BARNWELL, S. C. THURSDAY, OCTOBER 22, 1903.

WHAT THE JUDGE CHARGET

Case. The Jury Out Two

The closing arguments in the case of J. H. Tillman were made Wedi at 1.42 p. m. Judge Gary gave the case to the jury.

peal for the defendant and mai appeal for the defendant's case he dwelt upon the teltimony of witnesses for the defence relative to the position of Mr. Gonzales' hands as he approached Mr. are related to you, you have no right imprisonment for life in the Telliton imprisonment in the Telliton imprisonmen points involved.

points involved.

The was followed by General, G. D.

Bellinger, who closed for the state and made the final assument of the trial. General Bellinger made a general summing up of the state's case, laying stress upon the teatimony address upon the teatimony address by the state relative to the shooting. Analyzing and comparing with the testimony of witnesses for the defence, calling special attention to the witnesses whose veracity had been attacked by the state. At the

the Jury: I congratulate you upon ed, and when you return to your respective homes you may enjoy the satisfaction which comes from a ense of duty well performed.

"Gentlemen, the trial has reached hat stage when it is my duty to harge you what I conceive to be the homicide. This I shall do as lainly and briefly as I possibly can, any opinion upon the facts, I beg that you will dismiss such idea from your

'The Constitution of the State forbids me to express or to intimate to you any opinion upon the facts and I are the questions you will ask your do not intend to do so. The facts are self. exclusively for your determination. You find the facts and apply them to the law which I give you and find your verdict accordingly.

The defendant, James H. Till-G. Gonzales.

THEE KINDS OF HOMICIDE.

Homicide, gentlemen, is a general felonious homicide. Justifiable homicide is where one takes the life of anember, that he must satisfy you, not

Attorneys for the defendar that the alleged killing was a justifi- of his assailant. able homicide, you may dismiss that kind of nomicide from your consider-

"Now, the next is excusable homicide. Excusable homicide is where a come to a like conclusion. Now, man kills another under such circum- gentlemen, the question is, not what stances as the law, in its regard for you would have done, or what I would the weakness of human nature, con- bave done, but the question is, what dones, and it excuses the act. For instance, if a man is in the discharge of a lawful duty, a lawful act, and without fault or "Fourth, that he had no other negligence, accidentally kills another, the law excuses him and he has done no wrong and should suffer no punish-ment. Then, again, gentlemen, if a ance of the syldence, then his plea of man kills another in selfdefence, the self-defence is established and he is law in its regard for the laws of na-entitled to an acquittal at your hands. ture, says that he has done no wrong and should not be punished. Now. I will charge you further us in what I shall say to you, as to what is necessary to make out the plea of self-de-

does not come in this case. I have instructed you as to what excusible

set spirit, such as is to say under doubt.

with malice forethought and that 'Not guilty.' may be either expressed or implied.

done with malice aforethought.

its tender gegard for the frailities of our nature it recognizes the fact that under certain circumstances we are liable to be so far transported beyond loses its away and he acts from pas-

"Mr. Foreman and Gentlemen of cation for that passion then the law, in its meroy, says that is not murder, but manslaughter.

der what circumstances was the killunder what circumstance was the killing done? Was the killing falonious, such as the law punishes for? If so, was it murder or man slaughter, or was the killing excusable? These

WHAT THE DEFENDANT CLAIMS.

"The defendant sets up the plea of selfdefence; that is, that he did the killing to save his own life, or to avoid serious bodily harm to himself. If the scene in Judge Clifford's Cou man, stands charged by the State of defendant has established his plea of cago, pointing an accusing South Carolina with the murder of N. self-defence, then he is excusable and his father and declaring that your verdict should be 'not guilty.' ter was guilty not only of wife mu The plea of selfdefence, gentlemen, is der, but also that of matricide. homicide; he is carrying out the or-ond, that he believed at the time that der of the Court, and the law says it he was in danger of receiving serious is no wrong. But, gentlemen, as bodily harm or losing his life, and there is no intimation from any source that it was necessary to take the life

"He must go further and show you that a reasonable man, a man of ordinary firmness, courage, prudence and reason, stituted as he was, would have

probable means of escape. "If he has shown these four things "Now, gentlemen, what is preponderance of the evidence? It means

the greater tright of the evidence. It is usually trated thus: If you It is usually put the evi favor of the plea. slance and the nies in the other ears down the n favor

ATE MUST PROVE

adopted by the convey just as much meaning to your State and has mind as the definition that is given in n evil spirit, a de- the books. I think it will be enough such as is to say that a remarkable doubt is a A Jury of His Peers Declares Him

bent upon mis- "Now, if, upon a review of the malice is where one whole case, the whole evidence, that la another with a sedate, de-given by the State and that given by the defendant, you have a reasonable delign being evidenced doubt as to the guilt of the prisoner tances which dis- or as to any material allegation of the intention, such as indictment, then it is your duty to

indictment, then it is your day acquit.

