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# **Henry C. Tillman**

## **Lawyer/Soldier/ Politician/Judge/ Planter**

### **1884-1959**



At a juvenile judges Institute conference in Black Mountain, N.C. about 20 years ago, this writer met a good humored judge from Spartanburg, South Carolina, who remarked, "All we've got in South Carolina are Baptists and boll weevils." He wasn't a carpetbagger, just weak, perhaps, in the history of the Palmetto State. He should have known that South Carolina also produced Benjamin Ryan Tillman and his proud descendants.

Henry Cumming Tillman, the subject of this piece, was Ben Tillman's younger son, but before introducing him to readers, the great majority of whom never knew or practiced before him, I feel obliged to relate a few details about his famous father's life.

Benjamin Tillman was a farmer, but more than that, he was a century a major player in South Carolina life and political history. He was so heralded as spokesman and militant leader of fellow agrarians that his followers called themselves "Tillmanites." A Democrat, Tillman won the governor's chair in 1890 and in 1895 was elected to the United States Senate, where he served four successive terms.

Grover Cleveland, the first Democrat elected President after the Civil War and the only Chief Executive to serve two non consecutive terms, was in his second term when Tillman took his place in the Senate. A bitter struggle was then ongoing between the advocates of a gold monetary standard ("goldbugs") and proponents of silver ("silverites"). During that frenzied time, Senator Tillman was quoted as saying that he would like to run Cleveland through with a pitchfork. The quote gave the Senator his sobriquet, "Pitchfork Ben," and he was stuck with it forevermore. He was tough. The loss of sight in one eye at age 17 didn't slow him down. In 190 he was censured by the Senate for engaging in a fistfight on the floor. He was also busy with projects for the long-range benefit of his home state, founding both Clemson and Winthrop

Colleges. He remained a powerhouse in Washington and South Carolina as long as he lived. In a later Greenville, S.C. news poll he was chosen Man of The Half Century.

At this juncture, it is appropriate to acknowledge the invaluable assistance of Mary Tillman Snead, the judge's daughter (who still refers to her grandfather as "Big Daddy") Mary Anne Kearney, the judge's granddaughter, as well as Ben Tillman, his son, all of whom live in Tampa. They made available both records and recollections of relevant

family history. Mrs. Snead is a keenly alert and charming 90 year old former teacher who has lived in the same house in Hyde Park for the past 59 years. She declares with some pride that she is fortunate in two respects: she doesn't hurt, and she know who she is. Senator Tillman's grandchildren just identified, each have a little piece of history associated with him; Mrs. Snead has a campaign button or pin featuring a small pitchfork beneath which are three gold bugs, one of which has "Cleveland" on it reflecting the former president's allegiance to the gold standard; Ben Tillman has a full size pitchfork with the tines painted gold and an inscription identifying it with his grandfather. For years it was kept in the senior Tillman's home in Trenton, South Carolina. According to Mrs. Snead, her grandfather supported both gold and silver as standards.

Though perhaps less flamboyant, Henry Tillman, like his father, was quickly marked as a leader. After graduating from Clemson, the school his father had founded, Henry Tillman finished his law studies at Washington & Lee, and began practicing in Greenwood, S.C. In 1918, he was called into active duty with the Coast Artillery, serving for about six months in Europe. Fortunately, he did not see combat duty. He was tapped for a judgeship in his home state in 1922, but after four or five years, he opted to locate in Tampa. He had a short term affiliation with the Shackelford firm as had Judge L. L.

Parks before him. Then he established an office in the First National Bank Building, sharing space with Ralph Marsicano. In 1934, he was induced to enter the race for State Senator against the powerful incumbent, Pat Whitaker. After being elected by a narrow margin, he served only one term. His daughter recalls that he mother, Mary Fox Tillman, despised politics and anything associated with it. Years later, after her husband's appointment to the court, he brought home a relic from the old courthouse (built in 1892) before it was razed and the present one opened in 1952. It was an old brass spittoon. Mrs. Tillman took one look at it, and threw it out.

Shortly after World War II, James M. (Red) McEwen came to Tampa seeking an alliance with an individual attorney or law firm. The firm of Tillman and McEwen was created, evidently did well, and remained intact until Tillman's court appointment. Red, who was an Asst. County Solicitor, later was elected State Attorney, winning over Frank Umstot and E. P Martin of Plant City. Red's widow, Louise, a good-looking Georgia peach, remembers that Henry Tillman, a Clemson classmate of her father, was always kind to her during the years with Red.

