JUDGE TOWNSEND GRANTS CHANGE OF VENUE IN TILLMAN CASE.

County in Which Case Will Be Tried Will Be Named This Morning—Remarkable Speech Made by Mr. Buchanan for the Defense—Warm Debate Over the Selection of the Place of Trial.

After three days' argument and time consumed in the introduction of more than seven hundred affidavits, Judge Townsend yesterday granted a change of venue in the case of James H. Tillman on the charge of murder for the killing of N. G. Gonzales on Main street in this city on Jan. 15 last. The county to which the case will be transferred will be decided this morning. The proceedings yesterday attracted another large crowd to the court room.

Brilliant speeches were made by Messrs. Bellinger, Crawford and Thurmond for the prosecution. They put in a forcible claim that the change of venue be not granted. The speech of Mr. Buchanan for the defense was one of the entertaining features of the case. He arraigned newspaper men in general and assailed the whole community of Columbia as dominated by The State and the money interests, asserting that the people had been intimidated into signing affidavits for the prosecution.

In the case of James H Tillman for the murder of N. G. Gonzales on Main street of this city on January 15 last Judge Townsend in the criminal court yesterday granted a change of venue. As to the place where the trial will be held the court reserved the announcement until this morning. Exhaustive argument was put in by counsel on both sides. The prisoner was absent from the court room part of the morning hours and none of the members of his family were present.

The third day of the argument was marked by much heated argument on the part of counsel and it was not concluded until the afternoon was well advanced. The features of the proceedings were the eloquent appeals for the State and the remarkable speech of Mr. Buchanan, the equal of which was perhaps never heard in a court room. Newspaper men, the community at large and others were arraigned in this effort after a fashion that is almost unparalleled in the history of criminal jurisprudence.

The day's proceedings began at 9 o'clock with all the counsel except Mr Johnstone in their places. The court room was thronged with spectators almost from the hour of opening until the court announced his decision. Mr. Crawford was the first speaker. His was a masterly effort and during the two hours that he spoke he held his hearers spell bound.

Mr. Crawford's Argument.

He began his argument with the statement that he was aware that the court would not grant the motion for a change of venue unless the showing made was very strong and only upon the preponderance of the evidence being affirmatively shown by the mover. In all criminal causes the necessity for change of venue is addressed to the sound discretion of the court who disposes thereof on principles of substantial justice. The decision of the judge was not appealable unless a jurisdictional issue was raised. Three authorities on this subject were then read. The question for discussion was a simple one; 'Shall the county of Richland on the showing here made be deprived of the right to pass upon the innocence or the guilt of a person charged with crime within her borders?" With this explanatory introduction Mr. Crawford launched out into his argument.

The only ground upon which the defendant asked for a change of venue was that he could not get a fair and impartial trial in this county. "That is the entire case of the defense," said Mr. Crawford, "and all through the affidavits that they have presented there is nothing else to be found. In fact, the language of the affidavits is so unvarying that one could almost believe that they were prepared first and then afterwards affiants were hunted up in all direction all over the county and then they were submitted ready made.

"Such affidavits declaring nothing but the belief or opinion of the affiants have no weight whatever in the determination of an issue for a change of venue. The motion must be decided upon facts and not opinions or knowledge or belief. The cases from the different jurisdictions of the country are almost unanimous in declaring that affidavits based upon opinions have no weight in an issue of this kind and the decisions saying that 'an application for a change of venue supported by affidavit that deponent believes that a fair and impartial trial cannot be had is insufficient.'"

To support this statement Mr. Crawford presented six authorities from the State statutes.

The speaker attacked the form of the affidavits of the defense viciously and said that if the same form should be used in Lexington or in Edgefield where could the defendant be tried?

Taking up the affidavits of Nelson, Croft and Rembert, Mr. Crawford said that they were not to be countenanced.

"Will you give us some authority for that statement?" asked Mr. Nelson.

"Yes," replied Mr. Crawford, "the 8th New Mexico."

"Oh! you have to go to Mexico for it?"

"Yes, I go there to try and keep you from going out of this county."

"It will be seen on examination, that nearly every affidavit submitted is of like tenor—all being alike in substance—stating that the affiants had heard the case much talked about in the county and that there was a strong prejudice against the accused and that in the opinion of affiants a fair and impartial trial could not be had in the county. Are these affidavits taken alone, without reference to the counter affidavits filed by the State, sufficient to show that the circuit court abused the discretion lodged with it in refusing the motion? They show what? First, that the case was much talked about. This is the only basis of opinion that prejudice existed. Second, that there was prejudice which could only be matters of opinion. Third, that in the opinion of affiants a fair trial could not be had. Now all this amounts to but one expression of opinions that a fair trial could not be had. There may be public discussion of a case. There always is of murder cases. There may be prejudice—generally is, but is it so prevalent and widespread that in spite of the safeguards which the law throws around trials, it may (there is serious danger it may) prevent a trial?

