

The Lancaster Ledger.

A. L. Hough
322 S. 20th St.

HOWARD B. CARTER
OWNER AND MANAGER

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SEMI-WEEKLY

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Solicitor's Report on Kershaw Case.

Mr Henry Reviews the Proceedings Up to This Time.—The Case Still Stands Open.

The State, 13th inst.

The report of Solicitor Henry on the Kershaw lynching case, which was mentioned in yesterday's paper as having been made public by the governor at a late hour the night before, is in full as follows:

To His Excellency, D C Heyward
Governor of South Carolina,
Columbia, S. C.

Sir: In view of what transpired on Friday, the 28th of April, in Lancaster in the effort to investigate the Kershaw lynching, I submit the following report:

After several efforts to secure a man, Mr H B Howie was selected as detective because (1) of his being a native of Lancaster; (2) of his association and connections in that county; (3) of his reputed courage; (4) of his knowledge of the manners and methods of the people; (5) of his former employment by the State, and (6) to his previous recommendations for position to your excellency and others, myself included. Of these things I heard, and considered them evidences of his competency for the work. Aside from the above, and two prosecutions against him, one for assault and battery with intent to kill (in which there was a mistrial and final plea of guilty upon terms), the other for an alleged attempt at bribery (which fell to the ground for lack of evidence) I knew nothing of him. I refer to this because an effort is made to make the issue one against Howie instead of the lynchers.

In justice to W H Newbold, Esq., I must say, he took the evidence submitted and advised Mr Howie, as a special favor to me and the State, without any compensation. I feel it my duty to say this on his account, and my own. I consulted frequently with him because I found formerly when he was a detective that anything reported by him was always a fact and could be relied upon. His intelligence and experience along this line of work made me turn to him for help.

I know that detectives have to resort to strategy. This is resorted to in diplomacy, love, war and peace. Surely the fowler will not set the snare in sight of the bird.

Before the detective started the investigation I gave him the following note:

12th Nov., 1904.

To Whom it May Concern.

Dear Sir: In case any one of the persons who took part in the lynching of John Morrison at Kershaw, S. C., 1st day Oct 1904 will give evidence against the others who were engaged there, and in favor of the State, on any legal inquiry thereunto, shall be exempt from trial or punishment therefor, except the leader of said lynching and the person or persons who fired the shots into the back of the said John Morrison.

Yours truly,

J K Henry, Solicitor.

I gave the above because it was the policy of the State to prosecute only those who took the lead in, or actually committed, this awful murder; not accessories, nor persons who might have been present as curious spectators, or

who, in indignation, might have said something against the person who so foully murdered young Floyd (as it then appeared).

The investigation proceeded while I attended the exposition. After my return the report of the detective gave the names of the murderers and of those who made remarks and incited the lynching; but the names of no witnesses. The investigation continued for witnesses, until Frank Hough was brought to Chester to make his statement. Late in the evening I received notice that young Mr Hough wished to see me in Mr Newbold's office. On entering I found there Messrs Hough, Howie, Austin and Newbold. Mr Hough said to me he wanted to know if he told all about the lynching and the part he took, and help the State, would I let him off. I replied: "I have given Mr Howie a letter to that effect, and of course would do so with him." He said: "That's all right; I wanted you to say so. I will take your word." I said: "No; I will put it in writing," and did so. Here is a copy of it:

Chester, S. C., March 31, 1905.
Mr S F Hough, City:

In the matter of the prosecution of the lynchers of John Morrison, I, as solicitor, agree not to prosecute anyone that assists the State as witnesses in the prosecution of the others. This applies to you and any others that I may name and excepting the person or persons that fired the shots into the body of Morrison or was the leader of the mob. J K Henry,
Solicitor Sixth Circuit.

