

# THE TIMES.

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DR. J. H. DANIEL, Editor and Proprietor.

## THE FULLER TRIAL.

### THE DIRECT EVIDENCE OF THE STATE INTRODUCED.

### WITNESSES EXAMINED BY THE DEFENCE.

### FULL SYNOPSIS OF ALL THE TESTIMONY.

Fayetteville, N. C. Jan. 26th. '94.  
WILMINGTON MESSENGER.

When court open this morning at 10 o'clock, the court room was well filled with people, and after Clerk Cain had read his minutes of yesterday's proceedings and the court had approved them, the Fuller trial was proceeded with.

F. P. Jones, called a long list of State's witnesses, probably twenty-five or more. Among them were L. C. Jones, Capt. W. S. Kingsbury, Maj. B. C. Gorham, L. J. Rackley, Dr. J. W. McNeill, Capt. S. J. Walton, J. W. Morris, James Burns, H. L. Cook, James R. McNeill, (colored undertaker), Joseph Hadley, (col.) J. Freeman (col.), Jim Levy and Jarvis Buckingham.

The defendants council, J. G. Shaw then called a long list of his witnesses, and after all had been sworn, upon motion of Col. Argo, the witnesses were excluded from the court room and the State's witnesses went into the old "Equity office" in the southwest corner of the building, and the defendant's witnesses retired to a room down stairs, except a few on both sides, including the doctors, preachers and lawyers, who were allowed to remain in the court room.

THE STATE'S EVIDENCE.  
J. H. Marsh testified as follows: Solicitor McNeill conducting the examination:

"I am a regular licensed physician. I graduated from Jefferson Medical college in Philadelphia in 1889, and have been practicing ever since. I think I can tell whether any wound I examine produced death. I examined the body of Benjamin C. Parker, and found a wound on the right side of the breast-bone between the second and third ribs. I traced the wound and it went through the edge of the right lung, passed through the heart and went through the edge of the left lung and through the diaphragm into the abdominal cavity. I found the ball lying on the left side of the spinal column."

The doctor here exhibits the ball, which is of 32-calibre, and continued: "In my opinion, the wound produced Parker's death."

The doctor here shows the jury about where he found the ball in Parker's body, illustrating the position by pointing to the same parts of his own person. "The body," he said, "was lying on Hay street in front of Mrs. Cook's house. He was dead when I got to him, which was probably a little after 2 o'clock in the afternoon. The body was removed to Capt. S. J. Walton's boarding house after the coroner had summoned the jury, and there was where I made the post mortem examination."

On cross-examination by George M. Hise, Esq., Jones said: "I found no other wounds on Parker's person. There was some discoloration of the body under the skin, such as is produced by death. I made a close and critical examination. There was no more discoloration about the neck than any other part of the body."

Capt. W. S. Kingsbury testified: "I know B. C. Parker. He boarded at the same house with me. I saw him last the day he was killed and when he was buried. I was with him at dinner time, and came out and sat on the balcony of the porch with Capt. Walton. Fuller, the prisoner, came up to the gate and ask me if that man Parker was there. I told him 'yes, he is at dinner. I will call him.' He said 'No, I am in no hurry, you need not call him.' Fuller went down towards the market house. Parker came out and said: 'Are you going down town?' I said 'yes, and by the way, Fuller wants to see you.' We went out and walked together, and when we got in front of Mrs. Cook's house Fuller was standing there where the fence and piazza make a little notch, about eighteen inches. Fuller said 'Parker, I want to see you. I never stopped, but went on, as I thought they wanted to talk

about love affairs. When I got to Webb's place I turned around and I saw Parker on top of Fuller, beating him, and the next thing a pistol shot fired. Mr. Webb said: 'Hello, someone is shot,' and ran up there. I did not go back. Parker had nothing in his hands as we walked along, and we were talking only ordinary talk.

On cross examination Mr. Kingsbury said: Fuller boarded at Miss Starr's and Parker at Walton's. Mr. H. L. Cook's house is between them. I am intimately acquainted with Fuller. There was nothing unusual in his manner. When I told Parker Fuller wanted to see him he laughed. Fuller was standing as I would have stood. He was not concealed in the least, and any one could see him going up or down the street. He had nothing in his hands was standing with his hands in a natural position. Webb's is, I judge, about 150 paces from where Fuller and Parker were. When I looked back Parker was on top of Fuller, I saw no one else at the time. I saw Fuller afterwards. He passed by me and his nose was bleeding—looked pretty bloody. I said nothing to him nor he to me."

On re-direct examination Mr. Kingsbury said: "I was not looking back for any one else. If there was anybody I did not see them. There might have been somebody, but I didn't see them."

