

THE LATE CONSTABLE DELANEY

TRIAL OF FREDRICK JAMES SMITH.

VERDICT OF MANSLAUGHTER.

Details of the heroic behaviour of Mounted-constable Joseph Delaney, who died at Swan Hill from gun-shot wounds received while on duty at Tyn-tynder Central, were told in the Bendigo Supreme Court on Tuesday, when Frederick James Smith, 15, a ward of the State, was charged with murder.

Smith is fatherless, and his mother is working for a farmer in the Rochester district. He pleaded not guilty.

Mr. Gurner, in his opening, said that in the neighborhood of Swan Hill there had been a number of thefts, and on August 20 Constable Joseph Delaney, deceased, was sent out to make inquiries and to interview Smith, among others. When at the residence of Mr. E. S. Pickering he saw the accused, to whom he was known. It was at that place that the constable was shot.

Smith rode away on the constable's horse, and at Nyah West police station, where he was still riding the horse, he said to the constable's wife, "I'm the one that's done it. I came to give myself up."

Ernest Samuel Pickering, farmer, stated that on August 24 he and his wife went for a holiday to Stawell. He left the accused alone on the farm to take care of things, under the supervision of Miss E. A. Pickering and Urquhart. The gun produced was kept in the room in which the accused slept. When witness left the gun was not loaded, and he had no cartridges on the place.

Elsie Emma Castles, wife of Constable Castles, Nyah West, said that at 7 p.m. on August 30 Smith called at the police station, her husband being out. The lad met her with the statement, "Is the constable in?" and she said, "No; do you want to see him?" He then said, "Did you hear anything about the shooting at Tyn-tynder?" Witness replied, "Yes." The lad then said, "I'm the one that done it. I came to give myself up." She asked him if he had killed the constable, and he replied, "I did not

wait to see. He was not dead when I left." He added that he did not know why he did it. He must have gone off his head.

Dr. G. W. Foster said when he first saw Delaney he looked like a dying man. He was paralysed on one side. Death was due to gunshot wounds that destroyed the spinal cord just below the brain. Gun wads were in the wounds.

In a statement accused said he was a ward of the State, because his father was dead and his mother was unable to keep him. He entered the Industrial School at Royal Park; then he went out with an uncle. He ran away because he was getting floggings from his uncle. He went to work on a farm, but the police took him back to school. He started work for Mr. Pickering in January at 10/6 weekly. Until August 30 he had never fired out of a gun. Three weeks before the trouble he stole three cartridges,

because he thought he might learn to shoot. His employer left for a holiday, and he was left in charge of the place. On the Saturday before the trouble he stole jewellery, and was afraid. When left alone he loaded the gun to protect himself against tramps. He remembered Constable Trevean and Delaney coming to the house one Sunday, when Constable Delaney asked him why he had the gun loaded. He replied that he was frightened. On the Sunday Constable Delaney said that he would get 12 years if it was found that he took the stuff from Cricks. Continuing, Smith said that when the constable arrived and saw him with the gun the constable made a dash at him. As he did so the gun went off. The constable fell at his feet. When the constable rushed at him witness said "Hands up." He did not intend to shoot the policeman.

Mr. Justice McArthur, addressing the jury, said that the incapacity of children ceased when they reached the age of 14 years, and legally the accused was just as responsible as a grown-up person.

The jury returned a verdict of manslaughter, and Smith was remanded for sentence.