Henry Tillman was appointed judge of the 13th Circuit by Governor Fuller Warren in 1949, was elected the following year, and served without opposition until his death. It was a short trip from his old office to the Courthouse, just across the street. But Tampa Tribune reports indicate that Tillman almost didn't make it. Although Tillman was a Warren supporter, the most likely nominee was "Warren's No. 1 man in Hillsborough County," John W McWhirter, attorney for the State Road Department. The latter, however, reportedly declined the appointment, and that was that.

Until the autumn of 1952, the court system was essentially housed in the old two-story structure at Franklin & Madison Sts. Circuit Judges' offices were on the second floor. There was no air conditioning and when a case was being tried in the circuit Courtroom, there were problems being heard over the noise of the street cars cruising down Franklin Street, with the courtroom windows slung open for air to augment the paddle fans in the ceiling. The County Judge, with jurisdiction in probate and guardianship and the added responsibility for issuing all manner of licenses to the public, was ensconced on the first

floor. At the conclusion of this article is a rare, utterly candid photo of Judge Tillman standing at the window of his old courthouse office taking a break from the tedium of his common duties to do something he uncommonly loved. But more about that later.

In the General Civil Division prior to 1982, before a Family Law Division was created, Circuit Judges heard all divorce cases. Not to suggest that Judge Tillman had any conscious biases or leanings, it was tacitly understood by most lawyers that if you had an attractive female client in family litigation, you were apt to find a more sympathetic ear in Division B than in some of the other divisions.

This scribe had an unusual experience before Judge Tillman in what was probably one of his last jury trials. My client, Rizzo, was sued by an out-of-state supplier, Euclid Urbana Co. on a delinquent account. It was a big case for me as my defendant was sued for almost \$900 (in the 50s before the Civil Claims Court was established, any claim exceeding \$500 was within Circuit Court jurisdiction). Plaintiff, represented by the late Charles W Bryan, was presenting its proofs by deposition. There were a lot of technical objections and the more interruptions before the jury, the more exasperated Judge Tillman became. Finally, he called a halt to the deposition and said to the bailiff, "Mr. Bailiff, take a juror out of the box," and to the lawyers he calmly proclaimed, "This case is like a Chinese puzzle (his exact words), and I'm sending it to a Special Master." That ended the jury trial and as I recall, the Judge sent to V. R. (Red) Fisher. All of this took place over timely objection from defendant. An appeal was taken and the Second District Court reversed in *Rizzo v. Euclid Urbana*, 118 So.2ds 553 (1960). The sequel to the case? We settled it for \$100.00.

In this lawyer's opinion, Henry Tillman was a warm-hearted, thoughtful and fair minded judge who refrained from peremptory rulings. If a serious objection was made by a lawyer, he would more often than not, give the objector a fair chance to argue, telling him, "I'll hear you on that." Opposing counsel would, of course, be afforded time to respond.

For years, judge and Mrs. Tillman maintained their well landscaped two-story home on South Rome Avenue. They were neighbors of judge and Mrs. Harry Sandler until 1956. The Judge has an absolute mania for planting varieties of shrubs, flowers and trees, then monitoring their growth (his favorites were camellias). Once, his daughter recalls, he had a tree ready for planing at home. When his wife wouldn't allow any more greenery in the overcrowded yard, he took it over to S. Oregon Avenue and planted it in the Snead's back yard. He took enormous pride in planting, unlike most people who say that to enjoy garden work, put on a wide hat and gloves, hold a little trowel in one hand, then tell the man where to dig.

Judge Tillman's family heritage was of foremost importance to him, and he instilled that pride in his children and grandchildren. He parlayed a brief political presence into a decade of distinguished judicial service.

### *Afterword.*

Some never out-of-date advice on the art of advocacy from the pen of U.S. Supreme Justice Charles Evans Hughes (1862-1948):

"The advocate learns to be courteous, but never obsequious, always the gentleman. He learns how important it is to keep one's temper, never to appear nervous or to lose poise; never to be petty, wordy, repetitious; to know when to keep still, to express candidly,

concisely, always going directly to the point; to use a rapier rather than a club; to have one's papers so arranged that whatever may be needed will be immediately at hand so that he does not have to fumble; to be so well prepared that he is ready for any emergency; not to be tied down by brief or memoranda and always to show spontaneity as well as alertness."

- *Morison Buck*