

THE GAILLARD CASE.

Judge Hydrick's Reasons For Overruling the Motion For a New Trial.

Judge Hydrick made the following statement of his reasons for overruling the motion for a new trial in the case of George Spivens and Jack McCoomer, who were convicted of the murder of J. E. Gaillard, which will be of interest:

Gentlemen: My view of the matter is this. Wherever a verdict has some support in testimony, unless it is contrary to the overwhelming weight of the evidence, it is not incumbent upon the Circuit Judge to set it aside, even though he may not coincide with the views of the jury in regard to the matter. I do not express my opinion as to the testimony. I do not think it would be proper for me to do so, because the case may possibly go to the Supreme Court; appeal may be taken, and my judgment may be reversed, and I have always carefully abstained from making any comment upon the testimony in a case, unless afterwards prejudice may result to the parties on trial. In so far as I have been able to do it, I have endeavored to see to it that these defendants had a fair and impartial trial, and if their verdict were wholly unsustained by the testimony, I would not hesitate to set it aside. But, I take it that there is testimony in the case which can be looked to to sustain the verdict as found by the jury. In one sense, it is illogical, in that the jury have recommended the prisoners to mercy. According to the testimony in the case, if those men killed Gaillard, I see no element of mercy in it. It was admitted on all sides, and argued by counsel for both defendants, that whoever did the killing, it was a brutal, uncalled for murder; and yet the jury in their discretion have seen fit to recommend the prisoners to the mercy of the court, which prevents them from the death penalty, and requires that they be sent to the penitentiary at hard labor for the term of their natural lives. That there is some mystery about the case, I think has not been denied, and I think that it is not improper for me to state in that connection that I believe that the mystery is due largely to the fact that there were some threats of lynching, the prisoners in this case, and that an effort was made to—I won't say lynching as I do not know as any effort was made to lynch, but at any rate that talk created some sentiment against the prisoners. To what extent that sentiment influenced the decision of the case, I am not prepared to say. I did all in my power to keep the jury from commingling with the public, or in any way imbuing any sentiment against the prisoners, or either of them, and I will say here that I believe that the mystery, whatever mystery there may be in the trial of this case, is due largely to the unfortunate circumstances that there have been made threats of lynching in the case. It does seem to me that some of the witnesses have not told all they know, and why? Why? An ignorant person cannot be expected to take the same view of it that an intelligent man would. You take the man Levan, who was in the buggy with the man, who is, from one view of the testimony, supposed to have been the man who did the killing, and I cannot but think that Levan could have given a better recognition of that individual, whoever he might have been, and so his testimony is suppressed because of fear on his part that if he did not identify the man as the one who was in the buggy with him, that he would be probably summarily dealt with by the mob. It is true that others who perhaps know something about the affair and know something about who actually did the killing are afraid to come forward and testify because of fear that if they give testimony exculpating the parties on trial, that they will be summarily dealt with by the mob. These are serious and grave questions, and those questions always arise in cases where the demon of lynch law prevails in any community, and any community who tolerates that—for any moment allows that spirit to pervade its populace, may expect that there may be instances of injustice resulting from it. No man can be expected to act as colly and deliberately when there is no fear of personal violence to himself as he would if he was afraid if he came forward and gave his testimony in the case, he might be dealt with. It has come to me officially sitting here in open court that some of the persons who were witnesses say on this occasion were actually afraid to come here and give testimony. And that shows the utter futility of individuals undertaking to take the law into their own hands and administer it instead of letting it take its own course, instead of through the natural channel provided by law for the administration of justice.

I am constrained to think from all the facts and circumstances surrounding the case that had influence with the jury in recommending the prisoners to mercy, because, otherwise, there is not a feature in the case commending them to mercy, if they are the men that shot this man

Gaillard; but, as I say, there is testimony in the case—I do not care to point it out, because it might possibly result in prejudice hereafter to either one of the defendants, or both—but there is testimony to sustain the verdict. I plainly and clearly charged the jury that neither was charged in that indictment as an accessory before or after the fact, and before they could convict either, they must be satisfied he was present, aiding, abetting or encouraging the commission of the crime by the other, or that he committed it himself.

