

GANGSTER MADDEN STAYS IN SING SING

New Trial Is Refused and Re- canting Woman Witnesses Are Held for Perjury.

PROSECUTION EXONERATED

Judge Nott Suggests Change of Law to Make Punishment for False Testimony Easier.

Owen Madden, the west side gang leader, who killed "Patsy" Doyle on Nov. 28 last, must remain in Sing Sing to serve out his twenty-year term for murder. Judge Nott in General Sessions yesterday not only denied Madden's motion for a new trial, but also caused the arrest for perjury of the two girls, Margaret Everdeane and Frieda Horner, who endeavored to serve the prisoner by recanting the testimony which they gave against him when he was tried and convicted. Both girls were arraigned before Magistrate Cobb in the Tombs Court yesterday and held in \$10,000 bail each.

In his decision denying Madden a new trial, Judge Nott exonerates Deputy Assistant District Attorney Walter R. Deuel and Mrs. Marion M. Goldman of the New York Probation and Protective Association from any attempt to "frame" the gangster by forcing witnesses to commit perjury, as was charged by Margaret Everdeane, Frieda Horner, and the sailor, Willie Mott, who is now at sea on the United States battleship Brooklyn. Judge Nott decides that the witnesses committed perjury not in the testimony which they gave at Madden's trial, but in their recantation of that testimony. As to the legal merits of the application for a new trial, Judge Nott declares:

"The newly discovered evidence consists entirely in the statements of the people's witnesses impeaching and discrediting themselves and their testimony. It has been settled in this State by many decisions that a motion for a new trial will not be granted where the only basis thereof is an attempt to discredit or impeach the witnesses who testified on the trial, and I am not able to see that it is material whether the impeaching or discrediting evidence is given by the witnesses themselves or by other parties."

Judge Nott in a review of the evidence presented on the motion for a new trial explains the desire of the witnesses to recant by the fact that they have been closely associated with members of the Madden gang ever since he was convicted. On one occasion, the Judge points out, both girls appeared at the office of the District Attorney and demanded protection from violence threatened by Madden's friends.

"It further appears," declares Judge Nott, "that some few weeks before the moving affidavits were obtained, the two women went to live with one Lawlor, an intimate friend of the defendant, and one of his principal witnesses at the trial. This man had previously been convicted of maintaining a disorderly house."

Judge Nott, in the concluding paragraphs of his opinion on the Madden case, deplores the ease with which State witnesses may come into court and recant testimony, in order to undo the conviction of criminals.

"The number of cases," says Judge Nott, "in which witnesses have furnished recanting affidavits on motions for new trials has lately increased, the witnesses doubtless appreciating the fact that they may confess to deliberate perjury with impunity because of the practical difficulties in the way of prosecuting them therefor. In spite of such confessions the prosecution must prove on which occasion the perjury was committed, that is, on the original trial or on the motion for a new trial, and that is often impossible to do."

Judge Nott suggests an amendment to Section 1627 of the penal law making it less difficult to prosecute recanting witnesses for perjury even though the testimony they gave at the original trial "was not written testimony by them subscribed" as required by this particular section of the penal law.

Two other gangsters, Arthur Bieler and John McArdle, implicated with Madden in the murder of "Patsy" Doyle are also in Sing Sing, Bieler for eighteen years and McArdle for ten years. McArdle was convicted and Bieler pleaded guilty.

SLATON NOT MOLESTED.

Ex-Governor, Here on Business, De- nies Discourtesy in Georgia.

Ex-Governor John M. Slaton of Georgia, his wife, and Mrs. Slaton's mother, Mrs. W. D. Grant, arrived last evening at the Waldorf-Astoria. Mr. Slaton will remain three weeks in this city upon matters of business. The man who saved Leo Frank from legal death returned to Atlanta a month ago and quietly took up the practice of law. He denied a rumor that he intended to come to New York to live. He intended, he said, to resume his life in Atlanta as he had lived it before he was Governor.

"I have been in Atlanta for the last four weeks, and my reception has been all that I could desire," he said. "There has not been an act of unkindness or discourtesy shown, nor any anonymous letters. I was accompanied by no guard on the streets, though very often my friends were with me."

KILLS WIFE AND 2 CHILDREN.

Footman, Insane from Illness, Then Commits Suicide.

Crazed by illness and lack of sleep, Edward McManus, a footman, killed his wife, his 4-year-old son, and a baby two months old, and committed suicide by cutting his own throat with a razor in his apartments at 446 West 164th Street early yesterday morning.

McManus attacked his wife without warning, and before she was able to protect her children had cut their throats with the razor. A brother, who recognized the screams of his sister-in-law, was barred out by a locked door and was unable to interfere in time to grapple with McManus, who had by that time killed himself.

Little was known of the family in the neighborhood, but it was said that McManus had been despondent for several weeks.