

BAIL REFUSED J. H. TILLMAN.

Chief Justice Pope Acts on the Evidence.

MANY AFFIDAVITS MADE.

At 4:30 o'clock yesterday afternoon Chief Justice Pope refused the application for bail of James H. Tillman, charged with the murder of N. G. Gonzales and now confined in the Richland county jail.

The hearing was resumed in the supreme court room, having been adjourned from Newberry on the 12th inst., at 10 o'clock and continued until nearly 5 with an intermission from 1:35 until 2:40 p. m.

The prosecution was represented by Solicitor J. W. Thurmond, ex-Attorney General G. D. Bellinger and Judge Andrew Crawford.

The defense was represented by Congressman-elect G. W. Croft of Aiken and ex-Solicitor F. H. Nelson of Columbia. Ex-Judge O. W. Buchanan, Messrs. C. L. Blease of Newberry and G. R. Rembert of Richland, of counsel for the defense, were also present but not actively participating. During most of the day about 100 spectators were in the room, the number at times increasing. Mr. B. R. Tillman, Jr., a son of Senator Tillman, was a spectator.

At the opening Col. Croft read a waiver of his legal right to be present by the defendant, Col. Tillman, who did not in person appear.

The reading of the affidavits consumed one hour and a half. Mr. Crawford reading those of the prosecution and Mr. Nelson those of the defense.

MR. NELSON OPENS.

At 11:30 the argument was opened by Mr. Nelson for the defense. He was followed by Messrs. Crawford, Thurmond and Bellinger for the State. After the recess Mr. Croft closed the case for the defense.

Mr. Nelson clearly and rapidly discussed the evidence, taking up affidavits seriatim and disposing of their bearing from the point of view of the defense. He stressed the reply of the defense in the large number of affidavits sustaining the character of the affiant Holsonbacke against the effort of the State to impeach it. Reaching the affidavit of the affiant White, he was interrupted by Justice Pope, who said that argument as to that affidavit was not necessary. He then proceeded to analyze the State's affidavits, pointing out what he regarded their discrepancies and weaknesses and arguing self-defense based on the affidavits of the State. He then took up the legal aspect of the application. Mr. Nelson's case was a brief, concise and lucid exposition of the case for the defense, without especial effort at oratorical effect.

FOR THE PROSECUTION.

Judge Crawford drew the court's attention to the alleged threat: "I have made him show the white feather several times already and if he crosses my path I will make him do it again." He argued forcibly that this in connection with the previous conduct of Mr. Gonzales constituted no threat whatever. Mr. Gonzales had never attacked Tillman, had never drawn a weapon upon him, had never made any demonstration of violence towards him—had never made him show the white feather," and so had given Mr. Tillman no cause to fear bodily harm from him. Having never "made him show the white feather" the language even if true meant nothing. As Tillman's life and limb had been safe under the so-called "white feather" performance of the past, why did Tillman kill Gonzales for simply doing that which caused him the humiliation of "showing the white feather"? There had been no personal encounter and the "white feather" must have been only in a political sense, the result of the editorial attacks which ended last September. Mr. Crawford then argued that having assisted materially in defeating Mr. Tillman for governor, Gonzales had no motive to threaten Tillman as to try to take his life. Tillman was the vanquished; Gonzales the victor. He could understand why Tillman should desire revenge and so could understand his declaring, according to the affidavit of O. D. Black: "By God, I am going to kill him" and the intimation contained in his language to Hon. W. B. Gause. Tillman made threats; Gonzales made none. Tillman wanted blood; Gonzales did not. Tillman armed himself for the purpose, and Gonzales did not.

THE SOLICITOR.

Solicitor Thurmond followed in an argument covering the law and facts. No threat had been made by Mr. Gonzales. What he had said, admitting the truth of the alleged threats for the sake of argument, was no stronger than criticisms. If such language could be construed as threats then every candidate, for example, that appeared on the hustings would have a right to assume that his life was in peril. "Any one who had experience in the court house" knows how easy it is to prevail upon many people to make affidavits as to character.

Mr. Thurmond comprehensively argued the law of the case, citing with emphasis the rule laid down in a Texas case as to the meaning of the phrase "proof is evident" in the constitutional provision as to bail in capital cases. He maintained that bail should not be granted merely because the case might contain conflicting affidavits, but that if the court were convinced that the evidence of guilt substantially preponderated so as to make a reasonably convincing case the bail should be refused. As for the newspaper attacks, public men must expect their records to be attacked and exploited by the press. These attacks had been made long before and Mr. Tillman had submitted to them.

MR. BELLINGER SPEAKS.