The form your verdict will be either 'Guilty of murder,' 'Guilty of murder, with recommendation to constitute murder, it must be done meroy,' 'Guilty of manslaughter,' or

"Now, gentlemen, if you should I have last told you what expressed conclude that the defendant is guilty of murder, but he should not suffer the work, implied malice is such as The arguments consumed two and shalf days. Senator Tillman, uncle of the defendant, was present Wednesday. Col. Croft resumed his argument to the jury with the convening of the law infers or implies from the killing is proved, to the jury with the convening of and none of the attendant circumstances, then the laws infers or preduce that the defendant and final approach. The filling was done with imprisonment for life in the Peniten-

Tillman. He also pressed the point then to infer anything, you must look gives to you and will give to you, retained to the defendant was to be judged in the light of circumstance as they appeared to the defendant. Colone from those circumstances you must appeared to the defendant. Colone from those circumstances you must unpunished in South Carolina. You say whether or not the killing was have nothing to do with that. You are only dealing with the facts and the law of this case.

Now counsel for the State and counsel for the defence have handed to me numerous requests to charge, I will now proceed to consider them. Some I will charge you and others I shall decline to charge you."

This ended the formal charge as to the principles of law. Then Jude Gary took up the bundle

'not guilth." A Remarkable Meeting.

At one of the most remarkable if he had not received the provocation: gave it to the fund. Several young It may then be asked why the trial? 'In this case your inquiry will be, men jointly subscribed \$160, redeemed lieved he will now leave his church forms of this great State. in. Atlanta.

> Killed His Mether and Wife Frank Pavlik created a

founded on the idea of necessity; that "The murder of my mother is not what occured in the jury room, it is is, that it was necessary to take the the first one committed by my father." term, which means the killing of a life of a fellow man to save one's own said the accuser. "In Bohemia, an, regardless of manner in which life or to avoid serious bodily harm. where I was born, he killed his own who joined the majority, was Mr. J. the killieg is done. There are three For the defendant to establish his mother. He became enraged at my B. Jumper. kinds of homicide justifiable homi- plea of self-defence he must satisfy grandmother and struck her a victous This then left Milton Sharpe as the pide, excusable homicide and folonious you, gentlemen, of four things, not beyond a reasonable doubt, but by the law only punishes for beyond a reasonable doubt, but by the law only punishes for a change of venue because

Murderer Captured.

Cyrus Dixon, a white man who was working at a saw mill near Society Hill under the name of Lormin, has been arrested and carried to North Carolina to be hung. It seems that he had been tried for murder, convicted and sentenced to death, but escaped, and came south by water routes, leaving no trace, till about two months ago, his affections became so great for the widow of the man he murdered he went for her-or went to meet her. She was tracked with the above result. After being recaptured he gave himself no concern, apparentto be allowed to go was very earnest.

Burned to Death.

An aged lady, Miss Nanny Robertson, living 10 miles above Laurens, Was was discovered the building was almet Col. Tiliman at the transfer commost destroyed and no rescue could ner, acquiesced in the verdict. uliting. Miss Robertson lived al Her nearest neighbor lived aboyards from her house.

"Not Guilty."

SCENES IN THE COURT ROOM

When the Verdict Was Announced and Coh Tillman Received the Congratulations of His Friends.

The trial at Lexington is over and James H. Tillman is a free man. A jury of his peers has pronounced him 'Not guilty" of the charge of murder.

Thus ends one of the greatest and most important trials that has occurred in South Carolina, certainly the most important and far-reaching within the last quarter of a century. It is perhaps due and proper that

the verdict of a jury should be final. end the matter. Whether or not that verdict of "Not guilty" will be satisfying it is not for me to say. It is for me to record, as I have undertaken during the progress of the entire trial, what actually occurred, and what was said, and the left for others to draw conce

It will not wever, be amiss for ne to great that this verdict of work gullty," while entirely expected, will not satisfy very many in this State. The evidendce in the case has all been published, and a reading people will form its own conclusions as did that jury in Lexington Court House.