"No facts are given affording a basis of judgment as to whether such trial can be had. Opinions differ so widely. They spring with different men from so many different theories. Conjecture, bias, partisanship, or solid ground. There must be facts and circumstances so that legal deductions can be made * * * * Bishop's New Crim. Procedure correctly states the rule. The venue will not be changed for the mere belief of the party or his witnesses that he cannot have a fair trial in the county. Facts and circumstances must appear satisfying the court * * * * It is clear that the prisoner's showing did not entitle him to a change of venue.

"But affidavits were filed by the State denying the existence of a prejudice against the accused to an extent at all militating against a fair trial, stating that the excitement incident to the murder had abated, as also the feeling against him, and that he could, in the opinion of affiants, have a fair and impartial trial, and that those who made the affidavits for the prisoner were residents of the immediate vicinity of the place of the homicide, and even there sentiment was divided, as the prisoner had partisans there, but that other sections of the large county, composed of eight districts, were unaffected by prejudice. These affidavits conveyed the opinion of an ex-sheriff and two deputies and the prosecuting attorney who were extensively acquainted with all parts of the county.

"Another point made in behalf of the accused is that the jury included improper jurors. These jurors did say that they had made up opinions adverse to the prisoner, but their opinions were not from having heard evidence—not even from conversation with witnesses in the case—but from the talk or rumor of the county, or from reading a paper published in the county, and each and all stated definitely that they had no bias or prejudice against the prisoner, that they could and would have their minds blank and free from such opinions and could and would give the prisoner a fair and impartial trial, uninfluenced by such opinions, according to the evidence.

"Now take all of the affidavits and you will observe that those offered by the prisoner nearly all relate to opinions affecting the issue at the time of the homicide.

"In refutation, all of our witnesses say that whatever feeling was then existing has subsided, and that a fair and impartial trial can now be had without a doubt—a statement of fact not denied by the prisoner or his witnesses, and tacitly admitted in the letter accompanying Gen. Wilie Jones' affidavit.

No Recent Denunciations.

"Where it appears from the petitions and affidavits that immediately after the commission of the crime, there were rumors and talk of mob violence against the prisoner, but such rumors and talk were confined to the inhabitants of a small portion of the county, and there had been some excitement and prejudice and feeling against the prisoner immediately after the perpetration of the crime, but at the time of the trial there is no longer talk of such violence, and the excitement, prejudice and feeling have greatly subsided, and no trouble is found in obtaining a jury free from exception."

He quoted copiously from the State against Sheppard and from other sources to show that it would be no abuse of discretion for the judge to deny the motion if there were evidence to show that the excitement had subsided, as had been shown in this case, notwithstanding the affidavits that there had been excitement immediately after the crime was committed.

"But much stress is laid by the petition upon what the newspapers having circulation here in Columbia (mark you, not in the county which has one-third to one-half of the names on the venire representing the jury lists of Richland) have to say in regard to this homicide—the charge being made by O. W. Buchanan, Geo. W. Croft, W. T. Martin and others. We challenge Mr. Martin particularly, because he has made himself conspicuous in championing this motion for a change of venue, as well as the gentlemen whose names are mentioned in that connection, to cite the court to a single instance since the death of Mr. Gonzales (to quote from Martin's affidavit) where 'articles have appeared in said papers (newspapers of this city) written by eminent and influential men in this community calling said Tillman an assassin, and styling said Gonzales as a martyr, and implying that his life was sacrificed for the public good, and in this way constantly keeping the case before the public in such manner as to excite prejudice against Tillman, and to hold him under public censure.'

It Was Misleading.

"This is entirely erroneous, and misleading, as the editors of The State carefully eliminated even in the memorial notices of Mr. Gonzales' tragic ending all denunciatory words which emanated from the 120 weekly, semi-weekly and daily papers published in South Carolina and in papers published beyond her borders—words of denunciation, as the same relate to the other papers published all over South Carolina, infinitely more denunciatory than anything penned in the local papers even in the heat and hatred of this dreadful tragedy. Mr. Martin is egregiously in error, Mr. Croft has fallen upon an editorial here and there, and so with Judge Buchanan, but this terrible arraignment of the accused must be sought in other newspapers—published within this State, it is true, and within this judicial circuit, if one would desire to have depicted the scathing, relentless and ungovernable fury of an outraged people.