Emma Taylor (col.) was then examined by Judge Womack. She said: "I live up on Hay street. The day the homicide occurred I was going down Hay street, on the right side of the street, going towards the market, and on same side as Mr. Walton's boarding-house. I saw Parker and Capt. Kingsbury come out of the gate a little distance ahead of me. Saw Fuller and Parker meet, and saw Fuller strike Parker, and Parker strike Fuller. Fuller was standing near Mrs. Cook's. Fuller and Parker met kinder running together. The first lick I saw, Fuller struck Parker, and Parker knocked Fuller down, and then Parker struck Fuller while he was down, and Parker was then about on his knees. I stopped a little distance off. The pistol then fired. Fuller was doing nothing, as he couldn't do anything. When Fuller was falling I saw something fall out of his right hand. I don't know what it was. Fuller fired the pistol, and Parker fell. The pistol was in his right hand, I think. I run back up the street. I remember seeing Maj. Gorham and Aibat Webb, and a colored man near the railroad."

On cross examination by Mr. Shaw Emma Taylor: "The first time I told this was at the hotel Tuesday night to Mr. McNeill. I talked with you and didn't tell you I didn't see them when the pistol fired. I didn't propose to tell you all I knew because I wasn't sworn. Josh Hadley, a State's witness, brought me a note to go to the hotel. Parker and Fuller fell about the same time. Parker fell I think because of the lick. He struck Parker. Parker struck him seven or eight times after Fuller was on the ground, and was beating him with both hands. He was making a lick at the time the pistol fired. I think the pistol was in Fuller's right hand, but I don't know exactly which side the pistol was on, and I can't say exactly which side the "something" in Fuller's hand was on. When the pistol fired I was about as far from them as from where I stand to the other side of the bar (which is about twenty-five feet). I never noticed any bruises on Parker. I lived on the plank road and was on my way to Mr. Holland's, and think it was the nearest way. I always went that way unless I had some business some other way. I had a small bundle of clothes carrying them to my mother, who was at work at Mr. Holland's. I have been at work at several places. I was born and raised at Mr. Waldon Huske's, and left there because I sanced Mrs. Huske and she missed anything I didn't hear of it. I am married. Tom Taylor is my husband. I have been married five years. I have three children, the oldest 7 years of age."

Mrs. McIntyre, examined by Judge Womack, said: "I live on Hay St. about half way between the two railroads on the north side of the street. I live opposite Mrs. Cook's. The day of the homicide I was in the front part of the house. I first saw Fuller leaning on the porch of the house. His left hand was on the bannister and his right hand back of him. He would occasionally step out on the sidewalk and look up the street and then would step back to about the same position. I don't suppose he was there over ten minutes. It was about or near 2 o'clock. I looked off a minute or two and when I looked again Fuller and Parker were fight-

ing. I didn't see them meet. I thought at first that Parker was my husband as they are much alike and about the same size. They were hitting each other with their fists while standing, and then they fell to the ground, and Parker hit Fuller with his fists several times, and as Parker kinder raised up, Fuller shot him. I couldn't tell whether Parker had anything in his hands or not. Fuller had a pistol. He took it out of his rear pocket after he was on the ground. He held it in his hand a minute or two after he took it out before he fired. At the time the pistol fired Parker was rising as if in the act of getting up and was not striking Fuller at the time. I don't know whether Parker saw the pistol or not. He didn't appear to see it, as he made no effort to get it. Before Fuller fired he seemed to be trying to get the pistol in position. Parker Parker fell to Fuller's right, and Parker asked, with his head towards the market house. He rolled over on his back with his head on the extreme edge of sidewalk. The first person I saw come up was Mr. Henry L. Cook.

On cross examination by Mr. Battle the witness said: "I sent a colored girl to find out whether it was my husband. The wing of the house I live in, where I was is almost opposite Mrs. Cook's house. There is some shrubbery in the yard of my house. I was sitting down during the time. Fuller could be seen on the street up or down for a good distance. The 'niche' in the fence and piazza is not as high as Fuller's head. The bannister was higher than his head. He was standing there in a resting attitude. I didn't see them when they first met, and saw nothing in the hand of either I didn't see anyone but Cook at first. I saw Capt. Kingsbury further down the street. I saw no one before the shooting, except Parker and Fuller, then Mr. Cook, who came out of his mother's house."

Here Mr. McIntyre steps out and is looked at by the jury, to let them see his size. He is a stout man, weighing 175 pounds.

On re-direct by Judge Womack the witness said: "I could easily see over the fence from where I was. When Fuller looked up the street he would step out on the sidewalk a step or two."

