

LEXINGTON, S. C.

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G. M. HARMAN, Editor and Publisher.

Wednesday, September 23, 1903.

When the little "Mee Toos" get through squawking, we may have something to say in reply to their utterances in regard to our position on the free pass incident. Really so far we have seen nothing worthy to reply to. In the meantime the Dispatch has survived the senseless hubbub and will continue to do business at the same old stand at \$1 per annum in advance; advertising rates furnished on request.

The opening of the September term of court witnessed an unusually large crowd of people in attendance, some of whom were strangers called here no doubt through curiosity as well as business connected with the trial of Col. James H. Tillman, but it was obvious that at least over three-fourths of the crowd were native Lexingtonians bent upon their own private affairs. Today the appearances of our streets show no noticeable decrease in the number of people in town, notwithstanding it is generally known that the Tillman case would not be called for trial until next Monday.

Promptly at the usual hour court convened and the business moved off like a well regulated piece of machinery without friction or jar. This was no doubt the result of the efficient work of the court officials in having the business of the court well in hand. Clerk of Court Samuel B. George has been very industrious in preparing the dockets and attending to the other duties pertaining to his office. Mr. George has made a very efficient and competent public officer and has conducted his office on sound business principles and transacts the business with promptness and accuracy that is both pleasing and satisfactory to bench and bar. Sheriff Caughman, too, is deserving of his meed of praise for the prompt manner with which he has performed his duties so as not to retard the work of the court in waiting upon delinquent jurors and witnesses. And Solicitor Thurmond, too, has been working like a beaver to clear the way for the Tillman trial. The amount of work he has succeeded in crowding in two days certainly breaks the record in court work and the cases disposed of, as recorded in our court proceedings published elsewhere, is sufficient commendation of his labors and we can only add "well done, thou good and faithful servant" and all Lexington joins in the refrain.

It is indeed fortunate for the State and for the defendants that Hon. Frank B. Gary has been assigned to preside over the proceedings of our court. He certainly makes an ideal judge. Learned in the law, fair and impartial in his rulings he "holds the scales of justice with an even hand," and without intending to be fulsome we believe that his elevation to the bench would be an honor to the State and an adornment to the legal profession. "So mote it be."

Senator B. R. Tillman, Mr. Tillman Bench, ex-Judge O. W. Buchanan and Mrs. J. H. Tillman of the defendant's relatives were in the town. Ex-Congressman W. Jasper Talbert of Edgefield county, arrived in the afternoon and was in the court room.

The Tillman Trial.

Special to the Columbia State.

Lexington, Sept. 21.—The trial of James H. Tillman, charge with the murder of N. G. Gonzales, was today informally fixed by acting Judge Frank B. Gary to begin next Monday morning. Solicitor Thurmond for the State suggested that Thursday be fixed for the trial and made a brief but clear and strong argument in favor of that day, but the judge, influenced, as he said, by a special presentment of the grand jury and a petition from the fiscal officers of Lexington county, complied with the earnest plea of the attorneys for the defense, delivered in five arguments, and named the first day of the second week of the sessions.

The prisoner was brought into the court room at 5:30 o'clock this afternoon. It became known at an early hour today that the arraignment would be had in the afternoon, but as the day wore on and the court continued to occupy itself with other cases, it seemed to the spectators that the programme had been changed.

However, argument in the trial of a riot case was finally suspended and the Solicitor announced that he would enter upon the arraignment of defendants charged with murder. A few minutes later Sheriff Caughman entered with his prisoner and immediately behind him came his lawyers. Senator B. R. Tillman, who had been in the court room for a short time in the afternoon, left just before the prisoner was brought and came back with his party. Senator Tillman shook hands with his nephew when they faced each other within the bar, as though they had not met since the Senator's arrival in Lexington.

Mr. Croft, the leading counsel for the prisoner, arose and asked that the following be entered on the record as counsel for the defense: P. H. Nelson, Johnstone & Welch, Geo. R. Rembert, Efrid & Dreher, G. T. Graham, W. H. Sharpe and himself. A few moments later he requested that the name of Cole L. Blease be added. It will be observed that ex-Judge Buchanan's name was not announced as counsel. He was, however, present.

The omission of the name of Judge Buchanan from the list of attorneys for the defense was an oversight and yesterday morning his name was enrolled as such.

Solicitor Thurmond announced the following for the prosecution: G. Duncan Bellinger, Andrew Crawford, William Elliott, Jr., E. L. Asbill, T. C. Sturkie and himself.

Mr. Croft arose and said that it would be agreeable to the defense to waive the formalities of the arraignment, the three days which the prisoner may claim between arraignment and trial to date from today. To this the Solicitor assented. The formal arraignment will take place at the beginning of the trial.

THE SOLICITOR'S ARGUMENT.

At this point Solicitor Thurmond moved that the trial be fixed to begin next Thursday morning. "This," he said, "would be for the welfare of all concerned, owing to the fact that a great number of witnesses had been subpoenaed on each side. It would be well to dispose of the case as soon as practicable." He read a letter from Attorney John J. Earle, of Columbia, stating that the latter would represent the prisoners Weston and Doyle, indicted for murder in Lexington, that he was ill with chills and fever and while able to be up in his room could not attend court this week. Mr. Earle, therefore, asked that the Weston and Doyle cases be postponed until next week. A certificate from Dr. Knowlton, of Columbia, accompanied the letter, stating that Mr. Earle could not attend to his professional business for a few days. The Solicitor then stated that in his opinion all the other criminal business could be disposed of by Friday, that the postponement of the Doyle and Weston cases would be inevitable in all likelihood, that other cases would necessarily have to be tried after the conclusion of the Tillman trial at all events and consequently no harm could result from taking up the Tillman trial on the day named. As to the costs of the county, nothing would be added as all witnesses could

be discharged pending the Tillman trial.