Press in Restraint.

"Our newspapers held themselves in restraint to a degree that was the marvel of Christian and honorable journalism. It more than surpassed the teachings of the lowly Nazarene. Not a word of censure fell from the lips or the pens of the surviving Gonzales brothers or of the paper they controlled. They have sat at their desolate firesides idly hugging the belief, if this motion be granted, that justice and honor, truth and law, can be successfully invoked in South Carolina and that the crushed and oppressed can find sanctuary in the glorious privilege of being within the law under the rulings of a native born Carolinian.

"And a showing that a homicide was committed at the county seat, and that prejudice was so strong against the defendant at that place that the sheriff was obliged to remove him to another county for safe keeping is not sufficient to support an application for change of venue on the ground of local prejudice, when contradicted by counter affidavits from various localities in the county, showing that the prejudice had not extended throughout the county, and that an impartial jury could be obtained therein.

"Now, your honor will understand that we in no manner admit the statements repeatedly made by affiants for the motion that newspapers having circulation here have warped public opinion at all, and surely nothing can be adduced in any way establishing the contention of the defense that such publications as have been made have in any way affected defendant's opportunities to obtain a fair and impartial trial.

"An application for change of venue of a murder trial, because of prejudice caused by newspaper articles and threats of a mob, was properly denied in Iowa, though 19 citizens swore that defendant could not obtain a fair trial, where many other citizens swore to the contrary, and the sheriff, who had removed the prisoner from the county after the murder, swore that, on his return, there had been no excitement, and as a matter of fact, no violence was offered on the trial.

"There was nothing about the letters of condolence that could in the least cause a change of venue. The affidavits of W. E. and A. E. Gonzales could not be taken as speaking for the community, they spoke for themselves as brothers. The position taken by W. E. Gonzales was that his brother was a martyr and James H. Tillman was an assassin.

"As to the ministers," said Mr. Crawford, "they are criticised for praying that God would spare a fellow sinner's life. Why, your honor Christ did the same thing. He went further and prayed for his slayers, 'Forgive them, they know not what they do,' the Savior said. Tillman would have undoubtedly been included in their prayers had these good men not supposed that he was beyond the protecting care of such a place."

Mr. Crawford gave a brilliant review of the affidavits for the prosecution. He said that they came from the north and the south and the east. On the west we have Lexington, but we did not go there because we wanted to show your honor what Richland county had to say against this change of venue.

"Now opposed to this magnificent showing what have we? Not one representative affidavit, unless we accept the affidavits of the gentlemen representing the defendant, and they should not be admitted in this motion, I submit to your honor. So far as I can see there is not a representative man in the list, not only so, but they have hardly more than 25 or 50 that I have ever heard of in this county. And why have they gone into Lexington and gotten some 40 or 50 names from across the river? This is not a Lexington investigation. It is in Richland and the citizens have been asked whether they intend to give James H. Tillman a fair and impartial trial, and they have answered yes."

Mr. Crawford concluded by saying that it was in proof that there were 1,300 voters in Richland and more than half the number were standing for a fair trial here. He spoke for more than two hours.

Mr. Nelson Speaks.

Mr. Nelson followed Mr. Crawford. He began by saying that he would endeavor to present nothing like a Fourth of July oration. He said that he had a duty to perform and that he did not propose to perform it in any perfunctory manner. The dead editor had been called a martyr. The defense had endeavored to wait until public feeling subsided before going to trial.

And just here Mr. Nelson made a significant assertion.

Truth Will Out.

"We got a continuance in this case," said the speaker, "so that this public feeling might subside and that he might have a fair trial here. But it has not subsided. Public institutions and monied men have made the feeling more intense."

Mr. Nelson then went over a number of authorities which he said made it imperative to grant a change. The motion for a change of venue was entirely in the discretion of the circuit judge

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JUDGE TOWNSEND GRANTS CHANGE.

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and the law was such that he might interpret as he deemed wisest and best. The speaker then quoted a Charleston case which he said bore out his contention. He said that stockholders of The State gave affidavits. All the banks had been made depositories for the monument fund and there was every reason why the officials should give affidavits. He cited the case of the State of South Carolina against a man named Jones which was tried in Edgefield county and the defendant convicted. Despite the fact that the man had been convicted a change of venue was afterwards granted in lieu of an appeal.

The speaker said that it was no reflection on the people of Richland county to grant the change. A Fairfield case, Judge Kershaw granting the change, was next read.

Crawford Case Cited.