Mr. Bellinger made the closing argument for the State. It was an easy matter to obtain affidavits to sustain a man's character. If perchance that man had a local reputation as a "bad man," in the western sense, as a dangerous man, it was not difficult to find those who, desirous of not offending him, would sign testimonials in his favor; but to tell the plain truth about him required moral and physical courage. Hence the inference was fair that in a case like this the affidavits attacking a man's reputation for veracity came from substantial

men representative of the best classes in the community. Referring to the expression, "made to say," applied to the affidavit of Mrs. Melton. Mr. Bellinger observed that the affidavit of Holsonbacke was signed "Richard Holsonbacke, his mark." Nevertheless, it was couched with an elegance of diction and accuracy of rhetoric surprising to say the least in a man unable to write his name. In striking contrast was the affidavit of Mrs. Melton, clearly stating the facts she knew in her own handwriting, submitted to the State's attorneys at their request. Mr. Bellinger summed up the testimony of the State's affidavits, forcibly presenting it. "If the dying declaration of N. G. Gonzales, the statement of Senator Talbird and the affidavit of Mrs. Melton be true, then it was a deliberate, schemed and premeditated assassination. Referring to the affidavits of Mrs. Melton, Talbird, Lancaster, the Zimmermann and Smith lads and others, he exclaimed: "If the case of the State be not true, then I say there is established among State senators, members of the house, the children, the women and the men of Columbia a damnable conspiracy to commit a judicial murder." He pointed out the vagueness of the defense's eyewitnesses. One of them was on "the corner" of the street. The street at that intersection has four corners. Another was "in Main street" when he saw the shooting—and Main street is two miles long. How strangely uncertain as to time and place!

COL. CROFT CLOSURE.

Col. Croft made first a strong argument on the law of bill. The rule is not, he said, as the State would have it, that bail should be refused in cases where a verdict of guilty is probable that will not be set aside—this without conceding at all that this case is of that character. Where a doubt may be entertained by the court its duty is mandatory. The court is not to determine guilt or innocence in this proceeding. The credibility of witnesses is not to be passed upon. The presumption of innocence the law gives to the defendant and the true rule is that if testimony is submitted that presents a defense and allows of the admission of a doubt of guilt the court must grant bail.

Mr. Croft then referred to the newspaper and personal attacks on Mr. Tillman's public and private character, beginning, he said, as far back as 1899. They had no parallel for unrelenting vindictiveness in South Carolina. Mr. Tillman's good name had been torn to tatters and besmeared. Even in his family life, in the sacred marriage tie he had been attacked and only his life had been left. While words did not justify the taking of human life the defendant had the right to infer from the unceasing persecution of Mr. Gonzales the bent of his mind towards him, and to believe that Mr. Gonzales intended to take his life as he had taken his good name. Mr. Gonzales' honesty of conviction he did not impugn, but his hatred of Tillman became an absorbing passion. He was relentless towards enemies and it was not in his nature to brook opposition.

Col. Croft strongly argued the testimony of Senator Talbird that he occupied the outside position on the sidewalk with Tillman between him and Brown, accentuating the point that such being the positions, Mr. Gonzales' turn towards the inside was a direct approach towards Tillman.

THE DECISION.

As Col. Croft was concluding Chief Justice Pope requested him to explain the course of the ball as shown by the autopsy, and the testimony of Dr. Knowlton was read.

Then while the spectators listened with breathless attention the chief justice announced his decision. "There are always two sides to a homicide," he said, "and even with the many that have taken place in this State in late years, there is in most of them some provocation—that is, there is a defendant's side to it. It seems from the testimony that the defendant has been the object of newspaper attacks for 11 years perhaps without a parallel in this State. The liberty of the press does not permit the license of the press. Dr. Franklin said the liberty of the press would often be followed by the liberty of the cudgel. In this case no cudgel, though, was used, but a deadly weapon. One could hardly believe that a man could bear the long continued ordeal of the abuse that the defendant underwent without having malice in his heart. The rule was long ago adopted in this court not to give the reasoning leading to our conclusions in bail applications. The law is that the taking of human life with malice premeditated constitutes murder. Painful as it is, under my oath of office, so recently fresh on my lips, I must do my duty and decline the application."

Save the relaxation of the tension which the spectators had labored under, the decision produced no manifestation whatever.

The following is the order denying the application: State of South Carolina, County of Richland.

The State vs. Jas. H. Tillman. This was an application for bail, and after hearing the affidavits both of the State and the petitioner and after argument pro and con it is ordered that bail is hereby refused, however without prejudice to the petitioner to apply to some other judge if he should be so advised.

Y. J. Pope, Chief Justice.

At Chambers, 19th February, 1903.

A GREAT BOARD.

This unique local news item is taken from the McCormick Messenger:

"The town council of McCormick a few days ago elected a queer board of health. The board consisted of four property owners, viz: John F. Edmonds, F. M. Hendrix, J. N. Whitten and G. P. McCain. One member of the board has lost the sense of smell, two members are nearly blind, and one member is one-eyed."

The Messenger thinks the outlook for the sanitary condition of the town this summer is not very promising.

A fresh lot of Dennisons crepe paper just received—10c. per roll. Osteen's Book Store

HELD FIFTY POLICEMEN AT BAY.

