IT RESTS NOW WITH THE JURY

All Arguments in the Lauer Case Concluded Yesterday Afternoon.

THE TWELVE MEN RETIRE

And Are Still Out at 3 a. m—Gen. Cowin Makes a Closing Speech of Cogent Argument and Masterly Eloquence—Judge Thurston's Great Effort

Yesterday's Proceedings.

The diurnal pilgrimage to the court house began at 7 o'clock yesterday morning despite the penetrating mist which was trying to make everyone uncomfortable. Bodily discomfort, however, was not thought of by the vast crowd desirous of hearing Gen. Cowin make the closing argument in the Lauer case. Friends of the prisoner, his enemies, and even those indifferent to his welfare were alike anxious to hear what the man whom Mr. Thurston characterized as the "great chieftain seeking to dangle Lauer's scalp from his girdle" would have to say. To say that the court room was filled gives no adequate idea of the scene. A wild suffocating crowd packed every nook and cranny in the room. People stood upon step ladders and gazed through the transom; they stood on the outside of the windows and hung on to the casements: they stood upon tables and craned their necks anxiously to get a view of the speaker. The capacity of the court was never subjected to such a severe test. The faces of the audience were expressive of the deepest attention and an occasional burst of applause would greet Gen. Cowin's eloquent passages.

Mr. Cowin was attired in a close fitting frock coat, the sleeves of which he pushed back when he got fairly into the spirit of his discourse, the white cuffs making a striking contrast to his raven hair. He walked to and fro in front of the jury box while he was speaking, but would occasionally turn back to where Lauer was sitting and address a rhetorical question to him in a low impressive voice. The prisoner rested his head upon his hand and looked towards the judge at times, however, casting his eyes at the lawyer who was speaking. There was a little delay owing to the lateness of the defendant's counsel in arriving. "Send for Judge Savage," remarked the court.

"Judge Savage is in the room," came that gentleman's well-known voice from the centre of the crowd to the left of the bench, "and expects to be with you in a short time."

By dint of vigorous elbowing the judge finally succeeded in making his way to the front and took his seat, panting from his exertions. Mr. Cowin then rose to his feet and spoke as follows:

Gentlemen of the jury: I consider it a matter of profound congratulation to all of us that we are drawing near the end of this case. To you, who have sat so long, patiently listening to the testimony from day to day, and I want to say that so far as this defendant is concerned, he may congratulate himself on one thing at least, and that is that he has been defended by the most able counsel and that he has had as magnificent and splendid a defense as ever was accorded to a prisoner at the bar.

Not a stone has been left unturned. Not a proposition or law has laid idly on the pages of the books that could be presented in his favor.

I do not, gentlemen of the jury, come to you with an address such as was presented by my friend Judge Savage nor such as was presented by my learned friend Judge Thurston. I do not come to you with one sentence prepared; not one word put on top of another, and, gentlemen of the jury, so far as I am concerned, my dealing now for a short time is with you, and with you alone.

To me what other persons in this room may consider of what I may say is of the utmost indifference. To me what has been said about me in this case is of the utmost indifference, and I care nothing about it.

I, gentlemen of the jury, in the short time that I shall talk to you, shall

TALK ON THIS CASE,

and I shall talk to you the same as if this jury of twelve men, the defendant and his counsel and the judge on the bench only were in this court room.

I have been, probably, a little abused. I do not complain of it; it is in the regular programme. There are men on this jury who sat in the jury-box in Douglas county years ago, when I was district attorney. You all remember then that probably I never tried an important criminal case that I was not a bigger villain than the prisoner at the bar, if we were to leave it to the other side, and I presume that during the four years I was district attorney I received more abuse than any of the prisoners I tried. I expect it now. The gentlemen have been pleased to so look upon my connection with this case.

My friend Savage said I would be denunciatory, that I would be vindicative. I trust not. Much of my mode of procedure has been learned from my venerable friend, and probably the better part of it.

Now I presume I had better mention a few things before I proceed into the real facts, so as to wipe the cobwebs and difficulties away. I propose, gentlemen of the jury, to

ABUSE NO ONE.

The step-mother of this defendant and his sisters will not hear an unkind word from me. The case does not require it, nor would it do any good.

I wish to speak now, gentlemen of the jury, of the defendant and his friends. I am not required to pass any eulogy upon Miss Lauer, who has testified in this case, yet I am willing to accord to her all the bravery of the maid of Orleans, and all the generosity that is claimed for her. It reminds me, however, of a case I tried some years ago in Cass county, when I was district attorney. It was a case of shooting a woman, and the case was entirely circumstantial. A shot had been fired down the road in the country. No one knew who fired it. We only knew a woman fell a victim and died shortly after. The defendant was presented for trial. On the trial of that case the defendant himself, his old father, his old mother, his sister and his aunt all swore that he was in the garden hoeing at the time the shot was fired. The aunt swore that at the time the shot was fired she was handing him a drink of water, but he was convicted.

This sister has stood by her brother and stood by him nobly; but you would not expect her to do anything else.