Mr. Efrid of counsel for the defense, a Lexington lawyer, stated that the Tillman case was not "a child of Lexington but an adopted child." The courts and people of Lexington would do their best to perform their duties with regard to it, but Lexington litigants and Lexington taxpayers were not called to look after the interests of the adopted child in preference to their own interests—Lexington county's. Floods in the month of June had prevented the attendance of the presiding judge and no court had then been held. Consequently, the business of the criminal court had largely accumulated. When the Jones murder case of Edgefield county had been transferred there had been no request to commence its trial until after local business had been disposed of and he was informed that the same course had been pursued when a case had been transferred from Richland to Kershaw. The court should not be "switched off" to this case at the expense of the people's pocketbooks. All day an under current of excitement had been visible in the court room. It was due to the Tillman case. The effect of its trial would be to end the criminal business of the court because at its close the court "would be worn to a fraz." The Solicitor, he believed, miscalculated when he said that the local business could be concluded by next Friday. He then alluded to the special presentment of the grand jury, who, he said, had carefully considered the necessity of taking up the county's cases first.

THE GRAND JURY'S WISH

The special presentment of the grand jury, to which Mr. Efrid referred, received by the court during the morning hour, was to the effect that the number of Lexington cases with the witnesses attending upon them was large, that to take up the Tillman case, not a Lexington case, would necessitate the attendance of these witnesses for ten days or two weeks at the county's expense and that therefore the reason was urgent that they be first tried. This was fortified by a petition to Judge Gary of the same purport signed by the county's fiscal officers.

LEXINGTON LAWYERS

Mr. Sharpe of counsel for the defense followed with an argument on the same line, declaring that he was speaking not in the interest of the Tillman case but in the interest of the county. He was associated, he said, with Mr. Earle in the Doyle case and at the proper time would move for a continuance in that case. He was interested professionally in nearly every criminal case before the court and he knew the mind of the people—they wanted those cases disposed of.

Mr. George T. Graham, also of the prisoner's Lexington counsel, argued in a similar vein, declaring that little business had been done at the February term while no court had been held in June.

Solicitor Thurmond replied briefly. He would be the last to impose a burden on Lexington county but to take up the Tillman case Thursday would impose no burden, for the witnesses in county cases would be excused for the time and could draw no per diem and mileage. It would be a simple matter to discharge them, for example, until Monday, one week. The grand jury and the fiscal officers were evidently under a misapprehension of the facts, though he did not doubt the genuineness of their solicitude for the county's interests. Mr. Earle's letter indicated, not that he wished his cases continued, but merely postponed until he could attend court next week. As to the undercurrent of excitement mentioned by counsel, if it existed that fact was an argument for the trial of the case causing it and so relieve the tension.

"How many days do you expect the Tillman trial to consume, Mr. Solicitor?" inquired Mr. P. H. Nelson. "Eight or nine," Mr. Thurmond replied.

"Speaking for counsel for the defense not members of the Lexington bar," Mr. Nelson continued, "we have nothing to do with the differences of opinion between the Solicitor and

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the Lexington lawyers. We are not here to make dilatory motions and we are quite as anxious to go to trial, if not more so in this case, than the prosecution. The main question is that next Monday morning another panel of 36 jurors will be here drawing pay, at the county's expense, with nothing to do, if the Tillman trial begins this week. In addition to this, the jury in the Tillman case might perhaps be confined by his honor during Sunday, and this also would add to the county's expense."

"We do not wish to be placed in the attitude," Mr. George Johnstone said, "of interfering in this controversy between the Solicitor and the bar, the grand jury and fiscal officers of Lexington county." Mr. Nelson, he added, had omitted to point out that were the Tillman case commenced this week 12 jurors who had served from today would be compelled to serve throughout the greater part of next week, and they were reasonably entitled to expect their discharge from duty at the end of the week. He commented on the busy season of the year, declaring that two weeks' absence from private business was too much to ask of the same jurors and that a new jury would be in service next week. If commence next week he hoped and believed that the case could be concluded by Friday, at least with the end of the week. Again suggesting that the non-resident lawyers had nothing to say in a matter between the Solicitor and Lexington lawyers, he described the former as, speaking for the Tillman case, in a sense "persona non grata" to the Lexington court, so long as Lexington's interest were at stake.

JUDGE GARY'S DECISION.

Promptly deciding the question, the acting judge said substantially: "There is nothing in the position that outside lawyers or an outside case are 'persona non grata' here. They are properly and legally here and have the same rights as other litigants. When a case is reached for trial it should be tried, in its proper place. However, I cannot ignore those considerations brought to my attention solemnly in a special presentment of the grand jury and in the request of the county's fiscal officers, and I feel it my duty to carry out their suggestions. Besides, I cannot see that harm can be involved in this course."

Mr. Efrid arose and said that next Monday would suit the local bar for the trial to begin.

MONDAY AGREED UPON.

Mr. Croft for the defense stated that Monday would be satisfactory and to this the Solicitor assented. No formal order fixing the day for trial, however, was passed, and the court adjourned merely with the understanding that the trial would be undertaken on the day named.

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