I further said to Mr Hough: "Tell only what you know to be true. I would not have you to implicate an innocent person for anything. Whatever you tell, do it freely and truthfully." Some one suggested that I ask Mr Hough questions. I refused to do this, saying I wanted Mr Hough to make any statement. Mr Newbold also urged Mr Hough not to make any statement unless he was willing to burn the bridges behind him. Before I left I heard him make a statement, a copy of which is hereto attached and marked "Exhibit A." On this occasion or any other I failed to detect excitement, liquor or anything wrong. This was the evening of March 31. I had asked Magistrate Caskey to come to Chester for the purpose of taking this statement, and issuing the warrants, if necessary, at the request of the detective. Mr Hough did not want to see anyone from Lancaster, was my information, confirmed afterwards by his begging me not to allow the detective to confer with his father at Rock Hill, as I had suggested. After this statement was made I saw Mr Hough in and around the town

FULL OF TRAGIC MEANING

are these lines from J. H. Simmons, of Casey, Ia. Think what might have resulted from his terrible cough if he had not taken the medicine about which he writes "I had a fearful cough, that disturbed my night's rest. I tried everything, but nothing would relieve it, until I took Dr. King's New Discovery for Consumption, Coughs and Colds, which completely cured me." Instantly relieves and permanently cures all throat and lung diseases; prevents grip and pneumonia. At Crawford Bros., J. F. Mackey & Co., and Funderburk Pharmacy, drug-gest; guaranteed; 50c and \$1.00. Trial bottle free.

at least six times when I was at home. I spoke to him four times. He came to my office twice, if not three times. If there was ever anything wrong with him I did not detect it.

From their date the first warrants were sworn out on April 1st for Messrs Heath, Stevens, Welsh, Hough and others. I learned from Magistrate Caskey that warrants were issued without getting the names.

Upon examination of the evidence, I concluded the evidence, while clear and strong, was not enough to secure a conviction, and demanded that search be made for more evidence before these warrants were served. Besides there was no evidence that Messrs Heath, Stevens, Welsh or Hough went to the tree where the murder occurred, and the State, to insure success, had to adopt the policy of prosecuting only the actual perpetrators of so foul a murder. After getting out of court at Yorkville I had a conference with you, as you will remember, and the policy of the State was continued. Then the other warrants were taken out for the alleged perpetrators, as appears from young Croxton's statement, hereto appended, and marked "Exhibit B." I never saw or spoke to young Croxton to my knowledge. These warrants were placed in the hands of the sheriff of Lancaster forthwith, was my information. Then I suggested to the detective to confer with Mr Amos Hough, the father of Mr Frank Hough, a State's witness, the latter being a young man some 20 or 24 years of age. In his effort to do so, as appears from his affidavit hereto appended and Sheriff Peden's statement (Exhibits C and D), there was an effort to run in and get possession of the State's witness by Messrs Heath, Stevens and Welsh, which succeeded and resulted in their arrest at a hotel in Chester about midnight of April 24th on the warrants of April 1st. If these gentlemen were not so engaged at the time of their arrest, all alleged by the detective, appearances were most terribly at fault. The detective was justified from appearances in his conclusion, and I can't say he blundered.

A little after midnight Sheriff Peden reported at my house the arrest of these parties and asked for instructions. I told him to hold them until he could turn them over to Sheriff Hunter if his warrant was regular. He wanted to know if he could keep them at the hotel. I replied: "That is a matter for you Consult your attorney." After he left counsel for the parties arrested called me up over the phone and asked me to instruct the sheriff to let them stay at the hotel. My reply was: "I can't do it. That is his business." Again I was asked over the 'phone to take up the question of bail before Judge Gage the next morning. I refused this because (1) I was not fully advised; (2) I did not think it proper in a case like this. The next day the detective informed me that Sheriff Hunter told him that the hearing on the last warrant issued for Barwell Truesdale, One-eyed Belk alias Graddison Belk, and Jones, a negro, was set for April 28th. This was told him before anybody else was arrested. After Frank Hough had been arrested with others and taken to Lancaster,