In the case of W. R. Crawford a change was granted, the speaker said, on account of certain publications in The State. The speaker said that John P. Thomas, Jr., was one of the moving attorneys in the case and yet he was one of the affiants for the prosecution in this case. Crawford, it will be recalled, was a dispensary constable. He shot a woman and was taken to Kershaw and acquitted without any trouble.

Tillmanism and anti-Tillmanism were just as much alive today in this county as it ever was and nothing had been done to keep it alive and aglow so much "as this dead editor."

Attacks Validity of Jury.

Mr. Nelson then referred to the remark made by the county auditor, Mr. W. H. Gibbes, whose duty it is to participate in drawing the jury. This in itself should be considered important. Mr. Gibbes would himself admit his open animosity to the defendant and his friendship for the deceased. He expressed these views and as he was an honorable man there could be no denial.

Mr. Nelson said personally that he avoided any discussion of the case with friends and when he had seen that something disagreeable was about to happen he had changed the subject. Yet Mr. Gibbes had discussed this case and it was patent that he should not be permitted to perform any part of the duty of drawing a jury. Several authorities which he claimed to bear out this idea were presented. These were read to the court who listened with the greatest attention. There were other cases besides that of Williams in the great State of South Carolina in the matter of granting change of venue.

There had been no cases in South Carolina where newspapers had published criticisms. So they would have to go to other States and a New York case was quoted to bear out his argument.

"Only Criminals Fear," Etc.

"And we do not find," said the speaker, "that either W. E. Gonzales or A. E. Gonzales deny that the squib 'only criminals and their supporters fear fair trials' was published in The State after the motion for the change of venue was made. Neither does The Record."

The speaker said that he heard with some astonishment the other side state that the ministers had made no attack on the defendant or referred to the case. Some comments of the Rev. Dr. Kinard of Ebenezer church were read in which it was said to be made "reference to the case." An Indiana case which the speaker said was applicable was next read. It was stated that some of the cases presented by Mr. Crawford fitted the facts.

The contention of Mr. Crawford that the affidavits of the defense were worthless because it was necessary for the affiants to state that they had discussed the case with others and bring forward their names was, the speaker thought, absurd. No law could be presented to bear out this contention. A case was read where it was said that the newspapers had published certain matter which was calculated to prejudice the case.

"Oh, your honor," said the speaker, "if these gentlemen could only have anticipated this case they would not have published day after day in January last the matter they did abusing this defendant."

This, he said, in itself would furnish the court with all due reason for granting the change.

"And now in conclusion I have this to say, that it has given me no pleasure to criticize those that have been my friends," said Mr. Nelson. "I will say this, however. I was never a friend nor admirer of him but I have always been able to give the dead editor the benefit of believing that he was honest, but he tried to crowd his opinions down the throats of other people. Of the attitude of The State to me I have nothing to say. It is too small and mean for me to discuss."

Mr. Bellinger.

Mr. Bellinger followed Mr. Nelson. He declared that Mr. Crawford had so fully covered the ground that he would be very brief. The solicitor, who would follow him was fully informed on the law and the facts. Then Mr. Bellinger proceeded to tear to shreds the argument of Mr. Johnstone. It was illogical and irrational, he said. Mr. Johnstone had said that if the court was walking down the street and saw 431 men on one side of the street and 371 on the other, it would be difficult to decide what public opinion was from the views of either side.

Mr. Bellinger said that the argument of Mr. Johnstone in regard to the affiants, he thought, was highly improper.

"Your honor," said Mr. Bellinger, "I am like yourself a comparative stranger in this county, but I do not think that this was a proper argument to use in any county in this State. The law says that the jury must be made up of fair and lawful men. The very character of the affiants that Mr. Johnstone deplored was of itself an argument in our favor."

Keeping the Record Straight.

Mr. Bellinger denied that either W. E. Gonzales, Ambrose Gonzales or James A. Hoyt, Jr., had said anything about a fair trial in their affidavits.

"And your honor," said Mr. Bellinger, "I am positive that neither of the Messrs. Gonzales nor Mr. Hoyt would act on this jury if they were asked."

Continuing, Mr. Bellinger said that every change in the criminal law which had been made in South Carolina had been in favor of the defendant.

"I deny that," said Mr. Nelson.

Mr. Bellinger asserted that the State's right to stand aside the entire panel had been abolished.

"The State's challenges have been increased from 2 to 5," replied Mr. Nelson, "and the defense's reduced from 20 to 10."

Mr. Nelson protested that it was not for the benefit of the defense, however, and Mr. Croft sided with him.

"Your honor knows what I say is true, however," insisted Mr. Bellinger.

Forbearance.