The gentleman said I would be denunciatory, that I would be abusive and that I would more or less expect to influence this jury in that way. I do not think my friend Judge Savage should so accuse me. I do not know when I have given him a reason for so doing. But I want to say this, gentlemen of the jury, you heard the argument of the counsel here yesterday; you heard what was said by Judge Thurston and you heard what was said by Judge Savage. I never in all my life used as much abuse in an argument of a case as was used in one argument here yesterday. I never in all my life abused men who had nothing to do with the case as men were abused yesterday. I never in all my life, gentleman of the jury, and it is my prayer to God that I never will, abused a woman in acts or in words. (Applause.) I never in my life assailed a woman's character. I never in my life applied an invective to the lowest and deepest fallen, and God helping me I never will. Their sorrow is enough. Their misery is more than they can bear. Why, gentlemen of the jury, I never see one of those poor creatures that I do not think that her bright eyes once looked out in innocence. That once she was a mother's darling. I never think of them, gentlemen of the jury, but to remember their terrible history that taking one of them alone to give the history of all, poor victims of their own credulity or the outcasts of another's crime.

With all this misery heaped upon their heads, it is not for me to stand in the court of justice and heap more misery and I will not do it. The case is presented to us to start with, with the abuse of women.

We have been told, too, a great deal about public opinion. My friend grew most eloquent when he was arraigning public opinion. Gentlemen of the jury, just let me say here and end it at this, we are not trying public opinion in this case. We have no testimony against him or her.

An abuse was also made on the gentlemen of the press, the most industrious of men. They were called "beardless cubs." Well, gentlemen of the jury, I will leave those "beardless cubs" to take care of themselves. We are not trying them here. But does the gentleman remember that in the spring of 1861, the majority of those who flew to arms for the preservation of their country were "beardless cubs?" Does the gentleman remember that the flag was first protected by a "beardless cub?" Gentlemen of the jury, I remember as if it were in the court room this morning when, on a summer day in 1861, my mother placed her hands on my head and with her blessing sent me out to battle for my country. I was not 16 years of age. I look over my discharge and—please forgive this personal reference—I find that I engaged the enemy in no less than six important battles, and three times I bled for my country, and yet I never found it necessary to parade up and down to declare I was a man. And I certainly would not do it if the only enemy I had to attack was two or three "beardless cubs," or an empty pistol. [Laughter.] I never thought it was necessary in the presentation of a case to rear up and down and to pronounce in maniac tones, "I am a man." Why I hope you will take that for granted. I learned from my friend Thurston when he was a "beardless cub," that he was a man, every inch of him.

But gentlemen of the jury, why have they mentioned Public Opinion here? Would you know anything about Public Opinion if they had not mentioned it? Do you suppose, gentlemen of the jury, that this audience is gathered here by anything that is said in the papers? Not one word of it. The press of this city during this trial has been absolutely impartial, absolutely conservative and has done nothing but present the facts in this case.

Of the press itself and of these gentlemen I cannot take time to say anything, but my friend rears and tears at public opinion as if he was not the pet of public opinion and sucked at her breast for twelve years while I have been a virtual outcast. Public opinion, sir, lifted you to the top wave. It has sent you to every political convention, even to our national convention to stand the peer of any there. I will tell you the trouble with you: you have been petted so much by public opinion that if public opinion has a caress for another you want to murder it, like your client, who could not bear a look from another person at his wife.

We are told, gentlemen of the jury, that no good can be done this poor family by punishing Lauer, no good can be done to the relatives of the deceased by punishing Lauer. No, no! none whatever. Gentlemen of the jury, we do not try cases for doing good to the friends of the deceased. That is not our object. No, you may take Lauer and punish him as you will, it does not return the daughter to the bosom of that mother, it does not return the daughter to the embraces of her sister. It don't do that. But is that any reason who should not punish guilt?

A few years ago we were startled, the world was startled when a bullet passed through the head of the greatest man that ever trod American soil, Abraham Lincoln. But gentlemen of the jury, would the punishment of Wilkes Booth wipe one tear away from the eyes of Mrs. Lincoln or from the eyes of her boys that were left fatherless? No, sirs, we are not seeking to secure the punishment of John Lauer to do good or to alleviate the sufferings of this broken down old mother or the bereaved sister.

The Afternoon Session.

When General Cowin began his argument, the space occupied by his body was the only spare room in the building. The heat was intense and its effect were plainly seen on General Cowin's countenance.

In speaking of the light of the room on the night in question he said that it was moonlight. Miss Lauer stated that when she ran out of doors she stumbled over something, but she was in such a condition that she was liable to stumble at noonday. Matt Gahlon testified that he could clearly distinguish her features. Other evidence went to show that the moon was shining in the west window of the room where the tragedy occurred. The tests made by the defense were at a time of night when the moon was in the east and its rays could not illumine the apartment. On the other hand, Mr. Ewing, the only witness used by the prosecution, testified to making a test under conditions which were entirely fair. The lamp was put out, and from the light coming from the store alone the question whether or not Lauer could see his wife was investigated. A person standing in the door could be recognized from the bed. Not only that, but the ordinary print of a newspaper could be read. He stated that the defense thought that by bringing men like Herman Kountze and W. V. Morse into court they would influence the jury.