There is one other matter that has been brought out in this case, and I want to correct the impression which a great many people entertain in regard to the concealment of crime. I have heard counsel ask here in argument—and I do not bring in any evidence—would you think it necessary or proper for you to communicate to the officers of the law that a crime of this character had been committed? A moment's reflection will show anyone that any good citizen ought to feel it to be his duty and when he knows a felony has been committed, to report it to the officials, and have the felon arrested. That sentiment prevails entirely too largely throughout this country, that one who knows that a felony has been committed can keep his secret to himself and say nothing about it. It is not only his duty as a good citizen, but if he fails to do that duty, he lays himself liable to the law, because there is a crime known as suppression of felony, for which he could be indicted and convicted—if knowing that a felony has been committed, he fails to communicate the fact to the proper authorities, or if he takes steps to conceal it. In a great many respects—not only that—we are drifting from the mooring of our forefathers in regard to the matter of upholding the law, and seeing that all violators of the law are brought to justice. That is the duty of every good citizen. It was the duty of the show and every man in the show, as soon as they ascertained that some man had been shot, and probably fatally—to see that the guilty party was brought to justice, and I am bound to think that there are those with that show who could have come here and thrown light upon this matter. Why they have not done so, I know not. It may be possible, as I have said before, that they are afraid to do it, fearing that if they come and tell the truth their lives will be in jeopardy. That is a bad comment on our civilization in this country at this time. It ought not to be so. The law under all circumstances and at all times ought to be allowed to take its course, and he who advises otherwise is a bad citizen—I don't care who he may be. Let him be my best friend; he is not a patriot, and not a lover of his country.

I have this consolation, that neither of these parties must suffer the death penalty, and while the jury may have erred in finding them guilty, or either of them, if hereafter it is brought satisfactorily to the attention of the Judge and Solicitor and the Governor that the wrong parties have been committed, I am sure that they will be instantly released. I am sure that the State of South Carolina wants no innocent man to suffer, and after my associations with the Solicitor of this Circuit, I have never known a fairer and more impartial and more judicial Solicitor. I will say—a man who wants to see justice done—not to win verdicts—not secure convictions, and I am satisfied that he would recommend the release of either or both of the men, if it is made to appear clearly to his mind that they are not the guilty parties, whether the guilty parties are ever caught or not.

As the case is somewhat shrouded in mystery, I can't remove the mystery by granting another trial. I do not think another trial would remove it, and inasmuch as the verdict is sustained by the testimony, I think it is my duty to refuse the motion for a new trial.

I want to say here, Mr. Jennings, that you are entitled to the thanks of the court, and to the thanks of the public and of the State of South Carolina for the manner in which you have discharged the onerous duty imposed upon you by the court. These duties are imposed, and counsel get no pay. A great many times people are under the impression that a man appointed by the court is paid by the public. He is not. It is not infrequent that he not only spends his time and his energy in the discharge of that duty, but spends his own money, and there is no way under the law to repay him, and one who had discharged that duty as faithfully and energetically as you have done is entitled to the public thanks.

Let the prisoners be put in the dock.

Atlanta, Ga., Nov. 1.—Alex Walker, the negro charged with being among the negro rioters who fired upon and killed county officer Heard, the only white man killed during the recent race riot, was convicted of murder and recommended to the mercy of the Court, was sentenced to life term in the penitentiary.

HAMPTON MONUMENT.

Suggestion Made That Sumter Send a Large Representation to Attend the Unveiling Exercises.

From The Daily Item, Oct. 31.