Going back to newspaper influence, Mr. Bellinger stated that the opinions of Messrs. Nelson, Rembert and others were of no value, it being for the judge to decide and also to consider the provocation under which the newspapers labored. Naturally they may have expressed some indignation in their columns, but they exercised wonderful self-control. If the newspapers had the influence counsel suggests, could Tillman have been unmolested all this time? He is as much a hero today as he ever was.

"The State," said Mr. Bellinger, "had simply not been intimidated by the shot-gun policy resulting in the death of its editor, and would not your honor have considered the surviving brothers and the associate editor cravens and cowards to change the policy of the paper upon the death of N. G. Gonzales? Who can blame young Hoyt, the associate editor, who worked with N. G. Gonzales day and night, for reiterating his chief's statement that Tillman was a liar and a coward?"

They would deny the dead editor's friends the privilege of raising a monument or the preachers the opportunity of praying that his life be spared. Mr. Bellinger made a short reference to the boycott of the attorneys for the defense and stated that affidavits on that line were inapplicable.

A Trick Foiled.

Mr. Bellinger then said that Mr. Nelson had established a precedent when he read as an authority a certified copy of an affidavit from another court.

"But I want to read a part of it to you to which Mr. Nelson did not think it worth while to refer."

It transpired that Mr. Nelson had worked a neat little trick on the court in reading only that part of the affidavit which had a bearing on his side of the case. That which pertained more strongly to the prosecution's case Mr. Bellinger read, much to the amusement of the spectators.

Mr. Nelson had read from the affidavit used in the application for change of venue for Constable Crawford that part alleging that The State had stirred up prejudice against Crawford. Mr. Bellinger now read the more important part of that affidavit in which was shown that the night Crawford shot Miss Stuart a crowd gathered around the magistrate's office to which he was taken and made threats of lynching, so that it was necessary to call out two militia companies, a platoon of police and special constables to protect Crawford and his comrade constables and that they were put in the penitentiary as a precaution against violence.

Mr. Bellinger then quietly asked where was a similar showing of threats of violence in this case.

Mr. Bellinger contended that the county auditor had done nothing to prevent him from performing his duty in the premises and called attention to the fact that the counsel for the defense had moved for a change of venue and not moved to quash the indictment.

Referring to the Martin affidavit, Mr. Bellinger said that he did not know the affiant but he called attention to the fact that Martin had said that he had heard a lot of drummers say that Tillman could not get a fair trial.

An Insinuation Exposed.

There was an insinuation in this affidavit, said Mr. Bellinger, which was only an insinuation which had to be replied to. This was to the effect that "a northern newspaper" had offered to get up a subscription to employ the ablest counsel in the case.

"Now I wish to say that not one cent has been subscribed in this way for this prosecution."

Who Were Offended?

Mr. Bellinger pointed out that W. T. Martin had once been a stockholder in The State and said in his affidavit that he had been forced to decline to serve on the directorate for the reason that N. G. Gonzales had abused so many people in the community.

"But who were those persons abused," cried out Mr. Bellinger, "The keepers of blind tigers, gambling dens and the like."

Mr. Bellinger proceeded to give a brief review of the history of The State. He told how the three brothers, N. G., Ambrose E. and W. E. Gonzales, had come here 12 years ago and started their newspaper. It had been run consistently and honestly and for all time had made a fight against crime and vice. N. G. Gonzales had been the mind and soul of it. Was it to be expected that A. E. and W. E. Gonzales and Hoyt should abandon the policy adopted and cease their fight against crime and vice?

The Reward of Duty Done.

N. G. Gonzales had in the course of his duty been forced to severely criticize certain persons and affairs. Tillman had friends here where Gonzales had enemies. There had been reference in the affidavits to the prisoner's danger and it had been said that there had been threats made against him. The speaker thought this was absurd.

"Why Tillman has walked about these halls," said he "almost unattended. There has been no extra guard, and I will venture to say that every man in this room would endeavor to protect him if he were in any way threatened."

In conclusion Mr. Bellinger said that Mr. Nelson and Mr. Rembert had taken unction in their affidavits to The State's attitude to them.

"This," said Mr. Bellinger, smilingly, "has nothing to do with the case and is entirely inapplicable."

Solicitor Thurmond.

Solicitor Thurmond followed and presented a number of authorities greatly strengthening the case of the prosecution. It was presented in a clear-cut, forcible fashion that attracted not a little attention. The New York case which the other side had presented the solicitor did not think would count. There the people were, he said, very largely controlled by the opinions of newspapers. People living on the upper floor did not know the people living on the lower floor of a house and they were naturally largely controlled by newspapers. Here, however, it was entirely different. Every man knew his neighbor and there was absolutely no reason to think that a fair trial could not be had here. The speaker read a case from the supreme court going to show that very little attention was paid in this State to newspaper comments, and he asked the court not to pay any great attention to these.