The first night they went up there the stove was dark, but a face could be recognized at the distance of three feet.

Gen. Cowin then took up the doors of stove and pointed out the fact that the isinglass was darkened when the tests were made and that when the tragedy occurred they were as "bright and clean as the heart in Sallie Lauer's body." He accused the defense with preparing the doors especially for the occasion when the tests were made. "It was not," said he impressively, "the isinglass through which the light shone that directed the bullet to Sallie Lauer's heart."

He next took up Lauer's testimony in regard to the light. He testified that the west blind was up. He says he saw the head approaching and expected to see a body fall across the foot of the bed.

"Now," continued he, "I simply ask, Do you suppose Sallie Lauer or John Lauer were out of bed before the shooting or after placing the oatmeal on the stove?" It is shown that Lauer filled the magazine before going to bed in which coal would not be out till next morning Matt Gahlon swore that there was no coal in the magazine when he came there. Ben Gallagher gives corroborative evidence, stating that the lower part of the stove was cherry red, showing that the stove was shaken down.

That demonstrated that these people had been up; that the stove had been shaken. Who did it? Burglars? No. How did it come about if they had not been up?

Matt Gahlon said that a chair was between the stove and bed and that the door from the kitchen to the dining room was open. Lauer says that it was not opened till after the coroner came. Who did all this; who prowled around the house at night? I feel there is but one answer. That fire had been attended to time after time between 9 and 2 o'clock. There is no escape from that conclusion, and the is conclusion that Lauer was the one who attended to it.

Gen. Cowin then said that from the very direction which the bullet took it could not have been fired from the bed, as in that case the ball would have entered the brain at an angle of forty-five degrees. In the most eloquent way and amid the most intense interest, Gen. Cowin commented on Lauer's language, which he characterizes as brutal in the extreme. General Cowin continuing, spoke as follows:

Lauer says he fired, looked, felt for his wife and she wasn't there. He got up and, according to his statement, he felt the body. He placed one hand upon the hip; but what has he said about it before. He told Mrs. Goetschius that when he got up and got around to the foot of the bed, not after he lighted the lamp, not after he struck the match, but that he saw that he had shot his wife, and that he saw by the heaving of her chest that she was still breathing. Uncontradicted. He tells Mr. Baldwin, he tells Major Dennis, that when he got around to the foot of the bed he saw he had shot his wife, and that he saw she was breathing, and when asked, "You picked her up in a moment and placed her on the bed?" he answers with the

MALIGNITY OF A FIEND,

"No, I left her for the coroner." Is that the penitent soul? Is that the penitent man? They say he showed his penitence by giving property. Yes, the same as any man does. A man commits a crime and condones it by paying a fine. But, sir, that is the way that he left his wife at that time. Now they say: Oh well, the idea of leaving her for the coroner occurred when Gallagher got there. When Gallagher got there the body had not been touched, except as moved a little on the back, as he testifies, so that it wasn't Ben Gallagher that gave him the idea of leaving her for the coroner, because he had already left her. He tells these parties, in language cool and deliberate, "I left her for the coroner." Oh, God, why didn't the blood of Sallie Lauer rise from the ground and strike him dead? "I left her there." Now let us take his own statement of what he says, and that is more horrible still. "Oh, horror of horrors!" Macbeth says after his foul deed of murder, "Look on it again I cannot." This man, what does he do? He feels that it is the body of his wife. He don't know now, bear in mind, whether she has fainted or whether she has been shot. He don't know that. He don't know whether it is a fall from a faint, or whether it is a fall from his bullet. He does not touch her at this time, except to feel of her and shake her. This is his testimony: he felt of her, and shook her, and called to her. Now let us see whether he calls to her or not. Minerva Lauer was up stairs; Minerva Lauer jumped out of bed the moment that the shot was fired, and as she says, a scream was heard. Oh,

IF THAT SCREAM COULD TALK

we would have more light on this case. They do not tell us the voice of that scream. Lauer says he screamed. Somebody screamed, you say. He says he shook her and called to her by name. Minerva Lauer was up stairs, and she swears that she jumped out of bed the moment the shot was fired, and heard him tramping up and down the room, making exclamations of horror. "And what were they," I asked her. "I cannot tell you," she says. "Tell me some of them," I said, and she said, "Oh, Lord." But nowhere did she say, "Oh, Sallie." Nowhere. He says he calls to her. Miss Lauer swears she could hear his breathing up stairs. If she could hear his breathing up stairs, then she could hear his appeals to his dying wife to come back to him to love. But she did not. No, and they never were uttered. In all this transaction, gentlemen of the jury, although my friend Thurston says he exclaimed "Oh, Sallie," in all his testimony I will defy you to find a word, from the beginning to the end, that he mentioned his wife's name, except to say, "I have shot Sallie." He never said "Oh, Sallie," he never said "Oh, my love," he never said "Oh, my wife," he never uttered an endearing term to that bloody body lying before him. Not one endearing name. Now what did he do? Let us take his testimony. I will show you now that Miss Lauer contradicts him, and I have no doubt that Miss Lauer is correct; that when she got out of bed, that man was