Maj. B. C. Gorham, examined by Solicitor McNeill said: "On Aug. 14, 1893, I was sitting on my porch about 2 o'clock. I live on Hay St. I was about seventy-five or eighty feet from where the difficulty occurred between Fuller and Parker. I was playing with my baby when I heard a pistol shot. I ran out on the sidewalk I saw one man in the act of getting up and one on the ground. Fuller in answer to some one, said 'he had me down' and—

I found Mr. Henry Lilly Cook at the body. We lifted him out straight. Mr. Cook, in order to relieve his gasps, cut his shirt and collar. The shirt where the ball went through was smoking and Mr. Cook called for some water. Before it came I took my fingers and put it out. I saw knucks about three feet from Parker on his left side. I picked them up and laid them on a pillow Mr. Cook had placed under Parker's head. I left them on the pillow. I don't know who picked them up."

On cross examination by Mr. Battle the witness said: "My house is east from where the shooting occurred, and is the second house from Mrs. Cook's and next to Webb's. Webb's is about fifty or sixty yards from where the shooting occurred. My wife was sitting on the steps, and a little child was playing around my knees when the pistol fired. Fuller's face was towards me and he was half raised and brushing his clothes with his hands. When I got there I think Fuller and Parker were about three feet apart. No one was there but Mr. Henry Lilly Cook. He jumped over the bannisters as I went out of the gate. Some one said: 'What did you do that for,' and Fuller replied that 'he had me down and was beating me.' Fuller's face was very bloody. I saw no bruises upon Parker's face and his hands were not bloody."

Dr. J. W. McNeill, examined by Solicitor McNeill, said: "I went to the place where the difficulty occurred soon after it happened. I was acting coroner. I got a pair of knucks (here he produced them) and think they are the same knucks as I gave them to Clerk Cain. They were given me by Mr. Cook. He gave them to me at the request."

The State here offered to introduce Clerk Cain to show that the knucks were the same as given him by Dr. McNeill. The defendant's counsel stated they made no point as to that and he was not sworn.

David Watkins, examined by

Judge Womack, said: "I live in Fayetteville—work at the Short Cut depot. I saw Fuller the night before the homicide, and on Monday or Tuesday night before the killing he showed me a pair of knucks. We were at the window talking and he said: 'I want to show you something and we went into the light, and he showed me a pair of knucks and said that they were a nice pair. He said that he had them to have him a brass pair cast by them. I saw the knucks a year before. I owned them a day or two and sold them to Jarvis Buckingham' (He here is shown the knucks in court and thinks they are the same knucks). He also showed me a pistol and said he had none and had bought him one that day."

On cross examination by Mr. Battle, the witness said: "I don't know whether it was Monday or Tuesday night."

I am night watch-man at the Short Cut depot, and have been for seven years. He showed me a pistol three years before, which he had borrowed from Dr. Lilly. He said he wanted to have a pair of knucks molded from the ones he showed me; said he wanted a pair to weigh about half a pound."

On cross examination by Judge Womack, said: "I know Fuller. I saw him in the rear of the sheriff's office the day of the killing. He said he wanted to speak to me, and we stepped aside, and he ask me to see Monk (David Watkins) and tell him to say nothing about what he showed him the other night. In consequence of it, I saw Watkins and told him as requested."

Here the State asks him to tell what Watkins said when he delivered the message—objected to by the defense. The State also proposed to show what he told Monk in addition to the message—objected to by the defense. The court excludes it and the witness continues: "The relations existing between Fuller and myself are very friendly. We are not related by blood or marriage."

On cross examination the witness said Fuller was in the habit of carrying a pistol and on re-direct that he was in the habit of carrying knucks. David Watkins, recalled, said: "After the homicide I had a conversation with Mr. Morris."

The defendant objects to the conversation. The State offers to show that the defendant tried to suppress evidence after the homicide and to corroborate Morris. The defense states they do not deny what Mr. Morris said. The court admits it, as corroborative of Morris and the witness continues:

"Mr. Morris delivered a message to me that Fuller asked him to tell me not to say anything about what he showed me a night or two before."

Miss Emma Steele, examined by Col. Argo, said: "I live in Fayetteville. I am acquainted with Fuller, the prisoner at the bar. I also knew Parker. Fuller was a frequent visitor at our house, as was Parker. I saw Fuller at our house on Monday night before the homicide. Fuller, Parker, my sister Loula and myself were present. There was a conversation between sister Loula and Ben, Parker, the deceased, in the presence of Fuller on Monday night. My sister Loula and Fuller were sitting on the front piazza and Parker and myself were sitting on the back piazza. Fuller and my sister came out where Parker and I were and Fuller says: 'I understand, Mr. Parker, you said to day I was a liar.' I told Parker that Mr. Fuller said he would whip me as he would any other street nigger. Parker then said: 'I did say to Miss Loula that that was a lie.' I My sister was very angry with Parker and Fuller, but Parker made no reply. Fuller and my sister left and went down to my brother's house. I live on Mumford street. My brother lives on Hay street several houses below Mrs. Walton's. I did not see Fuller for some time before then. At the time Parker was killed I was engaged to be married to him."

