

ARGUMENTS OPENED.

In Cooper Case—Better Arrangement of Defendants by Prosecution.

Nashville, Tenn., March 8.—After Capt. Fitzhugh had completed the opening argument for the State this afternoon in the case against Col. Duncan B. Cooper, Robin J. Cooper and John D. Sharp, charged with the murder of Former United States Senator E. W. Carmack. Judge William Hart ordered the jury withdrawn and thanked the spectators for their good order.

Capt. Fitzhugh made a strong and striking argument. It lasted over five hours, and when he concluded he was exhausted. The court room was packed to suffocation, the ventilation was poor and even the spectators felt the effects of the vitiated atmosphere. Fitzhugh is a dramatic orator, and his exertions left him nearly a physical wreck when he concluded. The young Memphis attorney's speech is considered a masterpiece of logical argument and bitter invective and it had a noticeable effect upon the jurors, who leaned forward and listened breathlessly to every word spoken. Fitzhugh was a close friend of Senator Carmack, and he is in the case at the special request of Mrs. Carmack. His peroration was especially dramatic.

"There will be many arguments made to you," he said, "to touch your hearts. You will be asked to be generous and sympathetic. They will talk to you of this 'boy.' Why, gentlemen, he is 27 years old, and some of the greatest achievements of men have been accomplished before they were 30. And they will point to Col. Cooper as a gentleman of the old school, as the 'last flower of the old Southern chivalry.' Do you believe? Was he a gentleman when he used that awful language in the presence of Miss Lee? And when they talk to you of sympathy, just look over there. You see in sable garments the widow of E. W. Carmack. You see on her arm the 10-year-old boy who was the pride of E. W. Carmack's life. Did Duncan Cooper or Robin Cooper think of this widow or this boy when they pursued their father's murderer? Would it not have been better if Robin Cooper, instead of shooting the senator, had said to his father, 'Father, do not kill the father of this little boy, do not slay the husband of this fond wife,' but he did not. The question is to be decided by you. If murder is to be committed in the streets of our cities without fear of punishment, can you tell who will be the next victim? The very liberty of the press is at stake, the security of the common people. It all rests with you and into your hands I place it unreservedly. Gentlemen, I thank you."

After the necessary preliminaries in presenting the State's case, Capt. Fitzhugh said:

Malice and Revenge.

"I have shown you that it is murder when a man takes a life upon a sudden impulse. How much more is it murder when a man's heart is so full of malice and revenge that he spends all day Sunday and most of Monday devising the ways and means of taking the life of the man he hates so bitterly."

Capt. Fitzhugh then took up the threats of Col. Cooper against Carmack. With dramatic force he repeated Cooper's words to Craig:

"If my name appears in the Tennessean again, Carmack or I must die."

"Think of it, gentlemen, this man who is a self-confessed lobbyist for a railroad; this man who is charged by reputable men with having embezzled money entrusted to his care; this man whose name had been bandied about the State; this man whose dark and devious ways have now been uncovered, dared to send to an honest and upright journalist the threat that if his name appeared in the Tennessean again, one of them must die. Think of it!"

"And when the tragedy was over the defendants began to look for a cause. And what did they find? That Senator Carmack had referred to 'that little bald-headed angel Duncan Cooper.' Had asked did the angel come from above or below, and was there the smell of sulphur on his wings?"

The speaker said Cooper never objected to the alleged remarks of Carmack until after the murder.

He told his son that "day after day his name was used in The Tennessean and that Carmack was shooting poisoned arrows at him and that it was becoming unendurable." They brought only three editorials here and one of them was written October 21, entitled "An Awful Threat."

"He objected to this because his name was mentioned in connection with Ban Murray and two others. One of these, he swore, had been indicted and convicted, and the other, he said,

was a gambler. He had to admit the next day that the man he swore was indicted had not been. And as for the gambling, why, the colonel has been a gambler himself. But it is not on record that he ever paid a debt out of his large winnings.

"Now the second editorial appeared the same day and it never mentioned Cooper's name—it simply attacked the machine. Cooper, in his note to Carmack, said: 'I am a private citizen,' yet as soon as the machine is mentioned this private citizen roars out in anger.

"The third editorial produced by the defense appeared on Sunday, November 8, and was entitled 'Across the Muddy Chasm.' This editorial simply repeats the charges that Gov. Patterson and Gov. Cox had made against one another and says Col. Cooper is entitled to credit for bringing the men together.

Angry With Carmack Only.

"All these things had been printed in other papers and Col. Cooper admitted it. Yet he never grew angry at any other editor—only Carmack."

"But we come to the day before the killing. Col. Cooper wrote some notes—but the defense does not produce them. They lose them. There is no original but an alleged copy of a copy for your inspection."