A Confederate veteran made a suggestion today that should meet with immediate and hearty acceptance. He suggests that Sumter, city and county send a large delegation to Columbia to attend the unveiling of the Hampton monument on November 20th and that the Second Regiment Band be carried as a part of the Sumter contingent. He says that he knows that a great many old soldiers and other admirers of Gen. Hampton are planning to attend the unveiling, but that he would like to see the people from Sumter county go as a solid delegation with the band at the head. He has already spoken to several members of the band on the subject and they not only approve of the plan but are of the opinion that the band will be glad to go without compensation if a sufficient number of Sumter people will go to make the crowd representative of Sumter county.

There will be an immense gathering of South Carolina in Columbia on the 20th and it goes without saying that Sumter should have a place in the picture. There are thousands of sincere admirers of Hampton in Sumter county and a majority of them will be glad to have an opportunity to pay a tribute to his memory if it is possible for them to do so. Consequently if Camp Dick Anderson or some of the camp officers will take the initiative in the matter, there should be no difficulty in arranging to have a large and representative Sumter delegation to attend the unveiling.

THE CARNEGIE FUND.

Dr. James H. Carlisle's Work Substantially Recognized—Granted Pension of \$1,150.

Spartanburg, Oct. 26.—Dr. James H. Carlisle, president emeritus of Wofford college, an South Carolina's greatest educator, has been granted a pension of \$1,150 a year by the Carnegie Foundation. The official notice of the decision of the Carnegie board was received in Spartanburg 10 days ago, but not becoming generally known until today.

The granting of this pension is a distinct compliment to Dr. Carlisle the State of South Carolina and Wofford college.

The Carnegie Foundation was created by the celebrated millionaire for the purpose of pensioning educators who had done great service for their cause. It is a rule of the board and the founder that the pensions are for the professors and teachers in the State and private institutions, the professors of denominational colleges, being excluded. On account of the eminent services rendered to his State and the cause of education an exception was made in the case of the 'grand old man' of South Carolina, and he became the first and only professor of a denominational college to receive the pension.

The securing of the pension was to a large extent due to the efforts of Dr. H. N. Snyder, present president of Wofford college. While engaged in his work as educator, Dr. Snyder came in contact with Dr. Pritchard, the chairman of the Carnegie Foundation. Dr. Snyder called the attention of the chairman to the work that had been done by Dr. Carlisle. Dr. Pritchard was very much interested, and, after making investigation, took the matter up with the board. The result was the board willingly recognized the great services for the cause of education, overstepped the rule and voted in favor of placing Dr. Carlisle on the list of beneficiaries of the fund.

Law-respecting bird hunters are complaining that the pot hunters are already slaughtering the birds and have been at it for several weeks, notwithstanding the fact that the open season does not begin until November 15th. There is no doubt about the game law being flagrantly violated by many hunters, and until the law-abiding sportsmen take united action to prosecute the pot hunters, the violation of the law will continue. When it shall be made dangerous to kill birds during the closed season, the law will be respected, and not before. A term on the chain gang is what is needed to teach the pot hunters to respect the law.

U. S. TROOPS FOR CHARLESTON.

Mobile, Ala., Oct. 30.—The war department has decided to temporarily abandon Fort Morgan, and to this end arrangements are being made preparatory to the removal of the 8th and 9th companies stationed there, to Fort Moultrie, S. C., near Charleston. A recent inspection of the damage to the reservation by the West Indian hurricane and the waters of the Gulf divulged a greater amount of damage than was at first believed. So far as known at this time, the 8th company will not return to Fort Morgan, going from Fort Moultrie in April to Fort Probie, Me.

CITY COUNCIL MEETING.

City Council held a called meeting at 6 o'clock p. m. Tuesday, Oct. 30th, to hear the report of the special committee on street railway and electric light franchise to W. H. Ingram, his associates, successors and assigns.

Present, Mayor W. B. Boyle, Aldermen H. D. Barnett, W. A. Bowman, J. H. Chandler, R. F. Haynsworth, H. C. Haynsworth, E. H. Rhame and R. K. Wilder.