PRANCING UP AND DOWN THE ROOM,

still in anger. She says he was; he swears he was not. I have no doubt in the world sir, that that man was tearing up and down the room, still in unmitigated rage. She says he was; he says he was kneeling at the side of his wife. She says he was tearing up and down the room. Let us take his own statement at this point. He says that he shook her, he saw it was his wife, he didn't know whether she was dead or not. He got up, and what did he do? He went coolly and deliberately, and more so than I could go and take a drink of water out of that glass this moment, he found the match box, he lit the match, he took off of his student lamp the chimney, he turned up the wick, lighted it, put the chimney on again and then looked around at his wife. Wouldn't it seem to you that the moment the match was struck he would look around? But he didn't. He didn't, sir. He waited. He got his match, he turned up the wick, took off the chimney, lighted the lamp, put the chimney back again, and then, for the first time, looked at the dying form before him. In the name of God, in the name of humanity, in the name of that which binds humanity together, don't it seem as though at least he could have said, "Oh, Sallie!" Don't it seem that at least he could have lighted his match and looked around and seen the body and rushed to it? No sir, he lighted the lamp, turned around to the body of Sallie Lauer, and it was lying he says about on the right side, and probably a little more on the face. He then took and turned the body some; on its back, he thinks. We know the body was found on its back. What did he do then, gentlemen? He says that he felt the heart. Oh that heart that had yielded the world for you; he felt of that heart; that heart that had suffered all the pangs that human being could be called upon to suffer; he felt its flutter, he felt it beat, and what did he do? Shook the body again. He saw the

BLOOD COMING FROM THE EARS,

from the nose, from the mouth in an instant, and he did not wipe one drop of that away to give access to the breath of life. My God, where have you ever seen an example of beasts, let alone human beings? He never from the nostrils wiped the blood; he never from the mouth took the blood, so the air might reach that breast; so that air could reach those lungs. I will not say a word more on that—not a thing. He did not know at this time, gentlemen of the jury, and put that down, he did not know at this time that she was dead. He swears he didn't. He thought she was, but he didn't know, and the last he knew of her, the heart was beating in her noble breast. Now what does he do after this? He says he knelt by her side, and finally he heard his sister coming down stairs. Gentlemen of the jury, when you go into your jury room, will you tell me why he rushed out and stopped that sister. Why did you go and stop that sister? She was going out of doors; she was rushing out. That poor girl, the memory of that night will remain on her mind so long as God will give her life. I wish it were in my power to wipe it away. You knew what was the matter. She knew the trouble in that house; she ran out. She says, "I was going for help for Sallie." She knew what was the trouble. She heard her brother calling out "Oh Lord," she heard one shot fired; but the voice of Sallie Lauer was dead. It was not heard, was it? You know when Lauer was calling out "Oh Lord," and Sallie Lauer's voice was silent, that it could not speak. You know it, and we all know it, and there is no question about it. Poor girl, if my blessing can relieve you in the least, and give you an hour the less suffering, God knows it is yours from now on. She knew Sallie Lauer needed help; she knew Sallie Lauer's voice was silent; she knew

THAT SHOT WAS FOR SALLIE LAUER.

He stopped her; why didn't you let her run? He stopped her, and he tells her what to say when she goes out. He tells her what to say by saying to her "I have taken Sallie for a burglar and shot her." But did he say how severely she was shot? Not at all. Does she ask? Not at all. More than that, Sallie Lauer's voice was still. She went over to John A. McShane's, and there was Lee and Gahlon. She didn't say that Sallie had been taken for a burglar and shot, but she said something terrible had happened at our house; that is what she said. John Lauer goes back into the room. What does he tell you? Miss Lauer says that she saw upon his face a look of despair. Now in order to see that look of despair, do you know, gentlemen, Lauer has got to take the trouble to take the lamp from the bedroom into the sitting room and set it on the table. Bear in mind, she could well see