A Negro Desperado in New Orleans Besieged in a Room and Holds the Fort Against all Comers

Until he is Smoked Out by Cotton, Oil and Sulphur.

New Orleans, La., February 20.—After holding half a hundred policemen at bay for several hours, during which scores of shots were exchanged, Lafayette Sims, a desperate negro, was killed by the police early today a negro boarding house situated on South Rampart street. The room in which he was besieged had to be set on fire and the fire department called out before Sims could be driven from his post. As he attempted to escape, still carrying his gun, he was shot down. The body was taken to the morgue without any demonstration from a mob of several thousand negroes, who crowded the vicinity of the tragedy.

The origin of the trouble was trivial. Sims occupied a room in the boarding house, in which there were seven beds. On retiring last night he locked the door and when the landlord early this morning asked him to open it so that another lodger might be admitted Sims refused. Then the landlord sent for the police. Efforts to persuade Sims to open the door failed and a hole was smashed in it. Through the aperture Sims began shooting. One bullet knocked a pistol from the fingers of Officer Windstern and a second shattered the lantern which the officer carried. Thereupon additional policemen were sent for and the house surrounded.

When reinforcements had arrived the negro landlord and an officer again went to the room and pleaded with Sims to come out and surrender.

"No, I won't," he answered with an oath. "I'll shoot if you don't go away; I am not going to leave here. They'll burn me in oil. They'll fry me."

Sims piled some furniture in the room against the door and was prepared to fight for his life. As the landlord and the officer retreated the desperado fired at them without doing any damage. All efforts to induce the prisoner to surrender having proved ineffective, Superintendent Journee decided that there was nothing to be done but to smoke the negro out. An alarm was turned in and a portion of the fire department brought to the scene.

A quantity of cotton, oil and sulphur was sent for, the cotton rolled into balls and saturated with oil, a match applied and the blazing substance hurled into the room, every avenue of escape being guarded. The furniture in the room caught quickly, filling the place with smoke and flame. Sims hung on his hiding place until he was nearly suffocated and then made a break to escape. As he appeared at the door Patrolman Fred Smith fired

A Weak Stomach

Causes a weak body and invites disease. Kodol Dyspepsia Cure cures and strengthens the stomach, and wards off and overcomes disease. J. B. Taylor, a prominent merchant of Christman, Tex., says: "I could not eat because of a weak stomach. I lost all strength and run down in weight. All that money could do was done, but all hope of recovery vanished. Hearing of some wonderful cures effected by use of Kodol, I concluded to try it. The first bottle benefited me, and after taking four bottles I am fully restored to my usual strength, weight and health." J. S. Hughson & Co.

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at him. The negro staggered, mortally wounded. Instantly other policemen fired on him and he fell dead. The firemen extinguished the flames and the body was dragged out and taken through a lane of excited negroes to the police station.

Examination of the room following the tragedy showed that Sims had gotten possession of Officer Windstern's revolver after shooting it from his hands.

NEW SEABOARD DEAL.

The Movement to Connect With the Tennessee Coal Fields.

The following special was sent out from Washington, D. C., recently: "The Seboard is reported to be backing another move in southern railroad maneuvers by securing a connection with the Tennessee and North Carolina mountains from Newport, Tenn. The latter has issued and sold \$750,000 in bonds, which, it is given out, is to be used in constructing an eastern extension to the Seboard. The Seboard has long desired entrance into Tennessee coal fields, and if this move is made, a valuable acquisition will have been secured. It is hinted in Washington railroad circles that the Seboard has purchased the line, named."

NINE BURNED TO DEATH.

Victims of a Fire Trap Hotel at Cedar Rapids, Iowa.

Cedar Rapids, Iowa, February 20.—Fire this morning destroyed the Clifton Hotel, cremated nine of the guests and caused injuries to forty two persons, who were scorched or forced to jump to the frozen street from second and third-story windows. After an all-day search in the debris, four bodies have been recovered. It is now believed that five more bodies remain in the ruins of the hotel, which is said to have been a flimsy structure and filled with delegates to the State Young Men's Christian Association Convention, and the District Convention of the Knights of Pythias. The hotel register was destroyed, thus making it difficult to ascertain the number of missing persons. Forty men have been working in the rubbish all day, and will continue to dig for the remains of the burned persons all night. The loss is \$80,000. Nearly all those injured were Iowa people. While their injuries are severe in many cases no one was fatally hurt.

Hopeful.

There was a very small audience present, and it was rapidly dwindling away. On the stage the hero and heroine are holding a rendezvous. Hero to Heroine—Are we alone? Heroine (thinking of the audience)—Not yet. There are two fellows near the door who look as if they might be able to sit through another act.

Tutt's Pills

FOR TORPID LIVER. A torpid liver deranges the whole system, and produces **SICK HEADACHE, Dyspepsia, Costiveness, Rheumatism, Sallow Skin and Piles.** There is no better remedy for these common diseases than DR. TUTT'S LIVER PILLS, as a trial will prove. **Take No Substitute.**

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Aug 8

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