

Demopolis: Oct. 18. 1858

Hon A. A. Coleman -

Sir -

We again call your attention to the case of the State vs. James F. Kapp tried & convicted of carrying concealed weapons, before you at the last term of the Circuit Court of Macon.

At your suggestion we submit a statement of the facts disclosed on the trial, and request you to certify the same to his Excellency the Governor.

Kapp has been informed that Richardson, who was a very large athletic man, & with whom he (Kapp) had been on friendly terms - has been violently denouncing him. This was the evidence of Boast - a State's witness - That he met Richardson on the sidewalk, near Witness (Boast) and asked him for what reason he was denouncing him & said "we have always been friendly" - This was said & done in a low voice & mild manner, as Richardson admitted - Richardson replied in a loud and angry voice "You shall not mention that subject to me, & if you do I'll knock your damned head across the street" - raising his hand as if to strike him. Kapp stepped back & replied "you shall not run over me if I am a small man, & if you advanced

on me I'll shoot you - Richardson took one step forward & the pistol fired - but witnesses could not say whether Kapp fired the pistol or whether it went off as he was trying to cock it. That Kapps hands were both down before him, at the time the pistol fired, as if he were cocking it - that he was holding the pistol in both hands, & witnesses agreed from the facts that the pistol went off as he was trying to cock it. That immediately after the firing he heard Kapp again say if he advanced on him he would kill him, & Richardson not doing so Kapp put up his pistol & walked off.

The state admitted that an absent witness - Shahan - would swear that he saw Kapp as he was going by his door towards the place where he & Richardson met - about 60 yards from the place of meeting - that he distinctly saw the butt of the pistol sticking out of his breeches pocket - Richardson swore that Kapp either drew the pistol from his bosom or from under his coat - he could not say which - Boast also swore that it was about dusk or twilight - that the lamps had been lighted in the drug store - & that Richardson was very much excited - We contended that these facts raised a very reasonable doubt as to whether the pistol was concealed or not.

There is now pending in the Court an

indictment agst Kapp for shooting at Richardson -

Kapp is worth nothing & has run away leaving his securities W H Roberts & David Rudisill to pay the fine of \$250 which was imposed on him - He has left since our first letter to you.

We have sent up a petition to the Gov^r to remit the fine except \$50.⁰⁰ that being the fine imposed on England, by the other jury of the term, for the same offence. There being no reason why the one should have been fined so much more than the other. The Gov^r is disposed to remit it, & says he will do so, if you will say to him that you think under the circumstances, it is a proper case for his interposition.

Please communicate with the gov^r forthwith, as it is very essential to Kapps securities, that they should be relieved now if at all - The Sheriff is only waiting with them until they can hear the result of this application. They became security for Kapp from the desire to keep him out of jail & to give him an opportunity to make the money - He has left them to pay the entire fine & costs.

Yrs respectfully
Lomax & Prince

Gov. A. B. Moore

Dear Sir.

At the earnest request of our mutual friends Prince & Comay I write you on the subject mentioned within. The facts set forth in the foregoing letter are substantially as developed on the trial, except perhaps that Richardson swore positively that the ~~Diute~~ was not drawn from the breeches pocket. There was pending against Kapp an indictment for assault to murder Richardson. At the request of the attorneys on both sides I allowed the witnesses to testify (as you will perceive) to facts which did not legitimately pertain to the case on trial but more properly to the one last aforementioned. This may have had some influence on the jury in moving them to place the fine high.

Since writing the above I have looked over again the within statement. On first page it is said that "he (Kapp) met Richardson on the side walk" &c this might leave the impression that the meeting was wholly accidental. My recollection is that the testimony tended to show that Kapp went in search of Richardson to seek an explanation of certain ~~the~~ remarks which Richardson was said to have made.

I intended to have a personal interview with you, but circumstances beyond my control prevented. I left Marion under melancholy circumstances, to wait by the bedside of a dying child. We laid him down to sleep in the churchyard on yesterday. I know we have your sympathy in our bereavement.

Yours friend

A. A. Goldman

