee Council, July 8 and judged "not guilty" Sept. 15, and to revitalize the NAACP.

Mr. Austin was elected president and I was elected secretary. This letter is a personal request. I will report officially just as soon as all records are turned over to me tomorrow evening.

I believe you know Durham and the odds against the NAACP or any similar organization. For twenty years I have had general knowledge of the work of the Association but I want detailed information, history, techniques of organization where lethargy is paramount, and leadership adverse. There are 23,000 Negroes in Durham between 2900 and 3000 voted in the '44 primaries. But I want 6,000 members in the NAACP and equally as many voting in November. That means a skillfully organized campaign. We are meeting to make plans tomorrow evening, but I know from your great experience you can help us at the outset. Mr. Austen is expecting a great deal from me and I come to one of the best sources of information for direction.

For your information I am head of the dept. of biology, Shaw Univ. (live in Durham, Chairman Board of Directors at the YCA, director of Junior Choir White Rock Baptist Church. Dr. Tobias and Mrs. Max Yergan may tell you anything else you wish to know about me.

We will need every ounce of assistance the National Office can give us, immediately.

over

I am convinced that the Negroes have not done their share in giving a reason or reasons for better relationships in too many instances. I am ~~xxxxxxxxxxxx~~ willing to do everything I can to arouse them to an active consciousness of their ability and responsibility.

The officers are planning a public meeting for October 10. I do hope to hear from you prior to that date.

Sincerely,

R. A. Young

The ~~xxxxxxxxxxxx~~ NAACP was invited to meet with a city-wide group of Negro citizens earlier together by the editor of the Carolina Times, Louis Austin.

The purpose of the meeting was to hold a memorial to Booker T. Washington.

Mr. Austin was elected President and I was elected secretary. This

July 3 and turned "not entirely" good. I was and he revitalize the NAACP.

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NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

69 FIFTH AVENUE, NEW YORK, 3 N. Y.

TELEPHONE: ALGONQUIN 4-3550

Official Organ: The Crisis



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FRANK D. REEVES (ON LEAVE) ADMINISTRATIVE ASSISTANTS
WASHINGTON BUREAU

October 2, 1944.

My dear Miss Young:

I am happy to have your letter of September 28, stating that the Durham Branch has been reorganized and that you are now preparing a wide-awake program of activities.

It happens that Miss Ella J. Baker, our director of branches, is in North Carolina for a few days. I am writing her at once, asking her to get in touch with you and if possible to arrange to stop in Durham for conferences with the Branch. She will, of course, be able to help you in working out details for your campaign and to advise you regarding other projects you may have in mind.

I shall look forward to hearing of the progress you are making. Please let us know whenever the National Office can be of any assistance.

Ever sincerely,

Secretary

Miss R. A. Young
Secretary, Durham Branch
414 Lawson Street
Durham, N. C.

WW:LB

Duke Power Company Reported Agreed On \$3,500 Settlement; Person Men Are Fined

Service Act, by receiving compensation from the Federal government while actually employed, was fined \$100 and ordered to repay the Unemployment Compensation Commission the sum of \$60.

Thirteen Person County men were tried on charges of hunting foxes on the Camp Butler reservation, without a permit. Eleven of the 13 were convicted and fined \$25 each, the other two were acquitted on grounds that, although present they did not participate in the hunt.

The men tried for fox hunting at Camp Butler were Horace Duncan, Dennis Latta, J. C. Ellis Jr., Jonah Oakley, F. D. Oakley, Daniel Huff, Harold Moore, Burnie Lunceford, Hugh Blalock, A. M. Clayton, Wiley Lunceford, Charlie Cates and J. A. Lunceford.

W. S. Carver of Durham was named chairman of the grand jury. The group completed its list of indictments by noon yesterday, with only 11 bills of indictment, thus insuring a short court term.

A reliable source reported yesterday that the case had been settled for approximately \$3,500.

The bus driver was acquitted on a manslaughter charge shortly after the killing occurred, on a plea of self-defense. He claimed he shot Spicely after the Negro refused to obey the State seating law, and came toward him (the driver) in a threatening manner.

The Negro was shot twice in the chest and died shortly afterward in Duke Hospital. He was a local veteran of World War II.

Floyd R. Jones Jr., facing charges of violating the Unemployment

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