The State here offered to ask the question as to how Fuller was received at the house, in order to show that he was not in as good favor with the family as Parker, in order to show jealousy for a motive. The court excluded it. The State then asked the question: "Do you know whether Fuller was engaged to your sister Loula?", and the defense objected. Objection overruled. The witness, however, answered that she did not, and defendants asked that it be taken down.

Miss Addie Chandler, examined by Col. Argo, said: "I live in Fayetteville. I have lived here seventeen or eighteen years. I lived at Mr. Steele's. I was acquainted with Parker and Fuller. I saw Fuller at Mr. Steele's Monday, Wednesday and Thursday nights before Parker was killed on Friday. I did not know that Fuller and Miss Loula were en-

gaged."

The State offers to show a conversation between Fuller and Miss Loula on Wednesday night in reference to their getting married. The defense objects, and the court overrules the objection. The defendant, excepted and the witness proceeded:

"M. Fuller told Loula that he would marry her in two or three days. She seemed worried, and he said he would take her away from these people where she would never see them again. This was on Wednesday night in the early part of the night. He was on the front piazza with Miss Loula. As I was going in the house Fuller told me to wait a minute, and he said that he was going to that fellow Parker, and call him what she did, and said more besides."

Then if he dared to resent it, he was going to slap him in the face; he was going to spit in it and if he resented that, that he was going to shoot and kill him, and said that he would be hung if he did. I then went on in the house. I don't think Fuller made any reply to what I said."

On cross examination by Mr. Shaw the witness said: "I have lived at Mr. Steele's seventeen or eighteen years. It is my home. I did not secrete myself to hear the conversation. I was not eavesdropping. I was sitting near them. They were not in the habit of talking their private affairs before me, but did that night. Shortly after the homicide I went to Dunn on a visit to Mr. Ed. Parker and Mr. Dupree upon invitation of the families. Ed Parker is a brother of Ben Parker, and Dupree is a brother-in-law of his. I also saw there Mr. Jones and Col. Argo. I did not expect to see Col. Argo when I went to Dunn. I thought I would see Mr. Jones, as he lived there. It was two weeks before I saw Mr. Jones. I did not talk with him in regard to the case, but did talk to Col. Argo. I don't know whether Col. Argo went there to see me or not. I had a conversation with Mrs. John Steele, but did not tell her that I never heard Fuller make a threat. I read part of the testimony before the coroner. I read that part where Mrs. West said that she had heard me say something about threats. I did tell Mrs. John Steele that I did not say anything about threats to Mrs. West. I did not tell Mrs. Steele that I had heard Fuller make threats. I said that I did not tell Mrs. West what she swore to. I tell it now because I am called on to do so. I told Col. Argo because I chose to do so. The reason I did not tell Mrs. Steele about it was that she was at Mrs. Walton's gate, and I was in a hurry to go home, as they were very sick. I afterwards told Mrs. Steele at her house in the presence of her husband about the threats. I afterwards went on a visit to Red Springs with Miss Emma Steele, and came back with her last Monday morning. I was summoned to court yesterday morning. I did not come back to testify in the case, because I did not want to testify in the case. I came back to my home. I have some feeling in the matter, because I think it is a sad affair. I don't know whether I told Mrs. John Steele that I would be glad to have Fuller hung. I have not furnished a dollar for the prosecution of this case. I am friendly with Miss Emma."

On re-direct examination by Col. Argo the witness said: Parker and I were not on good terms, I do not know whether Fuller knew I was not on good terms with Parker at the time of the conversation I was borne in Brunswick, Ga., and my mother died when I was 3 years of age. When my mother died I came to Fayetteville to live with my aunt Mrs. Steele, and have been living with her ever since. I went to Red Springs and Dunn to be with Miss Emma, as she was in bad health. I went to Dunn upon invitation of Mrs. Ed. Parker and Mrs. Dupree."

The State here tried to show that Miss Chandler is a member of the church, and that she consulted her pastor as to her duty to disclose what she knew. Upon objection by the court overruled it.

The State here rested its case and the defendant's counsel retired for consultation.

EVIDENCE FOR THE DEFENCE  
CONTINUED

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