The solicitor read over the names of the affiants and asked the court if he thought it would be possible for them to be more representative.

The Burden of Proof.

"And I ask your honor if the affidavits of the defense outweigh and weight down ours?" asked the solicitor. "Unless they do they cannot hope for a change of venue."

"Now, your honor, I am warned that my time is up. But I have a few words which I wish to say in conclusion. There is one thing in this country that is part of our greatness and I want to call your attention to it. It is home rule.

Home Rule.

"The invariable rule is that unless there is every reason to believe that a fair and impartial trial cannot be had a case should always be tried in the county where the offense is committed. This is certainly a county where such a trial can be had and if not here where can it be had? The law so says." With this, the solicitor concluded.

Buchanan's Virulent Speech.

Judge Buchanan said that he had been allowed a little time by Mr. Croft and he proceeded to make a bitter attack on the newspapers and what he called their commercialism. He said that "this journal was trying the community" and that the good citizens who had signed the affidavits had been lashed and the whips held over them until they did not dare do otherwise.

The speaker said that the press was a cowardly institution and that there was not a man in the court room who "does not pay deference to any little $8.00 a week scribbler."

Getting Excited.

The speaker said that The State had the community so absolutely under its control that it would be impossible for the defense to get a fair trial. The speaker wanted to know if "we are still free men. Do not the newspapers own us." Every business man in the State is afraid of The State." He would not be tyrannized by these newspaper kings, bloated as they are with self-pride. With great emphasis he said, "I have always been a free man and I hope to die a free man."

But there was a revolution going on and the time was rapidly coming when the rights of the people would be protected against the attacks of a hostile press, when the press saturated with power would be curbed and the people would have their rights.

Attacks the Ministers.

When the speaker had finished up the newspapers in general and The State in particular, he took up the ministers. He said that he would not say anything against the ministers but he understood that their duty was to cure souls.

They had veered around from their duty of winning souls in this instance, however, and had cried out for the blood of a man who had been insulted and traduced so as to arouse the sympathy of any fair-minded man.

Dramatic, Very.

But the ministers were not sufficient game and he came back at the newspaper men. Pointing to the reporters' table he went on to say that the whole community had been "scared" to death by The State and that there was not a man or woman here hardly who would refuse to do its bidding.

Dante, Gibbons and other distinguished writers were dragged to further the gentleman's argument, and he concluded with a peroration in which he declared that the people who had given their affidavits had been simply bullied into doing so, "in fact they did not dare do otherwise."

"Every mother's son of 'em knows what he means when he says a fair trial. Who believes this defendant can get a fair trial here? These affiants don't believe it themselves. Are we children, are we bondmen that we are bound to this newspaper king? No, we are freemen. Then why do they say, 'I am scared of this State newspaper, it will ostracize me and annihilate my friends.' As if a newspaper man was a sovereign! As if a lie was less a lie when put in cold type than when uttered.

"These good people have been so lashed and cracked over by this paper that they have come here and been made to participate in something which they wish they never had anything to do with. Yes, lashed and cracked! That's what it is, and let them make the most of it. By grabs, if they don't like it, let 'em lump it! There never was a case that so indicated from every nook and cranny, from every orifice that the community has been saturated and poisoned so that these poor fellows won't realize two years from now what they swore to.

"You are cowards in policy and cowards in instinct, and you know it," he said of the press.

"This commercialism that had come down from the north to the south had done it irreparable injury. In the north a man's honor or a woman's honor is settled by a matter of dollars or cents. Was it possible that such conditions would eventually exist here? It had not been the custom in years gone by for the south to be dictated to in these matters, but this fashion of newspaper criticism had come down from the north also, and where is the thing to end?

Calling the newspaper men some more names, the speaker paused for a moment and the court announced that most of the time for the argument had been consumed and that unless Mr. Croft proposed to waive his argument he would have no time. "The defense has only about ten minutes left," said the court. At this hour, 2 o'clock, a recess was taken.

During the course of Buchanan's remarks, Mr. Croft half rose in his seat once, but Buchanan continued unnoticing. Again Mr. Croft wrote something on a slip of paper and held it over the front of the desk for some minutes, but Buchanan, seeming to see it at last, said, "All right, I'll be through in a minute."

Mr. Croft's Speech.

