

ESTABLISHED 1865.

NEWBERRY, S. C., FRIDAY, OCTOBER 2, 1903.

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GUilty OR NOT Guilty.

The Trial of James H. Tillman Charged With the Murder of N. G. Gonzales. The Evidence Submitted to the Jury.

[Special Herald and News.]

Lexington, S. C., September 30.—The trial of James H. Tillman, former lieutenant governor of South Carolina, for the murder of N. G. Gonzales, editor of The State, is well under way. The attorneys in the case represent the best legal talent of South Carolina and of the South, and they are making the fight of their lives. Every inch of ground, every point, however small, is being stubbornly contested, and the case will prove the greatest legal battle in the criminal annals of South Carolina.

Frank B. Gary is the special judge appointed by Chief Justice J. J. Pope, at the request of the Lexington Bar. He has no easy task. Every minute of the day he is called upon to make a decision upon a stubbornly contested point. He is proving equal to the heavy task imposed upon him, however, and it seems to your correspondent that he is presiding with the utmost fairness, and with ability.

The counsel for the prosecution present are: Solicitor Thurmond, G. Duncan Bellinger, Andrew Crawford, William Elliott, Jr., E. L. Asbill, and L. T. Sturkie. The counsel for the defendant are: G. W. Croft, P. H. Nelson, O. W. Buchanan, George Johnstone, E. F. Dreher, W. H. Sharpe, G. T. Graham, G. R. Rembert, and Cole L. Blease.

The case was called on Monday morning. A jury was empanelled with little difficulty, the following jurors composing the panel: Geo. H. Koon, foreman, Jacob E. Saylor, Irvin Risinger, George F. Leitzsey, Martin L. Lybrand, Milton Sharpe, Jonas Corley, Marshall Shealy, J. E. Jumper, Willie L. Hicks, James E. Price, Homer Woods.

It was a matter of comment on Monday morning that the court house, which has a seating capacity of only about four hundred, was scarce filled, nor has the crowd materially increased with the progress of the trial. Almost half of those present are attorneys and newspaper men and witnesses from out of town.

When the jury was selected the prisoner was brought in, the indictment was read, and in a firm voice Mr. Tillman pleaded "not guilty." Col. Tillman looks worn by his long confinement and he is pale, but all stories sent out that he is emaciated and haggard and thin are entirely false. Save that he is paler and possibly a little thinner, inevitable results of his long confinement, he looks about as healthy and hearty as usual. He listens intently to the witnesses and to the arguments of counsel and shows little or no emotion. As he walks across the street between the jail and the court house he almost invariably coolly puffs a cigar.

Very little testimony was taken on the first day. Policeman Pat Boland, of Columbia, testified as to the arrest, Sheriff Coleman and Clerk of Court Walker identified the pistols and several members of the staff of the State newspaper identified the clothes worn by Mr. Gonzales at the time he was shot.

In motion of defendant's counsel the papers were forbidden to read the State paper, the point being made that in the past several days the State printed two editorials on the case.

TUESDAY'S SESSION.

A mass of testimony was taken on Tuesday. The same counsel for both sides were present and there was about the same size crowd in the court house.

Mrs. James H. Tillman sat with B. Tillman, Jr., son of Senator Tillman, immediately behind her husband, who sat in the midst of his attorneys. With Mrs. Tillman were several ladies, among them Mrs. M. A. Evans, of Newberry. The first witness was George M. Kohn, of the State newspaper, who testified that he secured from a boy the bullet introduced as the one with which Mr. Gonzales was shot. He said he turned the bullet over to the sheriff the same afternoon.

Dr. LeGrand Guerry, one of the physicians in charge of Mr. Gonzales during his illness resulting in his death, and who performed the operation in the case, testified as to the nature of the wound.

Mr. Gonzales, Dr. Guerry testified, died from blood poisoning brought on by a gun-shot wound. It was after the operation that the bullet was introduced as the one with which Mr. Gonzales was shot. He said he turned the bullet over to the sheriff the same afternoon.

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effort to prove that morphine was continuously administered to Mr. Gonzales and that such a quantity as was administered must necessarily have clouded his mind. Dr. Pope said morphine brightens some patients and makes others dull, but the quantity administered usually in such cases as Mr. Gonzales' does not tend to brighten. The defense also attempted to prove that Mr. Gonzales had hope for recovery, having acquiesced in the desire of the physicians to perform an operation which they would not have performed unless there was some hope, and that the hope which he had for recovery invalidated his dying declaration. Dr. Pope, as did the preceding physicians, testified that the wound was mortal and that death was imminent during the whole sickness. He said when he walked into the State office a few minutes after Mr. Gonzales had been shot and carried there that he knelt down beside Mr. Gonzales and expressed the hope that he was not seriously injured. Mr. Gonzales whispered to him, "I am killed."