Already I can hear the suggestion that the trial was a simple farce, and that nothing other than what occurbeen attacked by the state. At the close of Mr. Bellingers speech Judge Gary delivered the following charge beyond himself, reason the transported beyond himself, reason twenty hours brought in a verdict of the neglect of Senator. tics, and that the nephew of Senator Tillman had nothing to fear in a county that had always shown a larger proportionate vote in support of

has N. G. Gonzales been killed? Did the ring and returned it to the owner at some time; the testimony and story began to water just a bit. From the James H. Tillman kill him? If so, ununder her protest. The object of of the tragedy had to be presented to jury Col. Tillman walked over and you, you should conceive the idea that ing done? Was the killing felonious, church debt as this time was to induce or intimate to you such as the law punishes for? If so, duce Dr. Broughton to remain with dead editor to make the attractions of the such as the law punishes for? raising the money to pay off the whole the world, and it was thought that it shook hands with Judge Gary. the church. The minister received a presentation of the facts in his defence, call to a large church in Boston and not only to the jury, but to the world. has not announced his decision. A It is not for me to Judge James H. committee from Boston church is Tillman, nor is it for any one else to waiting upon him in an effort to aid do so now, as he has been tried and in making his decision. It is not be- acquitted according to the laws and

HOW THE JURY STOOD.

When the jury retired to its room slaughter held out for hours. While, said that the first of the jurors to insist upon a verdict of manslaughter,

hours and hours the other jurors ing such a release, and after he was I was convinced, on account of pre-Attorneys for the defendant told the argued with him so as to secure his told that there was not, the order judice in Richland County, I could other in the performance of a duty; beyond a reasonable doubt, but by the jury they would make no denials of the sheriff hangs a preponderance of the evidence of four man in pursuance of the mandate of a competent Court, it is justifiable and county, it is justifiable a competent Court, it is justifiable a competent Court, it is justifiable and county, it is justifiable a competent Court, it is justifiable and county, it is justifiable and county is county. I felt as soon as my case could be presented to an impartant county in the charge that the defendant killed in the county is county. I felt as soon as my case could be presented to an impartant county in the charge that the defendant told the county is county. I felt as soon as my case could be presented to an impartant county in the charge that the defendant told the county is county. I felt as soon as my case could be presented to an impartant county in the charge that the defendant told the county is county. I felt as soon as my case could be presented to an impartant county in the charge that the defendant told the county is county. I could be county in the charge that the defendant told the county is county. I felt as soon as my case could be presented to an impartant county in the charge that the defendant told the county is county. I felt as soon as my case could be county in the charge that the defendant told the charge that the c a verdict, and the foreman of the jury door to announce to the expectant growd that a verdict had been agreed upon-twenty hours after the jury had retired to frame its verdict.

Early in the morning, when it was a pale-looking roung mill operative, had acquiesced for the verdict of acquittal, the impression grew strong and fast that it would not be long be- Tillman then went into the hotel across the face of the indictment.

A CALK WITH THE JURYMEN." I have undertaken to find out from ly, but his pleadings for the woman the jurymen themselves what was the predominating reason for the decision. Several of the jurors stated that there was no "predominating reason," but law, and the wife, his little girl and others explained that the ten jurgra had come to their conclusions for burned to death in her house after being convinced that Mr. Gon-Wednesday night. When the fire gales made a demonstration when he

entally while she was engaged in view, although it may have been dent several days ago. imply an excuse for the juror. When During the progress of the trial for

prosecution be called. There was some delay in finding the lawyers and Mr. Thurmond finally suggested that the

jury might at least be brought out. THE JURY COMES INTO COURT. After the jury filed into the Court room and took seats the situation was critical and the stress intense. Every one seemed to be expecting something, and every one knew what that something was, but Mr. Thurmond's assoclates had not come into the Court room, and he was asking that the

Court wait until they arrived. Judge Gary finally broke the strain by saying that he saw no use for furthur delay, as the wait involved an unnecessary strain. with this, Mr. Koon, the foreman of the jury, arose

the verdict of a jury should be final. stration, or if there is any violation of marpe, or Sundays.

Under American law this ought to the rules of Court, you will be a The actual trial h

CLERK GEORGE READS: "NOT

Then Judge Gary permitted th elerk of Court to read the verdict of Not guilty. The closeness of the warning of Judge Gary and the reading of the verdict no doubt did much to keep down any hurrahing, but there was some enthusiastic friend who could not restrain his joy and gave one good, hard cheer, but nothing was done with him. As soon as the verdict was announced Col. Croft and the other members of counsel for the defence gathered around Col. Tillman and congratulated him warmly upon his acquittal.

