

"DO THOU LIBERTY GREAT. INSPIRE OUR SOULS AND MAKE OUR LIVES IN THY POSSESSION HAPPY, OR OUR DEATHS GLORIOUS IN THY CAUSE"

BENNETTSVILLE, S. C., FRIDAY, OCTOBER 23, 1963

NO. 49

THE JURY CHARGED

By Judge Gary As to the Different Kinds of Homicide

WHAT THE JUDGE CHARGED

The End of a Long and Tiresome Case. The Jury Out Then by Hours and Two Agrees.

The closing arguments in the case of J. H. Tillman were made Wednesday at 1:42 p. m. Judge Gary gave the case to the jury.

The "crimes consumed two and a half days. Senator Tillman, uncle of the defendant, was present Wednesday. Col. Croft resumed his argument to the jury with the conveying of court and made the closing address to the jury.

He was followed by General G. D. Bellinger, who closed for the state and made the final argument of the trial.

"Mr. Foreman and Gentlemen of the Jury: I congratulate you upon the approach of the end of this trial, which has consumed so much of your time.

"Gentlemen, the trial has reached that stage when it is my duty to charge you what I conceive to be the law in this homicide.

"Homicide, gentlemen, is a general term which means the killing of a man, regardless of the way in which the killing is done.

"Now, the next is excusable homicide. Excusable homicide is where a man kills another under such circumstances as the law, in its regard for the weakness of human nature, condones, and it excuses the act.

"The other homicide, and the only one for which a man is punished, is felonious homicide, which is either murder or manslaughter.

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"Now, gentlemen, bring to bear on this case your best judgment, and find a verdict according to the facts as you find them, and the law which I have

constitute murder, it must be done with malice aforethought and that may be either expressed or implied. I have just told you what expressed malice is.

"Now implied malice is such as the law infers or implies from the killing itself. If the killing is proved, and none of the attendant circumstances, then the law infers or presumes that the killing was done with malice aforethought.

"Manslaughter is the killing of a human being in sudden heat and passion and upon sufficient legal provocation. This, gentlemen, is said to be one of the charities of the law.

"I will call your attention to the fact that if sufficient time elapses between the receiving of the provocation and the act of killing to enable the blood to cool, to enable passion to subside, then the law says blood must cool, the passion must subside, reason must assume its sway and holds the man to as strict an accountability as if he had not received the provocation.

"The defendant sets up the plea of self-defense; that is, that he did the killing to save his own life, or to avoid serious bodily harm to himself. If the defendant has established his plea of self-defense, then he is excusable and his verdict should be 'not guilty'.

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given to you and will give to you, regardless of any outside clamor that may be either expressed or implied. I have just told you what expressed malice is.

"Now counsel for the State and counsel for the defense 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 Judge Gary took up the bundle of requests to charge, which he considered seriatim.

The jury after being out about twenty hours brought in a verdict of "not guilty."

The tests that will be continued during the next eight months at the bureau of chemistry of the Department of Agriculture to determine the relative qualities of food under different conditions of artificial preservation have begun.

It has been intimated that the experiments in this special drug may have to be discontinued within a few weeks owing to its character. It produces a condition known as "borax poisoning," and it is this that has caused it to be selected for trial.

When the jury retired to its room Wednesday afternoon, shortly before 2 o'clock, the first ballot resulted ten in favor of an acquittal. It is understood that the two jurors who insisted upon a conviction for manslaughter held out for hours.

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TILLMAN GOES FREE

A Jury of His Peers Declares Him "Not Guilty."

SCENES IN THE COURT ROOM

When the Verdict Was Announced and Col. 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 will not, however, be amiss for me to suggest that this verdict of "Not guilty," while entirely expected, will not satisfy very many in this State. The evidence in the case has been published and it is left for others to draw conclusions.

It is not, I judge, violating any confidence for me to say now that counsel for the prosecution, soon after the jury had been drawn, said that nothing but an acquittal would be the result of the trial.

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Judge Gary finally broke the strain by saying the law no use for further delay and the wait inspired an unnecessary strain with this, Mr. Koon, the juror of the jury, arose and handed the indictment to Mr. George, the clerk of the Court.

Then Judge Gary permitted the clerk of Court to read the verdict of "Not guilty" to the jury and the reading of the verdict no doubt did much to keep down any hurrying, but there was some enthusiastic friend who could not resist in his joy and gave one good hard cheer, but nothing was done to disturb the jury.

Quite a number of Col. Tillman's kinsmen have been devoted and constant in their attendance upon the Court. They followed counsel in their congratulations to Col. Tillman for five or ten minutes the whole Court was given over to Col. Tillman.

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the arguments, or fixing the time for the actual trial to begin. The uncertainty in the case is indicated by the great demand for bulletins from Lexington concerning the result of the trial.

Senator Tillman spent only one day at the trial, but that was quite sufficient to show his interest in the case, and it may be noted that he has carefully watched every phase of the matter, and has been constant in his advice and suggestions.

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THE DEAD LETTER OFFICE

An Interesting Abstract of the Report of Its Operations.

An interesting abstract of the annual report of the business and operations of the dead letter office for the fiscal year ending June 30, 1963, is presented by the Washington Times.

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SHIPS WRECKED

By the Dozen in the Late Storm Which Raged

OFF NORTH CAROLINA COAST

News Reaches Norfolk of Disasters Right and Left. Splendid Work Done by the Life Saving Station.

A dispatch from Norfolk says the first news received from the North Carolina coast since the hurricane that raged there ten days ago dispels the hope that the terrific shoals off Currituck and Hatteras have not claimed their quota of the craft.

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