THE LOOK OF DESPAIR,

because at the time you will notice that immediately north of the stove is a door opening from the hall into the sitting room. You will notice that that door is right adjoining the stove; that when you open that door, the light from the stove would have shown John Lauer plainly. You don't believe, gentlemen of the jury, that John Lauer went to the trouble to take the lamp from the dressing case in the bed room, and bring it out in the sitting room. He says he did. Now what did he do? Now let us see his act for a moment, gentlemen of the jury. Let us see what he did now. He went back into the room; he knelt again beside the body of his wife. He didn't know yet that the heart had stopped beating; he didn't know yet that the soul had fled. This is his own testimony. Gentlemen of the jury, let me tell you another thing that is in this testimony: that when John Lauer went back to the body of his wife he did not know where she was hit, according to his statement. He says that he knew she was hit in the face, but he did not know where. He did not know whether that bullet had passed through and lodged in the mouth, and caused the blood to flow from the mouth and nostrils, or whether it had penetrated the brain. He says he did not know, gentlemen, and yet, not knowing, John Lauer, (turning to the prisoner), not knowing that your wife was dead, not knowing that she had a mortal wound, not knowing but what a drop of water would let breath into her soul, not knowing that, you left her like a dog on the floor. Now, sir, he didn't know it. He went to work and dressed himself. Now he says he dressed himself to go after the doctor. "John Lauer," I said, "at the time that you proposed to go after the doctor, did you know your wife was dead?" He says he did not. All this time she was lying there; all this time she was in that agony, and he didn't know she was dead. Oh! but

HERE IS A TERRIBLE THING.

Gentlemen of the jury, I asked John Lauer why he didn't go after the doctor. What is his answer? "I wanted to be beside my wife." John, did you know she was dead? "I did not. If she returned to life I wanted to be there." Gentlemen of the jury, I said then, "Mr. Lauer, you remained there so as to be with the body if life returned?" Do you know what is the answer to that? "That is exactly it; I wanted to be there if life returned." "That is exactly it; the four words of his answer. Now, gentlemen of the jury, just think of it. That body lying there all that time, not knowing but what it might return to life! Is there but one answer why he did not do anything to restore that body? Is there but one answer why John Lauer wanted to be beside his wife if consciousness returned? There is just one answer. It is a terrible answer, but we cannot escape from it. It is this, oh, this is the answer: I wanted to see that my act was not pronounced by those lips, if life returned; I dared not trust myself away from her, because the

SECRET OF MY FOUL CRIME

might yet be told from those apparently dead lips. Let me now see whether or not this is justified. Have you reflected upon the condition of that body? Bear in mind up to this time, for many minutes, he did not know that life was extinct. Now, what did he do that night? He says the body fell about on its right side, and that he turned the body over on its back. How was the body found? Let us take the testimony of Mr. Lee, who was the first that went in, and Matt Gahlon, the next who went in there, and it is not disputed by anybody. Mr. Lee and Mr. Gahlon say that the head was turned over to the right, so that the nose nearly touched the carpet, don't they? Now, just think of this position of the body, just look at this position of the body. The head was turned over to the right so that the nose nearly touched the carpet, and the body was on its back. Now, gentlemen of the jury, in that position of the body, with the head turned over to the right so that the nose nearly touches the carpet, the head was nearly twisted off. And with the head in that position and the body in that position, it was impossible for that woman to breathe, even if there had been a chance of life

AND YOU LEFT HER SO?

Why didn't you, when you turned her over on her back, turn her head and raise it so that air might enter the lungs? He did not do it, but he left her head over in such a position that air could not get to those lungs—he left her there. That is the fact of it, sir, and left her there until he was sure she was dead, and the story of this tragedy was secreted by her departure. Think of it. * * * He was going to make sure that life did not return. From the very start, gentlemen of the jury, he has thought of nothing but John Lauer. He has thought of nothing but his own defense; he has thought of nothing but his own protection, even to seeing it made certain that the lips of Sallie Lauer could never talk. And thus he leaves her, already premeditating, already calculating the defense that he would make here to you, gentlemen of the jury, when this matter came up. My learned friend, Judge Savage, tells you if he were a murderer he could not do that; he could not take the bar and wash it, and assist about the body. Why, gentlemen of the jury, the

MURDERER OF THE WIFE

has even taken the body and cut it in pieces and burned it in the stove. The murderer of the wife has dragged the body and placed it in the well. The murderer of the wife has even taken the body and thrown it in the river. The murderer of the wife has gone and concealed the body in the wood pile. The murderer of the wife by poison has dressed and prepared the body for the funeral. Gentlemen, I fear I tire you, and yet I have endeavored to make no spread eagle speeches here, to make no Fourth of July oration, to make no tirade on public opinion, either for or against. I could not do it as eloquently as my learned friend can, either, but I think it has nothing to do with the case. I am talking of these facts in the name of justice, and do not find anything, like my eloquent friend, that can be said of public opinion or the press. We are told now that when these parties came in he told the story, and has told it since. So he has. A word more here, gentlemen, and I will hurry on. We are told by my learned friend Thurston, that Mr. Lee, Mr. Gahlon, Mr. McShane, and the others who went in there—Mr. Gallagher, felt sure of his innocence when they went in. Remember that. Let us see how that will appear in the light of this evidence. The old man Lee, an honest old man, who would not perjure his soul to save John Lauer or any other man, who is already tottering on the verge of the grave, and expects soon to pass to the other shore, that old man is the first one that saw that terrible scene. That man is the first man that saw

THE TERRIBLE PICTURE

that morning. Oh, how different from the picture the night before, when she nestled in his arms, and blushingly looked up into his face. Judge Thurston says that after the separation he wanted to say, "Can I see you to give one more kiss of farewell?" What a scene. Now here was a departing soul; here was a throbbing heart; here was an agonizing body; here were parched lips; here was a scalded tongue. And did he ask a kiss then? This is the scene that old man Lee saw when he came in. Bear in mind that Mr. Lee saw the surroundings, looked at the man's hands, looked at the bed, heard his explanation, saw the whole thing as it was immediately after the tragedy. And what does old man Lee say about it? The district attorney asked Mr. Lee this question, "Did you ask him how it occurred?" And what was Mr. Lee's answer?