THE JURY RETIRED.

On motion of Mr. Nelson the jury was excluded from the room in order to let Dr. Pope make statements as to Mr. Gonzales' dying declaration which might not be competent to go before the jury and which could be passed upon during the jury's absence. The jury was excluded and Dr. Pope testified that Mr. Gonzales, lying on the floor of the State office immediately after the shooting, whispered to him, "I am killed."

The defense objected to giving the statement to the jury because they held it was not a dying declaration, Gonzales meaning at the time that he was only in a very dangerous condition (a case parallel to that of the consumptive who makes the remark, "I am a dead man.") Even if the circumstances were such that Gonzales at the time thought he was making a dying declaration, the defense held, the declaration was inadmissible because before his death he entered his mind. The point was hotly contested in lengthy arguments. Judge Gary finally admitted the statement to the jury.

THE BROTHER OF THE DEAD EDITOR.

Mr. A. E. Gonzales, the brother of the dead editor, president of the State Company and publisher of the State newspaper, the mainstay of the prosecution, was placed upon the stand. Instinctively every eye was turned upon Mr. Gonzales and an oppressive silence pervaded the room. Mr. Gonzales testified as to the files of the State containing the editorials of his dead brother from January 1, 1902, to December 31, 1902, and they were placed in evidence by the prosecution. The editorials will be read in court.

Cross-examined by Mr. Nelson as to the relations which existed between his dead brother and Mr. Tillman, Mr. Gonzales said that the first unpleasantness occurred some time about 1890 when Mr. Tillman was living in Winnsboro. "During the campaign of 1890 my brother was reporting for the News and Courier as their Columbia correspondent. My recollection is that an anonymous attack upon him appeared in the Winnsboro News and Herald. He wrote to the editor of that newspaper demanding the name of his anonymous assailant. The editor replied, if I am not mistaken, that he had conferred with the anonymous author and he declined to allow his name to be used"—

interruption. Mr. Gonzales was examined very closely as to a number of incidents. He was asked if his brother and Mr. Tillman came near having a difficulty in the city of Washington, if there was not some unpleasantness between the two arising out of Mr. Tillman's application for membership in the South Carolina Club. To all the questions there were a number of objections and counter-objections. Mr. Gonzales referred the attorneys to the files of the State, saying his brother was a man of few words and always wrote what he thought and that he was in entire control of the editorial policy of the paper. He was asked a number of times if his dead brother ever privately denounced Tillman as a drunkard, debauchee, liar, coward, blackguard. "It is possible," said Mr. Gonzales, "he may have used some of these expressions. I can not say I ever heard him use all of them."

W. B. Gause, a member of the legislature from Florence, testified that on Tuesday before the Thursday of the shooting took place Mr. Gonzales, standing in front of the skyscraper in Columbia, had remarked in his presence that he had stuck those editorials of the State in his pocket and told his wife when he left home that he might stop at the penitentiary before he left Columbia.

H. G. Arthur, a resident of Edgefield, testified that he heard Col. Tillman, in conversation with another gentleman, in Edgefield, in October, 1902, say, "if there was any way I could just get at Gonzales."

R. M. Broadwater corroborated H. G. Arthur.

S. T. D. Lancaster, a representative from Spartanburg, swore unqualifiedly to seeing a pistol on Col. Tillman's person

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TRIAL OF JAMES H. TILLMAN.

Was The Killing of Gonzales Murder, or Was It Not—Jury Empanelled in Lexington to Decide the Issue

News and Courier.

Lexington, S. C., via Columbia, September 28.—James H. Tillman has been held to judgment. In the name of the law he must answer to the people. Eight months ago he met his neighbor, the neighbor of every citizen of South Carolina who is inspired by patriotic purpose, who loves clean, right living; who rejoices in fierce, fair fighting, who has a big, tender, courageous heart; he met his neighbor in the way and slow him. That much all men know. The Court, the prosecution, the defence—all acknowledge this one gaunt fact. Even the fictions of the law take cognizance of it without demanding proof. It is true the dead tell no tales, bear no witness, make no protest, weep no tears, condemn no man. But N. G. Gonzales was killed by James H. Tillman. Is not the grave there in Columbia? The men and women who know and esteemed and loved its occupant will build over it a monument in testimony of the fact that the life he lived was worth the living, that the work he did was worth the doing, that the death he died, be it murder or be it a mere tragedy, was the occasion for profound public sorrow.