Fitzhugh passed to the interview with ex-Treasurer E. B. Craig and after further bitterly arraignment Col. Cooper took up the fourth editorial entitled "The Diplomat of the Zweibund." This editorial credits Col. Cooper with "bringing about the great coalition," with "grafting the dead bough upon the living tree and making it bloom and burgeon with golden fruit," etc. Capt. Fitzhugh explained the editorial word by word and said that it was humorous and bantering.

"And, gentlemen, this editorial appeared on Monday morning, November 9, and before the sun set that night the brilliant Edward W. Carmack had been slain for writing it."

After ridiculing the conference in Bradford's office and extolling Miss Lee as "a pure, good girl, who gave up a splendid position rather than that truth should be trampled upon," Fitzhugh continued:

"Senator Carmack was coming up the street totally oblivious of the danger. When in the act of paying chivalrous homage to a lady he sees the father, who had threatened to kill him on sight, approaching him from behind a woman and the son circling around to get behind him. Now, gentlemen, would not you have felt that your life was in danger? He hears a voice and it says: 'There you are, sir. We have the drop on you.' Of course he made a movement to draw a weapon. Who had told him Col. Cooper had changed his mental attitude?"

John Sharp's Share.

John D. Sharp next came in for his share of Capt. Fitzhugh's brilliant satire.

"Listen to Miss Skeffington. She says, and her character is unimpeached and unimpeachable—she says when she asked John Sharp what that shooting was. Before he turned around, he said: 'That is Col. Cooper shooting Carmack.' Why should he say that. Because he had knowledge in advance that Col. Cooper was to do at least part of the shooting. He was brought along to be a witness to the killing, to testify for the defense, and he is as guilty as a principal."

Fitzhugh described Sharp's walking back to the scene of the crime, his leaving it, and again returning, and attributed his action to the strange fascination which draws a criminal back to the spot upon which the crime was committed in spite of himself.

He next attacked the defense's theory. He declared that they first tried to urge justification on the ground that the editorials were provocative of trouble, then abandoned it and pleaded self-defense.

He attacked the story Robin Cooper told of the fatal shooting and claimed it was a physical impossibility for the dead senator to have been standing as Robin says he was, and then receive two bullets through the heart and one directly in the centre of the back of the neck.

S. D. Binning, since arrested for perjury, and other witnesses whose testimony was impeached, were bitterly assailed.

Capt. Fitzhugh closed at 3.50 p. m., having spoken five hours and ten minutes, and court was adjourned until 9 o'clock tomorrow, when Gen. Meeks will address the jury.

A Hurry Up Call.

Quick! Mr. Druggist—Quick!—A box of Bucklen's Arnica Salve—Here's a quarter—For the love of Moses, hurry! Baby's burned himself, terribly—Johnnie cut his foot with the axe—Mamie's scalded—Papa can't walk from piles—Billie has boils—and my corns ache. She got it and soon cured all the family. It's the greatest healer on earth. Sold by W. E. Pelham & Son, Newberry, S. C.

JUSTIFIES KILLING CARMACK

Gen. Meeks Extends Unwritten Law to Editors Who Attack Private or Public Men.

Nashville, Tenn., March 9.—The unwritten law was extended today to cover editors who attack private or public men by Gen. Meeks, of counsel for defence, in the Cooper-Sharp trial for the murder of United States Senator E. W. Carmack. The sensation was sprung during Gen. Meeks's speech to the jury. Previously he had expressly disclaimed the belief that any editorial attack justified killing the writer. But when warmed up to his subject, with a burst of eloquence, he said:

"You talk of the liberty of the press. Why, gentlemen, no man lives who believes more firmly in the liberty of the press than I do. But when a man in an editorial position turns the liberty of the press into license, and undertakes to defame and defile you and your family, what are you going to do? The prosecution will tell you you have your recourse in the courts. Yes, and you get a judgment for \$25,000 against a man not worth the price of a plug of tobacco. Is that satisfaction?"

"Oh, gentlemen, I tell you that the streets of this, our city, have run red before with the blood of men who improperly used other men's names in public prints."

Gen. Meeks devoted five hours to the speech. He painted the defendants as the finest types of Southern aristocracy and breeding, declared no crime had been committed when Senator Carmack was shot to death, and closed with a dramatic appeal to the jury to "turn loose this gallant old soldier," Col. Cooper.

So great was the throng which tried to crowd into the court room this morning that the architect of the building appealed to the judge and declared that there was danger of a serious accident. Judge Hart hurriedly sent deputies into the corridors and soon cleared them entirely.

Col. Cooper Shamefully Treated.

Gen. Meeks began by saying that Col. Cooper was shamefully treated by Capt. Fitzhugh yesterday. "He accused him," said Meeks, "of not paying his debts. They tried to make you believe that he embezzled funds as clerk and master of chancery. What has that to do with the killing of Carmack?"