Absent, P. P. Finn, who had had no notice of meeting.

Alderman H. C. Haynsworth, chairman of the committee, presented an amended form of the ordinance submitted by Mr. Ingram and read at council meeting of August 29th embracing the additional provisions and requirements suggested by council and by the special committee. The ordinance so amended was read, adopted and ordered published. Mr. Ingram was present and consented to all alterations, additions and corrections which had been made in the amended ordinance.

Mr. H. T. Edens requested permission to suspend an "embarrassed sale" sign, painted on cloth, across Main street, at his store. After due consideration the request was refused, and a resolution was adopted that no such display of signs shall hereafter be allowed across the streets advertising bankrupt sales, fire sales or embarrassed sales.

Council then adjourned.

A COOKLESS LAND.

The Complaint of a Weary and Harassed Housekeeper.

Mr. Editor: The servant question in the air. "What can we do to get a good cook?" is the cry of the over-worked home makers. To do the work of manager seamstress and cook is more than one pair of hands, no matter how willing, can accomplish.

Cooking is hard work and ought to be of the very best quality. No man or woman is fit to face his or her work after a meal of poor coffee and greasy tough food served by a weary, flushed woman who is cross and upset because the cook did not come, and the kitchen left by her in a fearful state of disorder. It is a burning question. Must all married women be slaves to their families? Must the lovely blushing bride of yesterday be the weary, over-worked, untidy cook of today? In the country it is almost worse than in town, they, the cooks, have melted off the face of the earth, and no fresh supply seems likely to fall; and it is better to face the condition and to try and find a remedy than to go on hiring dirty, ignorant help one day to have them fail the next. I would suggest that women form clubs to discuss the question seriously, band together to get cooks, or learn to cook. Surely if we made it worth while some white girls would be willing to cook instead of toiling in an office all day. There must be some of them with natural taste for home making. Can we not educate them and offer them a salary which it would be worth while to work for? If a man can pay his stenographer \$30 a month his wife ought to be able to offer that or its value to the most important wage earner in a family. Send some of the girls to the cooking school, make it a study worth taking up.

What does Ruskin say of cooking? "Cooking means the knowledge of Media and Circe, and Calipso and Helen, and of Rebeca and of the Queen of Sheba. It means the knowledge of all herbs and fruits and balsms, and spices, and of all that is healing in fields and sweet in groves, and savory in meats—it means carefulness and watchfulness and willingness and readiness of appliance; it means the economy of your great-grand mothers and the science of modern chemists; it means much tasting and no wasting; it means English thoroughness and French art, and Arabian hospitality. It means in fine that you are to be perfectly always ladies. And as you are to see imperatively that every one has something pretty to put on, so you are to see yet more imperatively that every one has something nice to eat."

I suggest most earnestly that women come together on this question and make it worth while for some of the girls who must make their living to take up cooking, and give them regular homes, pay them good wages, let the surroundings be pleasant, and let the ones who cannot afford higher priced cooks from clubs to have their cooking done at public kitchens, well done.

It is worth while, and if anything can be done let us do it. We do wonders with our societies for church work why can we not do wonders with our home problems?

CASTORIA For Infants and Children.

The Kind You Have Always Bought

Bears the Signature of *Dr. J. C. Peck*

VOTE ON HEYWARD COUNTY.

Columbia, Oct. 30.—Governor Heyward decided today to order an election for the proposed new county of Heyward, to be composed of parts of Aiken and Edgefield counties.

There has always been considerable opposition on the part of certain citizens of Aiken to the dismemberment of the county of Aiker, and in December 1903, the proposed county of Hammond, to be composed of portions of Edgefield, Aiken and Barnwell counties, was defeated at a special election.

In May, 1905, certain parties filed a petition with the Governor for a new county, to be composed of parts of Edgefield and Aiken counties, said petition being accompanied by a plat showing the lines of the new county.