the detective reported that an effort was being made to run in and get possession of young Croxton, another witness for the State. He had anticipated this and had him hid out and left town to look after him. As it turned out, he was correct. While he was out, looking after this witness, I had a conference with Sheriff Hunter at the hotel here, as suggested by your letter, and told him I would, by 12 o'clock the next day, let him know whether we could hold the preliminary on the 28th. This was on the evening of the 26th. That from appearance of things it looked like it would be impossible to hold it then. At the same time and place I met Mr W L Croxton, the father of young Croxton, another witness for the State, hunting his son. Young Croxton's father and brother with detective help (this is upon information), ran him down and got possession of him in Charlotte or the 27th. Over the 'phone I instructed the detective to turn young Croxton over to his father upon his giving receipt for him, containing express promise to have him at the preliminary hearing on Wednesday May 3d, to testify. The receipt of Mr W L Croxton, given to a policeman in Charlotte, is as follows:

"I hereby agree and promise to have my son, Spencer J Croxton, at the preliminary hearing of the persons charged with lynching to be held at Lancaster, S. C., on Wednesday, May 3rd, at 10 o'clock a. m. (erasures: to testify in behalf of State). This April 27, 1905,

"W L Croxton.

"Witness: G F Duke."

(Erasures in above as per original)

A short while before going to the 'phone about noon to confer with the detective over young Croxton, I 'phoned Sheriff Hunter that it would be impossible for the State to go into the preliminary on the 28th of April and requested him to so advise defendants and their counsel. Some minutes thereafter Magistrate Caskey called me to the 'phone and said the accused demanded a preliminary on the next day, April 28th. Upon my saying it would be impossible to go into it and I would have to move for a continuance, he urged me to come over and make my motion. I promised and went. As to what there occurred I append the official stenographers notes (Exhibit E). Early on the morning of the 28th I received the receipt of Mr W L Croxton. I met the detective who had charge of the case at the train about four minutes before the train left for Lancaster. After a short conference, in which I found out that it was doubtful about Croxton testifying and that other witnesses could not then be produced, I dismissed him and went over to make the motion to continue till May 3rd. In my opinion, if Hough's and Croxton's statements are true (and if the State desired an opportunity to put them to the test) there is enough evidence to put all the parties except Austin on trial. I could not get the witnesses there on the 28th of April after the running off of the State's alleged witnesses. Why the magistrate dismissed the proceeding upon a motion to continue I can't conceive, in the face of section 28 of the criminal code, 1902, and of the decision of our supreme court

in the case of State vs. Arthur et al. (McMullan 456), the syllabus of which is as follows: "Where two justices under the habeas corpus act, had admitted a person to bail who was charged with murder in the warrant, it was held that they were guilty of an escape and might very properly be indicted." He may have followed the advice so often given magistrates, to wit, "Go upon general principles to do right. You are not paid for or supposed to know the law. Try to do right. If you miss it you have done the best you could. If you have tried to do right the circuit judge will correct you." The foregoing are the facts and information known to me. This closes the second chapter in the lynching of Morrison. The magistrate's conduct cannot affect the case. It still stands open.

It turns out that when Floyd was shot down, strange to say, although contrary to his reputation, he had a pistol upon his person, if not in his hand. This statement is made from information from the highest sources. The case is now up to the grand jury. It may be there are other witnesses. So far as the State is represented by me, the policy adopted at the beginning will be continued. I am ready to grant amnesty to any and every person who will aid the State in bringing to justice the persons who with wicked hands slew Morrison at the tree or led the mob. These are not over eight or ten. I am confident the whole crowd at the tree did not exceed 30.

CONCLUSIONS.