"I ASKED HIM NO QUESTION—I SAW ENOUGH."

That is the old man's answer. What did he see? See she was mistaken for a burglar? Not at all. Ben Gallagher, when he came there, met Lee going out of the house, and didn't ask him how it occurred. Ben Gallagher knew well enough. Mr. McShane was over there and never asked how it occurred. He knew well enough. They all knew well enough, and he says, "I asked no question; I saw enough." Is this the conduct of a penitent man? Is this the conduct of one who feels regret for what he has done? If so, in what way does he exhibit it? What did the man who had shot his wife by accident and in the presence of the body, while its lovely form yet seemed to

DISPUTE WITH DEATH,

while its lovely face seemed yet to belong to earth, say to Mr. Voss? "How do the people take this? It would be all right if that son of a so and so." Is that the language of a penitent man? Joe Ier, this man that has been traduced, and the man who in this investigation holds the noblest place in it, from the beginning to the end, on either side; a man who had been told the wrongs of his niece, knowing she had no father or brother; a man who knew that her only protector was the good old lady who so soon must follow her to the grave; a man who knew this had the impudence, the audacity to stand by an outraged woman. May the last act of my life before I am called into the presence of my Maker be with the voice of my lips protecting woman. When this man stepped into the room with the sister of the deceased on his arm, he said in the presence of Mrs. Ier, "I would like to kick that man out of doors." Is that the voice of regret? Is that the regret of sorrow? At another time in the presence of Mr. J. W. Ier as Joe Ier came into the room, he says, "Hell, I would like to kick that man out of doors!" and

STARTED UP IN HIS RAGE,

but was prevented by a lady at his side, while the dead body of his wife was under the roof. Is that the voice of regret? is that the voice of sorrow? is that the voice of penitence? This is the man whom they depict as the bright, brilliant, loving husband and the penitent, after the accidental shooting of his wife.

I think I will not pursue this case any farther. One word as to the probable scene there that night. We know that the door was unfastened, and the coal out of the grate, and in all probability that lamp was never put out. But these other matters we do know. That woman had been in sorrow and trouble all that time. No doubt, time and again, she said, "John, I cannot endure this life any longer," and held up her hands in despair, and said, "John, kill me, it will be doing me the greatest of services." No doubt but that night she said, "This cannot be endured," and, rather than have that woman leave, and have that face smiled upon by another, he would rather put her under the sod. We know he could not have shot her from the bed. The gentlemen say he must have made the shot as they say, because he described afterward just how it was. Yes, he described just how that shot was without examining it at all. He knew just where he had hit her. He knew the

EFFECT OF THAT BULLET.

He must have been sure that she would tell the story after he had threatened or cajoled her again, as she told the story of the other burglar—that she was shot at for a burglar. They said they would tell you of another burglar in the house. They did not.

I leave this case that has been to me a source of great anxiety. With regard to myself personally I want to say to you that I care nothing for public opinion. I have not been its pet child. I am too outspoken, too determined, and probably never will be. But I have not forgotten the lesson taught me by my mother, that I should perform my duty as my conscience dictated and leave the consequences to Almighty God. * * * In the trial of a case in court there are more things to be tried than the prisoner at the bar. There is a trial of the power of government; there is a trial of the power of law; there is a trial of the duty of the citizen; there is a trial of the integrity of the jury. These things we now submit to you. Take them to the jury room. You will be expected to perform your duty fearlessly and well. Let no political considerations ever darken the sacred doors of that sanctuary; let no religious considerations enter into the solemn presence of the deliberations upon this question; let no social matters come near or touch you; but under your oath that binds the integrity of man to the throne of the eternal God, make true deliverance between the state of Nebraska and John W. Lauer. Gentlemen, I thank you, and I desire before closing this case, to thank the court, not in my own behalf, but in behalf of the people, not in behalf of a mob, in behalf of all we hold dear. I desire in behalf of them all to thank the able efforts of the learned district attorney in bringing this case on to trial, and I believe he has the people's good will. Thanking you again, gentlemen of the jury, I now submit the case.

Instructions to the Jury.

The following are the instructions to the jury as delivered by Judge Neville:

State vs. John W. Lauer.

1. The defendant is indicted and charged thereby with the crime of murder in the first degree by shooting his wife, Sallie Lauer.

2. The statute under which this prosecution is had reads as follows: "If any person shall purposely and of deliberate and premeditated malice or in the perpetration or attempt to perpetrate any rape, arson, robbery or burglary, or by administering poison or causing the same to be done, kill another * * * * every person so offending shall be deemed guilty of murder in the first degree, and upon conviction thereof shall suffer death."