Atlantic City, Nov. 1.—At the inquest into the deaths from railroad accident on Sunday held today, Senator Lee, foreman of the jury stated that the publication in a Philadelphia paper to the effect that the railroads

NOTICE.

Sumter, S. C., Oct. 16, 1906.

We, the undersigned as committee of H. W. Cooper, will apply to the Judge of Probate of Sumter County on November 17th, 1906, for a Final discharge as said committee.

FRANK P. COOPER and A. T. COOPER. Committee.

10-17-06

would not be blamed, was false in every respect. The witness examined today were mostly railroad employees.

DR. E. P. DURANT, DENTIST,

Upstairs, Belser Building; Court Square.

HOURS—8.30 to 1; 2 to 6.

Oct 31—1m

Tax Notice.

The County Treasurer's office in Court House building will be open for the collection of taxes, without penalty, from the 15th day of October to the 31st day of December, inclusive, 1906.

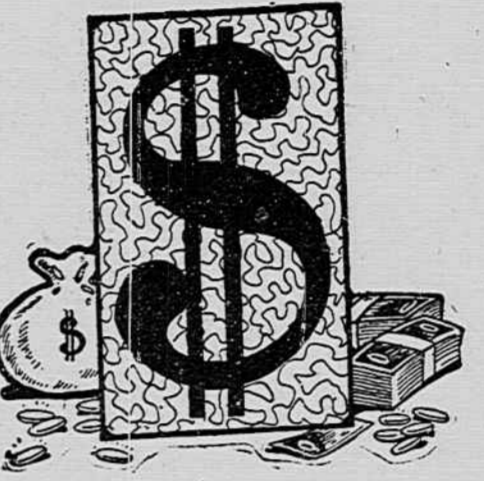
The levy is as follows: For State, 5 mills; for county, 3 1-2 mills; Constitutional School, 3 mills; Polls, \$1.00. Also, School District No. 1, Special, 2 mills; No. 2, 2 mills; No. 3, 2 mills; No. 4, 2 mills; No. 16, 2 mills; No. 17, 1 mill; No. 18, 2 mills; Shiloh School District, 3 mills.

50 cents capitation dog tax.

A penalty of 1 per cent. added for month January, 1907. Additional penalty of 1 per cent. for month February, 1907. Additional penalty of 5 per cent. for 15 days in March, 1907.

T. W. LEE, County Treasurer.

Oct. 5, 1906.



A GOOD SIGN FOR ANY BANNER

is the \$ sign. It stands for thrift, building up of reputation, independence of "strikes" and the best friend in time of need. That's why a BANK

account should be owned by every mortal in this broad land.

Banks pay salaries to employees to keep track of a working capital. So jump in and put your \$\$\$ in the winning pile. Because this Bank stands for mutual benefit. See the chance? For further particulars ask the

THE BANK OF SUMTER.

Attention, Farmers

We make a specialty of insuring COTTON GINS, (system and old style,) COTTON at gins and COTTON ON PLANTATIONS. See us for rates, before insuring.

The Sumter Insurance Agency, Agents, No. 10 N. Main Street, Sumter, S. C. 9-5-12-26

"In Time of Peace Prepare for War."

That Heating Problem is sure to come up for discussion the next cold snap.

Why Not

Come in and talk the matter over with us now? We have we think the most complete line of heaters ever shown in this city. Buy now and avoid the rush.

PREMIER & PRINCESS STEEL RANGES

The Durant Hardware Co.

When Buying a Fence

The weight per rod and size of wire must be taken into consideration; also the CONSTRUCTION of the FENCE.

Heavy wires and the best galvanizing are always used on the AMERICAN, and the quantity already in service on farms is good evidence of its merit.

The HINGE JOINT on the American allows for CONTRACTION and EXPANSION, to withstand sudden and severe pressure from contact with animals, without bendings stays, the fence springing back to place the instant pressure is removed.

The most secure, lasting fence is the AMERICAN. Sold by

CAROLINA HARDWARE CO.