"The foregoing report is from known facts, credible information corroborated by circumstances. Now for the conclusion from the whole matter:

"Morrison a prisoner of State, has been taken from prison and the custody of officers and foully murdered, for slaying his fellow man, who contrary to his reputation, was, at that time armed with a deadly weapon. Morrison was a white man, in that community without family connections or influence and without money, ignorant, with a helpless and ignorant family dependent on him. The boast is, he was so despised in the eyes of the community as to be denied burial place. There is no possibility of his death being avenged, except by the State, or the great Sovereign Governor of the universe. Humanely speaking, it seems, there is no one to take any interest in the matter, unless the oath-bound officers of the law do so, and this is not popular nor pleasant nor profitable, as I know. But it is duty. Unless the lauded doctrine that Government is set for the protection of weak against the strong is a false pretence and a lie, this is a case where the State should exhaust every resource known to your Excellency to assert the supremacy of law. It was, besides a foul murder, a direct slap in the face of the sovereign State of South Carolina. We officers are sworn to support the Constitution, State and Federal. One bed-rock, inalienable, guaranteed right of every man, upon the accusation of crime, is a fair and impartial trial by a jury of his peers. This was denied Morrison. If the State is so impotent as not to be able to enforce and protect this God-given right or avenge its infraction the quicker we know it the better.

"The universal consensus of opinion, from start to finish, from every source, was that the State would not be able to do anything

about the lynching, and it was foolhardy to attempt it. In the light of experience on the 28th of April, it seems true, unless the grand jury of the county will wake up to its sworn duty (I am sad and sick at heart to observe that when I speak of sworn duty people smile in my face) if it fails to do so, or accomplish anything towards investigation of the case, then surely it is up to your Excellency to declare the State unable to guard or protect the citizen in the enjoyment of his constitutional right, and refer the matter to the president or Congress of the United States, that for the future every citizen may live in perfect security. The lack of this perfect security is responsible for good citizens going continually armed to protect themselves.

"If it were a matter of infraction of Inter-State commerce rights under the national Constitution, the United States courts would have jurisdiction. When one of the dearest constitutional rights, touching life itself, has been denied a citizen, like the right of trial by jury, there ought to be some remedy or remedies, somehow or somewhere. I know of none.

"The above is as full as I can make it. If I have blundered they were my blunders. You may judge whether they were blunders. All of which is respectfully submitted.

J K HENRY,
Solicitor Sixth Circuit.
3rd May, 1905.

Pneumonia is Robbed of its Torments

by Foley's Honey and Tar. It stops the racking cough and heals and strengthens the lungs. If taken in time it will prevent an attack of pneumonia. Refuse substitutes. Sold by Funderburk Pharmacy.

Notice to Debtors and Creditors of C H Lathan

All persons having claims against the estate of Charles Harvey Lathan, deceased, will present them properly proven to the undersigned for payment, and all persons indebted to said estate will make immediate payment to the same. John T Green,
May 12, 1905-1m. Executor.

Notice of Election for an Alderman.

Whereas, John A Miller, lately one of the Aldermen of the town of Lancaster, has departed this life leaving a vacancy in said office,

Resolved by the Mayor and Aldermen of the Town of Lancaster in council assembled and by the authority of the same, that an election is hereby ordered to fill said vacancy, said election to be held on Monday the 5th day of June, 1905, the polls to be opened from 8 o'clock a. m., until 4 o'clock p. m., and that J C Foster, Amos McManus and J M Warwick be appointed managers to hold said election.

Ratified this 6th day of May, 1905.
(Signed) R. E. WYLIE,
Attested by: Mayor.
C. D. JONES,
Clerk and Treas.

NOTICE!

The Board of Control for Lancaster County will meet at Lancaster C. H., S. C., on Tuesday, June 6th, 1905, for the purpose of electing dispensers for the dispensary at Lancaster C. H., and the dispensary at Kershaw for the ensuing year beginning July 1st 1905. Applications for these positions must be filed with said board at least twenty days before said 6th of June 1905.

J E W Haile.
Chr Board of Co Control L C.
May 5, 1905-1m.
—Pay for The Ledger.