3. Our statute defines murder in the second degree as follows: "If any person shall purposely and maliciously but without deliberation and premeditation kill another, every such person shall be deemed guilty of murder in the second degree, and on conviction thereof shall be imprisoned in the penitentiary not less than ten years or during life in the discretion of the court."

4. Our statute defines manslaughter as follows: "If any person shall unlawfully kill another without malice either upon a sudden quarrel or unintentionally, while the slayer is in the commission of some unlawful act, every such person shall be deemed guilty of manslaughter, and upon conviction thereof shall be imprisoned in the penitentiary not more than ten years nor less than one year."

5. You are instructed that a defendant in a criminal prosecution is presumed to be innocent until proven guilty beyond reasonable doubt, and before the state can justly claim conviction the state must satisfy you beyond a reasonable doubt of the truth of each material allegation in the indictment by competent proof and circumstances of the case.

6. Under our statutes there are three grades of criminal homicides, as follows: Murder in the first degree, murder in the second degree and manslaughter. And in a prosecution upon an indictment for murder in the first degree, if the evidence fails to sustain such charge of murder in the first degree, you may under such an indictment, if the evidence shall justify, find the defendant guilty of either murder in the second degree or manslaughter.

7. Murder in the first degree is defined by our statute, which I have given you in my second instruction, and the definition there given is so plain and concise that I fear confusion in attempting further definition. Should your find that Sallie Lauer was alive in Douglas county on the 21st day of November, 1885; that the said Sallie Lauer is now dead; that she died from an injury from the hands of some one other than herself; that she came to her death by a wound in the right side of her nose, head and lower part of her brain, inflicted by a bullet discharged from a pistol, and that the defendant discharged the pistol and inflicted the wound, of which Sallie Lauer died, if you are satisfied of the truth of all the above stated facts beyond a reasonable doubt, then it becomes your duty, from the evidence, to hunt for a motive and design on the part of the defendant, and if you find from the evidence, beyond a reasonable doubt, that the defendant knew or thought, at and just prior to the assault, that the assaulted was Sallie Lauer, and the defendant purposely, with deliberation and premeditation, and with malice, deliberate and premeditated, did the killing, then you should find the defendant guilty of murder in the first degree.

7½. Motive is that force behind the will which prompts the will to act. It may be love of gain, selfish desire, jealousy, hatred, sudden heat of passion, or any of the various causes which move the will power.

8. To do an act purposely is to do it designedly, intentionally and with a will. To deliberate one must think and reflect what one must do or refrain from doing, and when one contemplates and so reflects upon an act, that one is said to deliberate the act; and the act may be a deliberate act, although no considerable time is occupied in such reflection and deliberation; it is sufficient if there is time to reflect upon the intended deed, though the time be very short.

9. To premeditate is to meditate beforehand upon the intended act, and in this element of the crime of murder, like that of deliberation, no considerable time is necessary for premeditation; it is sufficient if there is time to premeditate upon the intended deed, so that time might intervene before the thought and the killing sufficient to have caused a reasonable person to see and know the wrong he is contemplating.

10. There is one additional element for you to consider and which element must be present in the defendant's mind and act before you can find murder in the first degree, and that is malice. Malice is hatred; it is manifested in the mind by ill will, and a desire to injure another. It is mostly indicated by threats of revenge, and the very act of killing may of itself be sufficient evidence of malice. This element may be express malice; that is, it may be manifested by the language and acts of the defendant at and before the time of the killing so that it may be proven by evidence of witnesses. In addition to express malice there is malice presumed when the act of killing is surrounded by circumstances which do not excuse the act, but the act itself shows a malignant, revengeful heart bent upon doing harm. And in all cases of willful and unlawful killing where the circumstances of such killing do not excuse the killing, the law presumes defendant to be possessed of the element of malice without additional proof.

11. Where the fact of the killing is established without any explanatory circumstances malice is presumed, and it would be murder in the second degree; but if the evidence establishes the facts of deliberate and premeditated malice then the offense is murder in the first degree, if the killing was intentionally, purposely, and unlawfully done.

12. You are instructed that a homicide may be either justifiable, excusable, or felonious and criminal. The defendant admits the killing and claims as a defense that it is excusable. A homicide is excusable where one in doing a lawful act, by mere accident unfortunately kills another.

13. You are instructed that where a party has entered the private residence of a defendant in the night time with a felonious purpose of stealing, robbing or committing any felony against the defendant or his family, the defendant, may shoot and kill the intended criminal and the law justifies such killing. And in this case if you are satisfied that John W. Lauer honestly believed and firmly thought that his wife, whom he saw in the room, was a burglar intending or committing a felony upon him or his family, and John W. Lauer under such honest conviction and by mistaprehending his wife for a burglar fired the fatal, shot he, the said Lauer, then and there intending to kill a burglar and not his wife, then you must aquit.