The court room was again crowded after recess when Mr. Croft began. He had only 20 minutes left and begged for some additional time, offering some additional time to the other side.

"The time allotted was three hours," said the court, "and it was agreed that three hours and three arguments only be permitted."

Solicitor Thurmond objected and the court said that the time would have to be confined to 20 minutes.

Mr. Croft then proceeded. He said that this motion was based on a constitutional right. The speaker then repeated the grounds on which the change could be granted. It was not necessary for the court to be convinced beyond a reasonable doubt, it was not for the defendant to bear the burden of the proof; it was only necessary for the judge to find upon the facts that a fair trial could not be had here.

"While I hold that the people of this county are as good as any in the State," said the speaker, "I also hold that they are not any better. You have sent to the knightly Kershaw cases, and you have sent other cases out of this State. Is it unreasonable for the venue of this case to be changed when every motive and bit of common sense suggests that it should be done?

"The defendant has been denounced by the public press as a debauchee, murderer, assassin and unfaithful in his vows. It was this paper that first made these statements and that brought on the other yelping pack." commission with power to thoroughly

The speaker said he had no purpose to use one epithet that would reflect on the dead editor. Peace to his ashes. But with the living he had to deal. To the editorial of Mr. Hoyt he called especial attention, saying that Mr. Hoyt's father was one of his best friends, but that would not prevent him from calling attention to the fact that Mr. Hoyt on the morning after the shooting had denounced the defendant as a cowardly assassin. Even that Godlike man, Rev. Dr. Evans, had betrayed himself into calling the defendant an assassin.

A martyr had been made of N. G. Gonzales. The feeling had gone out that he had died for his State. And this community had been swept off of its feet in its effort to get vengeance for this dead editor. There was an effort made, said the speaker, to print the affidavits in the case before the motion had been brought up for argument.

Criticises Mr. Brice.

Mr. Croft severely criticised the editorial of Mr. Brice and said that the counsel for the defense had been ridiculed by him. And a little paper afar off had cried out, "Good, Brice; go at them again!"

Mr. Croft said that he had been approached by a minister who said that he had been asked for an affidavit, but, although he thought that Tillman ought to be punished, he did not feel that he could give an affidavit.

Statement Challenged.

"Who was the minister?" asked Mr. Crawford.

Mr. Croft made no answer.

"I object to the reference, then," said Mr. Crawford.

"Tell him who the minister is, then," said Mr. Nelson.

But Mr. Croft branched off on another feature of the case. He said that there were but 1,300 electors in this county and only 248 of these were available for jury duty.

Mr. Croft went over some of the affidavits and the court permitted him 15 minutes over the 20.

Decided Instantly.

At the conclusion of Mr. Croft's address without a moment's hesitancy, Judge Townsend announced that he had come to the conclusion that a change of venue should be granted.

"I have been very much entertained by the counsel," said the court. "In fact I have never heard abler arguments in my life. I am convinced that a change of venue should be granted and will now hear suggestions as to the time and the place in which the trial should be had."

Then ensued another long and at times heated argument on this point. Both sides put in lengthy suggestions and there was a good deal of feeling shown at one time. Mr. Nelson opened the argument.

"There are but two places left," said he, "where this trial can be held in this circuit without delay. These are Saluda and Edgefield. The other two places where it might have been held have already held court. These are Kershaw and Lexington."

The speaker expressed his willingness to have the case go to either of these places where court had not been held.

Mr. Crawford then rose to protest against the holding of the trial in either Saluda or Edgefield and made another of his pointed speeches.

Prosecution at a Disadvantage.

Tillman, he said, was born on the Savannah river in Edgefield county, and Edgefield was the mother while Saluda was the daughter county, the latter having been in a large measure created by the prisoner's father—George D. Tillman. It would be palpably unfair to the State to hold the trial at either of these points for many reasons. Undoubtedly the feeling ran high at both of these points in the prisoner's favor and it was highly improper to hold court at these points for the reason that they were so inaccessible. There were at least 200 witnesses, to say nothing of officials, who would have to go to the scene and there was not accommodation for enough people at an ordinary court in any event.

"Among these witnesses," said Mr. Crawford, "there are several ladies and it would be inconvenient for them to go to Saluda."

Solicitor Thurmond then arose to say that he thought Lexington might be the best place to hold court. "I should inform your honor that court will be held in Edgefield in the first week in August, in Saluda the third week, in Camden in the first week in September and in Lexington in the third week."

"Lexington is the most convenient place, it seems to me, to hold this trial," said Mr. Crawford. He continued that there were numerous and serious objections to holding the trial in Saluda or Edgefield "for the reason that the boyhood of the defendant had been passed in one and the manhood in the other. It was through his father's influence that Saluda county was created."