COL. TILLMAN CONGRATULATED. Quite a number of Col. Tillman's kinsmen have been devoted and constant in their attendance upon the Court, and they followed counsel in their congratulatious to Col. Tillman the approach of the end of this trial, which has consumed so much of your time. It has required of you patience, endurance and self-sacrifice. I am glad to say that you have met the Senator Tillman than any other coun- For five or ten minutes the whole blood to cool, to enable passion to sub- make improvements on the building, the jury had been drawn, said that thanks for the verdict, and later on side, to enable reason to resume its The church was crowded and much nothing but an acquittal would be the Col. Tillman himself went over to the away, then the law says blood must enthusiasm was shown. One young cool, the salsion must subside, reason lady, who works for her living, took must assume its away and holds the from her finger a dimond ring which mistrial, but never did the counsel for ty. It was while going from one juryman to as strict an accountability as represented nuch of her savings, and man seemed to most show his appreci-There had to be a trial of the case ation of his liberty, because his eyes

RELEASED FROM CUSTODY.

It took only a few minutes to draw up the formal order releasing James H. Tillman from the custody of the sheriffs of Richland and Lexington counties, as the result of the acquit tal. While this formal order was being prepared Mr. George, the clerk of Court, took the two pistols, those Tillman wore on the day of the tragedy, out of his drawer to hand them to Col. Wednesday afternoon, shortly before Tillman, and as he did so Col. Tillman 2 o'clock, the first ballot resulted ten waved both of his hands, as if to spurn two in favor of an acquittal. It is the offer, and said: "I never want to sult of the verdict, but at no time did Little, which came in lerst od that the two jurors who see those things again." There were I apprehend any serious consequences. distress, is reported in the insisted upon a conviction for man- many requests from those around for of course, it is not definitely known but the smaller pistols was sent to its ed to do what I did. I have never ment, and which se

The Luger magazine pistol, from which the fatal shot was fired, was taken off by a relative of Col. Tillman, who wished to exhibit it in Augusta. Judge Gary, before signing the order

room at the time the verdict was read. called for pen and ink with which to Mrs. James H. Tiliman was in the write the verdict, and knocked on the parlor of the residence portion of the jail, awaiting the return of her husband, and as soon as Col. Tillman had gone into the jail to see his wife he left there with her to go and see his mother, who was at the Kaminer understood that Juror Jumper, who is Hotel, but she met him on the street. between the jail and the hotel, and, throwing her arms around her son, welcomed him back to freedom. Col. fore "Not guilty" would be written where he had a regular levee of friends and relatives.

LEFT FOR EDGEFIELD.

Col. Tillman was invited to dine. and after that he arranged for his himself to leave Lexington on the 5 o'clock train and go to Edgefield, alrerdy provided themselves with noon it was too early for him to talk shout his plans, but the prospects are that he will remain at Edgefield and tity of batting becoming ignited ac- for the minority joining the majority severaly wounded in runaway acci-

to announce that a verbut Thursday afternoon they careful-

Col. Tillman shot Mr. Gonzales in Columbia on January 15, 1903, and he By the Dozen in the Late has been in jail in Columbia and Lexington since that time-ten months in all, and even that is more punishment than some folks thought he would receive.

In that time he has become a bit thin and more reserved and quiet in manner, but otherwise he appears to be the same James H. Tillman as of

AN EXCEPTIONAL CASE.

There has never been a cause more earnestly presented or defended than first news received from the North that against James H. Tillman. It is a decided exception to find a full that raged the sen days ago dispense dozen lawyers engaged in one case, the hor mat the terrific shouls off but such was the fact in the trial of the contract and flatters have not and handed the indictment to Mr. George, the clerk of the Court.

"One minute," Mr. Clerk, said Judge Gary; "Sheriff, if any one in this Court room makes any demon-

usual interest in the case is indicated by the great demand for bulletins from Lexington concerning the result of the trial. Hundreds of newspapers and individuals asked for bulletins stating the mere result of the case, and both telegraph offices were Col. Tillman.

SHOWED GREAT INTEREST.

Senator Tillman spent only one day at the trial, but that was quite suffi cient to show his interest in the case, and it may be noted that he has care fully watched every phase of the matter, and has been constant in his ad- bel Rose and J. W. Halden. The lifevice and suggestions. Senator Tillman would no doubt have been present during the entire trial had he not been out of the State in the early days of the trial. Recently he has wife, who was severely injured in a across the wreck and within eighteen runaway. accident.