14. If on the contrary you are satisfied beyond a reasonable doubt that defendant knew or believed the object he fired at was his wife, Sallie Lauer, then you should find defendant guilty of murder in the first degree, if the other elements of the crime are sufficiently proven.

15. Should you be satisfied beyond a reasonable doubt that the defendent had reason to believe that the object he saw was not a burglar, and that the thought came to his mind that it might be his wife, and defendant had time to reflect however short, and defendant maliciously and recklessly and without care fired the shot, you may be justified in finding defendant guilty of murder in the second degree.

16. You are instructed that if all the circumstances relied upon by the state for conviction are reconcilable with any reasonable hypothesis other than the guilt of the defendant, or they do not satisfy the mind of the jury beyond a reasonable doubt of the guilt of the defendant, then you should acquit.

17. You are instructed that circumstantial evidence is legal and competent in all criminal cases, and if it is of such a character as to exclude every reasonable hypothesis, other than that the defendant is guilty, it is equally as certain and entitled to the same weight as direct testimony by word of mouth.

18. You are the judges of the credibility to be given to witnesses, and you should in considering the weight of their testimony take into consideration the manner, the interest, or the want of interest, of said witnesses in the case, together with the standing and bearing shown by the witnesses in their testimony.

19. You are instructed that if you are satisfied from the evidence and circumstances in this case that any witness who has testified, has willfully or knowingly sworn falsely as to any material thing in the case, then you may be justified in disregarding the whole of such witness' testimony which is not corroborated by other evidence or circumstances in the case.

20. In a case of prosecution for murder in the first degree, if the jury shall be satisfied from the evidence beyond a reasonable doubt that defendant purposely and intentionally, unlawfully and maliciously, killed deceased, yet without deliberate and premeditated malice, the jury can only find murder in the second degree.

21. In a prosecution for murder in the first degree, if the jury shall be satisfied beyond a reasonable doubt that defendant unlawfully killed deceased, but without malice at all, then if the evidence is otherwise sufficient the jury can only find defendant guilty of manslaughter.

22. You are instructed that a reasonable doubt, in the meaning of the law, is such a doubt as would cause a reasonable, prudent and considerate man in the graver and more important affairs of life, to pause and hesitate before acting upon the truth of the matter charged. The proof is to be deemed to be beyond a reasonable doubt when the evidence is sufficient to impress the judgment of ordinarily prudent men with a conviction on which they would act without hesitation in their own most important affairs of life.

23. You are instructed that if, after a careful and impartial consideration of all the circumstances and all the evidence in the case, you can say and feel that you have an abiding conviction of the guilt of the defendant and are fully satisfied of the truth of the charge, then you are satisfied beyond a reasonable doubt.

24. Now, gentlemen, I have discharged my duty the best I could, and the sternest responsibility that can ever rest upon a juror is upon you. No juror is worthy to sit as such if he, by sympathy for the prisoner or prejudice against him, permits his verdict to be shaped. You owe to the state and the defendant a verdict carved wholly out of the evidence and the law.

Scenes and Incidents.

As the judge concluded his charge the jury slowly worked a passage through the crowd and entered the room in which Lauer's guilt or innocence is to be decided. At 5:20 o'clock they were called back by the court, who took them into the judge's chambers, where in the presence of Mr. Thurston he changed the verbiage of the thirteenth charge. As given that section contained "if you are satisfied beyond reasonable doubt * * * that John W. Lauer mistook his wife for a burglar you must acquit." The change consisted in striking out the words "beyond reasonable doubt."

Yesterday was probably the day of the greatest interest. At 7 o'clock in the morning five women ate their breakfast in the court room. They were so anxious to obtain seats that they left their homes before having time to prepare the morning meal. During the noon recess by actual count over 300 people took their lunch in the court room.

The crowd which thronged the room since the progress of the trial did their best to demolish the fixtures. The rear wall was badly defaced, and a number of the supports were badly mutilated. The window sills also were marred by the work of hobnailed boots.

Judge Neville said at the conclusion of the trial that he had seldom presided in a case where the relations between the opposing counsel were of such a pleasant nature. They showed the utmost deference to the court and the greatest courtesy to each other.

In speaking of Mr. Thurston's attack upon the reporters, Judge Wakeley said yesterday afternoon that he had never in all his experience seen a trial reported so fairly and impartially in the newspapers as the Lauer case had been.

While General Cowin was speaking yesterday afternoon both the judges rooms held attentive audiences who were content to stand in uncomfortable attitude for hours merely for the sake of hearing Mr. Cowin's voice, which was perfectly audible.

The first person to make himself prominent at the afternoon session was a burly negro, who calmly surveyed the crowd from the eminence usually occupied by his honor, the court. The negro seemed oblivious to everything but his own thoughts, which were apparently of a pleasant nature, if his broad smile was any criterion. He consented at last, however, to vacate his position for the court.

There has probably never been a large assemblage of people in Omaha which contained as many pretty women as were present in the court room yesterday afternoon. If for no other reason the occasion was made memorable by the bright eyes and ros