Mr. Nelson interrupted to say that Mr. Crawford was not presenting facts to the court as he knew he should and that his simple bald statement would not count for anything.

"Your honor will recall," said Mr. Crawford, "that what I say is entirely true. You will remember the fight that George D. Tillman made in the constitutional convention of 1895. It was a tremendous effort."

"Yes, I remember that," said the court.

Many Reasons Against It.

Mr. Crawford, proceeding with his frequently interrupted argument, said that nearly all the witnesses in the case reside in Columbia and that there were a thousand reasons more or less why the case should not be taken to Saluda.

"Why, your honor, Saluda is 18 miles from a railroad," said Mr. Crawford.

"No, it is only 14," again interrupted Mr. Croft. A ripple of merriment ran through the court room at the vast difference. There was necessarily local prejudice at Saluda or Edgefield but there was none at Kershaw or Lexington.

"Certainly the State of South Carolina should have some rights in the case and if this be true is it possible for them to be gotten at Saluda or Edgefield? If your honor sends this case to either one or the other of these points it will not be fair to the State."

Defense Wants Saluda.

Mr. Croft then took up the argument. He asked which is the natural county for the case to be sent. Edgefield is the home county of the defendant, and Saluda is the natural place for the case to be transferred to. The people of Kershaw had passed resolutions in the case and the prosecution would be up against the same difficulty that confronted them now if the case was sent there. The court had an example in the recent case in Kentucky where the court sent the case nearly a hundred miles away to prevent trouble and to get away from prejudice.

"The statement made here that Mr. Tillman," said the speaker, "has many friends in Saluda is not based on facts. I know that Mr. Tillman has not been there more than 10 or 12 times in his life time. Am I not right?"

Mr. Croft turned to the prisoner, who nodded his head in the affirmative.

Mr. Bellinger's Protest.

Mr. Bellinger then put in his protest. He went over the ground that Mr. Crawford had already covered and added some very important addenda to the objection that roused renewed interest in the controversy. His honor, he said, could not blind himself to the fact that Saluda was not the proper place to hold the trial. There would certainly be at least 180 witnesses and the inconvenience of going to such an out of the way place should certainly be considered. "When I saw the squib in the newspaper to the effect that the counsel," said Mr. Bellinger, "wanted the case to go to Lexington I began to suspect something, especially as it was said that they did not want it to go to Saluda." Here Mr. Bellinger suggested that it reminded him of Uncle Remus' story of the wily rabbit who did not want to be thrown into the briar patch.

"Who said that?" inquired Mr. Nelson.

"Did you not tell Mr. Brice that you preferred having the case go to Lexington?" asked Mr. Bellinger.

Mr. Nelson proceeded to explain that in a confidential conversation with Mr. Brice he had mentioned something of the sort. "And I say now that so far as I am personally concerned I would as soon have it go to Lexington, where I have many friends."

"And so say we all," remarked Mr. Bellinger, amid some laughter. This remark, however, put Mr. Croft on the anxious seat and he disavowed any intention of permitting his consent to go on the record as favoring any place but Saluda.

Continuing, Mr. Bellinger made an eloquent appeal to the court in which he poured some hot shot into the defense and charged them openly with inconsistency. He had seen Senator Sharpe actively engaged in consultation with the counsel for the defense and suspected something was coming. "We," said the speaker, "anticipated the turn affairs have taken. We realize that under the constitution the defendant has a right to a speedy trial. Why has he not had it? The continuance was obtained by the defense. The prosecution offered when the motion for a continuance came up to accept any statement of the absent witnesses; but, no, that would not do. Why did they not go to trial then if they were so anxious for the defendant to have a speedy trial? But no, they waited until court was over at Kershaw and Lexington and then they come into court and insist that the case be taken to one of the two remaining places where court is to be held. They knew what they were doing, of course, and waited for their opportunity. They want to try this case either in the home county of the defendant, or that county's daughter.

Prefers Edgefield to Saluda.

"There are some things that I might say here which I will not say now. The defense has chosen to let this case pass two terms of court here although they now insist that the defendant has a right to a speedy trial. Your honor knows the feeling in the county where they want to try this case. It must run high. If we have got to decide between the two, Edgefield and Saluda, we prefer Edgefield. Your honor is aware that there is no telegraph office at Saluda.

"But there is a telephone," interrupted Mr. Croft.

The argument being concluded Judge Townsend announced that he would make out the order but would not fill in the county to which the case would be assigned until tomorrow.

END OF MAIN STORY