ALL HONOR TO JUDGE GARY.

ing the Tillman trial. It is well to of lumber carried by the again speak of the satisfaction that Rose was worth more than \$50,000. Special Judge Gary gave. He did his work well and, under trying circum. den, of Suffolk, is ashore near Fr stances, made prompt and satisfactory Cape, Va., and is a total loss. decisions. He has done much for his good reputation.

The above account of the release of Col. Tillman was written by Mr. August Kohn, for the News and Courier, from which paper we clip it.

A CARD OF THANKS.

Col. Tillman Says He Deeply Regrets Mr. Gonzales Death.

After his acquittal Col. Tillman Thomas, bound from the so dictated the following card of thanks, which he asked should be given the widest possible publicity:

"I feel very grateful as to the re-I, of course, deeply regret the trict as saying that he the right to own of these weapons, death of Mr. Gonzales, but I was fore schooners in a very dangero apprehended a conviction, for I felt danger of going on she that I did no more than any other aged to keep clear of the man would have done under the same circumstances, and what I was compelled to do.

"My position was fully stated in verdict has justified the correctness of my judgment. Lexington County was selected by the prosecution. Its people are law-abiding and have long been noted for the fairness of their verdicts and been praised by the press. ("Signed.) James H. Tillman."

derer of Fonnie Back, a 6-year-old

A Lynching Bee. Walter Jackson, the convicted mur-

boy, was taken from the county jail by a mob and lynched. Shortly betore midnight seventy-five masked
tore midnight seventy-five masked
Then, in the twinkit
seemed to absolute and overpowered jailor Stephens. Jackson was found crying in the darkest portion of his cell. He pleaded piteously for mercy, but was rushed out into the street where the mob had Wes rope. This was quickly thrown over an electric light pole and the noor placed about Jackson's neck. He was asked if he had anything to say. the made. She was seventy-five rouss and the service of the service of the made. She was seventy-five rouss and the service of the service of

SHIPS WRECKED

Which Raged

OFF NORTH CAROLINA COAST.

News Reaches Nortolk of Disaster Right and Left. Splendid Work Done by the Life Saving Station,

A dispatch from Norfolk Carolina coasts sice the hurricane

three schooners are missing together The actual trial has taken nearly with one barge. Two schooners, and ing the developments of the case and the arguments, or fixing the time for the actual trial to begin. The unhands on board.

The tug Buccaneer, Captain Joseph Lane, reports that the barge Oracle foundered off Cape Henry with Captain Cookson, her cook and three seamen, all white. The tug sailed from Baltimore, towing the Oracle which was coal laden. Off Hod island the on a constant rush all day sending out storm struck her on Thursday and the messages concerning the acquittal of barge with her crew went down. The tug could not approach the heavy sea, and was forced to come here for safe-

Observer A. W. Drinkwater of the Currituck station, reached Norfolk Wednesday by the inland route and reports the loss of the schooners Masavers had seen the Rose about 2 p. m., Saturday with her crew in the rigging, but she was then two miles out at sea and nothing could be done for her. At 4 a. m., Sunday the lifebeen in constant attendance on his savers succeeded in shooting a line minutes after the first man had been started ashore the captain and crew of seven men/were on the bes In the closing statements concern- safety. It is estimated that the carge

Three-masted schooner J. B. Hol captain, W. O. Crammer, of Suf and her crew were taken off by the life-savers and are safe. The Holder was heavily laden with lumber and as attempt to save at leat a portion her cargo will be made. The going tugs accustomed to stand Cape Henry awaiting the arrival of Baltimore bound schooners were unable to stand the storm ou came in to Norfolk.

They report that the Isabell Gill, May Lee Patton, Baltimore, are not accounted wires to the coast are gown b s grave reason to fear for the of these vessels. Captain commanding the sch made this port. It is possible that the Gill, T Patton may have made so the fact not yet reported.

The Norwegian steam Capt. Petersen, which has Mobile, was caught in un quake" at 2.55 A. M., Septen fourteen miles of the Cubic and the shock, was so threw the men from the knocked all quite violen Capt Petersen says the route to Santiago from V cattle. The engines were full speed and everything right. The water there is for to 1,400 fathoms deep. T with no warnings Ellida seemed to have She quivered, creaked. was out of water, and i though the steamer was

very chasm of the deep.