"The State has charged," said Gen. Meeks, "that the defendants knew the route that Senator Carmack daily followed, and the time he left for his apartments. Now, how could the defendants know this time or route? Senator Carmack's own stenographer said she did not know where Senator Carmack lived."

As to the Carmack editorials Gen. Meeks said:

"When a man sits as Carmack did behind the editorial counter of a paper and writes, day after day, editorials that attack and assault a man who is not himself in an editorial position, he becomes insulting, and there is no greater insult possible."

The attorney next went into the incident of the pistol scabbard found in Senator Carmack's overcoat pocket and denounced the State's attorneys for insinuating that the counsel of the defense "planted" the scabbard there. He said the State knew that Major Vertrees loaned Senator Carmack the revolver with the scabbard on it.

Encounter Was Accidental.

"We have proven," he went on, "that the meeting of the parties was purely and undoubtedly an accidental encounter. We hold that the guilt or innocence of these defendants must rest upon the state of mind they were in at the time the meeting took place."

Counsel described the note which Cooper indited to Carmack, but did not send, and said:

"That note was to be the declaration of war, and until that note was sent by Cooper and received by Carmack, Cooper understood, and Carmack understood, that there was to be no trouble, and that note was never sent."

"You are not trying common thieves or murderers now, gentlemen. You are trying men who come from as fine stock as ever human flesh was made of, the best people of the South."

"Why did they put Miss Daisy Lee, Jim Bradford's stenographer, on the stand?" Meeks continued. "I do not say Miss Lee lied. I would not say that about any woman. But I do say that she was mistaken."

"Miss Lee alone says that Col. Cooper was not called back. Now even if it were material, we have four witnesses against her who swear that he was recalled—Gen. Brown, Governor Patterson, James Bradford and Robin Cooper. Yesterday Capt. Fitzhugh arraigned this old white-haired soldier for using the language in Miss Lee's presence. Miss Lee herself said that Col. Cooper was in another of-

fice when he used that language."

Sharp's Part in the Killing.

Gen. Meek took up John Sharp's case. He asked the jury if they were going to hang a man because he said Carmack "should have been dead and in hell twenty years ago." He declared there was no evidence against Sharp to connect him with the killing. The State declares," said the general, "that these defendants must have known that Senator Carmack would pass the point at which they met him at the time they met him. Well, why didn't they prove it? Senator Carmack stopped at the drug store, stopped to help Mrs. Williams on a car, stopped to talk to Jordan Stokes. Are these all conspirators? For if he had not stopped to talk he would never have met the Coopers. The conspiracy case, gentlemen, is foolish, unreasonable and impossible."

Gen. Meeks argued that Col. Cooper, having decided not to press his demands upon Carmack, walked over to talk the matter over peaceably; that having failed to send the note, which he knew, and Carmack knew, was to be the declaration of war, he had no idea of trouble.

Cooper's Purpose Peaceful.

"And he never even drew his gun when he saw his own son engaged in a revolver duel with his deadly enemy. How do I know it? From the State's star witness, Mrs. Eastman, who never told anything favorable to the defence and told everything she knew against the accused. But she says when she turned around that she saw Col. Cooper standing with hands extended, empty."

"There is nothing in any ones testimony—except Col. Coopers—that Col. Cooper ever drew a gun. He said he did, after the shooting stopped, and asked why, he replied: 'To kill Carmack if he killed my son.'"

He declared Mrs. Eastman was frightened and hysterical and could not remember all that actually occurred. He then went to the defence of Binning, the witness arrested on a perjury charge, and asserted with vigor that every word testified to by Binning was true. He described Binning as an old farmer, illiterate and poor, but who told the truth.

"We say," said Gen. Meek, "that Col. Cooper went over to Carmack with his hands open as he had a right to do; that he committed no overt act; that Carmack met him with drawn revolver, belching flame and bullets. We claim that when Robin saw the deadly weapon he jumped in front of his father and took the two bullets aimed at the latter. We claim that then, and not until then, did Robin open fire and kill Carmack as the latter was trying to shoot him again."

Gen. Meek quoted at length from authorities as to the doctrine of self-defence and what constituted an overt act and concluded with an appeal to the jury to study the evidence carefully.

"We regret the death of any one. But in our regret for the dead we should not do the living an injustice. I ask you gentlemen to bring in a verdict of not guilty against these defendants. Turn the old man loose and let him once more meet upon the streets remnants of that old band that went with him in the early sixties. Turn him loose and let him meet and shake the hands of that gallant gray-coated crew. Gentlemen, I thank you."

Court adjourned until 9 o'clock tomorrow, when Gen. Garner will address the jury.

Facts in the Cause.

Chicago News.

Her Mother—Mabel, dear, do you ever feel timid about asking your husband for money?

The Bride—No, indeed, mamma, but he seems to be rather timid about giving it to me.

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