Since then the spring and its flowers have withered before the fierce suns of summer, and the gathering time is at hand. An appropriate season for gathering in the fruits of the deed done in the body, no less than the increase of field and forest. So James H. Tillman joins the multitude of husbandmen and comes to the harvest of his doing. Clothed in judgment, his fellow citizens are to declare whether he has clean hands and a bloodguiltless heart; whether he shall return unspotted to the bosom of society, or whether he shall go to the goal or the gallows. That he has slain his brother is known of all men, but it must be determined by code, precedent, practice, quibble, argument, evidence, sympathy, prejudice—all the influences that enter into a public trial—whether he is a criminal or whether he is merely the victim of an untoward fortune that ordained a sorrow-making deed. Marvellous indeed are the fictions of the law, that relentless nonness to which society has given dominion over itself. Piling themselves upon Pelion Ossa-wise, they have overrun the statute books and possessed the minds of men. Founded, doubtless, in abstract equity, they brook no question of the universality of their application. To the patriarch of old it is written, "Were words more potent than the mandates of Kings?" Today, too, they embody the most sacred revelations of the law. High priests of the wool-sack saluum before them. No, "It is written," "That every man is innocent until proven guilty." Be his transgression never so notorious, a matter of common report, he is immaculate in the eyes of justice until his iniquity has been reduced to parchment, bound with red tape and neatly pigeon holed. A wholly repugnant thing to the law is the doctrine of total depravity. In the creeds of the Courts the world is peopled with Israelites, in whom there is no guilt. Now in the days of the fathers if a man met his brother in the way or the wilderness and slew him, the guilt of blood was upon him. It was the duty of the avenger to execute upon him the rigor of his office. Blood repaid blood with swift inevitableness. But the times have changed and the human sense of justice, or rather, the human practice of justice, has changed with them. The Mosaic law has been abrogated even in this one particular—the taking of life must be deemed by the taking of life—some times. The avenger of blood is now a very different personage from his ancient Egyptian predecessor. To the latter the deed itself was warrant for action. To him murder was a crime—till it was proven to be merely

(Concluded on fourth page.)

THE EWART-PIFER CO'S. SEPTEMBER SACRIFICE SALE.

On the first of October we expect to open our doors with the largest and finest assortment of FALL and WINTER CLOTHING--made by the celebrated house of Schloss Bros. & Co.--Hats, Shoes and Men's Furnishings ever brought to Newberry.

In order to make room for this avalanche of new up-to-date goods, we have decided that during the month of September, we shall make a Clean Sweep of our entire present stock at such absurdly low prices that we shall call it our

September Sacrifice Sale.

Beyond any reasonable doubt this will be the GREATEST EVENT of its kind ever conducted in Newberry. Every consideration of cost, profit and sacrifice is swept aside to accomplish the purpose in view. It means the saving of Many Dollars to you.

- Enormous Quantities of Fine Clothing.
- Case After Case of Stylish Hats. -
- Lot on Lot of Up-to-date Furnishings. -

Will go at Prices that will make every Money-saving Purchaser Instinctively Reach for his Pocket Book. **JUST A FEW POINTERS**

We can't tell you much about The Wonderful Price Cutting in a newspaper ad. any more than we could crowd a \$50,000 stock in our display windows—but

COME - AND - SEE - FOR - YOURSELVES

And when you see the Goods and note the Marvellously Low Prices, you will be glad you came.

MEN'S FINE CLOTHING. SHOES. FURNISHINGS.

Your choice of 300 Suits of Fine Wool Cheviots and Cassimers, the creation of the most recent styles that have sold at from \$9.00 to \$10.00; your choice during this sale at \$7.35.

100 cases of Men's, Women's and Children's Shoes. Standard makes \$1.25 and \$2.25 kinds, all styles go until Oct. 1st at the sacrifice price of 75c and \$1.50.

75 doz. Men's Negligee Shirts with attached cuffs and collars; take away in September for 40c each.

A coupon worth ONE DOLLAR to every CASH BUYER of \$10.00 worth of goods. This coupon will be accepted in place of a dollar bill from any cash purchaser of \$10.00 worth of goods in October. This is equivalent to A DISCOUNT OF TWENTY PERCENT, as an inducement to give us your Cash Trade during the months of September and October. It means an immense saving to you, and when you see the extremely low prices we have marked everything down to, the saving is made all the more convincing.

Don't Miss This Sale..... Tell Your Neighbors About It.

Ewart-Pifer Co.

NEWBERRY, S. C.

POSITIVELY the prices quoted at this sale will not continue after the last day in September. No goods during this sale will be exchanged or charged or sent out of the store on approval. Every purchase, to get the advantage of the low prices, will have to be paid for in CASH.