It is Characterized by Eloquent Speeches by Counsel on Both Sides.

HOW NEAL COMMITTED THE CRIME

The Closing Effort of County Attorney Mahoney - Judge Clarkson's Charge-In the Hands of the Jury.

Packed and jammed to suffocation was the big district court room vesterday morning for the last day of the celebrated Neal-Jones mur-

The defendant came in between his guards and settled down into his seat with his face a striking picture of one deeply engrossed in thought of the deepest, the soberest kind. A dull leaden look was in his face and particularly the eyes. The sprightly interest in his surroundings was, for some unproven reason, entirely gone, and he sat almost motionless gazing toward a window. Deep, intense thought was svidenced in his every appearance. His tightly compressed lips told of a

summoning of all the power at his command for the final scenes of his trial. "Before entering on a discussion of this case," began Mr. Gurley, "I desire to thank you for the patient attention you, gentlemen of the jury, have given this case. I ask you to continue this same patience until the close

of your duties.
"I shall not attempt to point out your duties nor the solemnity of the oath you have

taken.
"The state has asked you to find this de-"The state has asked you to find this defendant guilty of that most awful, atrocious, and fiendish crime at the Pinney farm. The state had a right, perhaps, to charge this defendant with that fearful crime, but they had no right to ask you to find him guilty.

"I ask you to forget the presence of another person in this room while I am addressing

you.
"It is not necessary that I give all the de-talls connected with the Jones people going to the Pinney farm and their brief residence

there.
"The question for you to determine is not nitted that crime, but whether this defendant committed it.
"If this defendant did commit it, I say

hang him at the end of a rope—hang him until he is dead, dead, dead! Hanging will be too good for him—entirely too good for him.
"But, gentlemen, I charge you as you value the honor of your souls, the safety of your souls, that if you find by this testimony there is a shadow of a doubt as to this defendant's guilt you must bid him go forth from this

guilt you must bid him go forth from this court room a free man."

After these opening sentences—pronounced with an intensity of feeling and rhetorical power that left the speaker almost breathless—he proceeded to review the testimony of little Henrietta Racek. Like his colleague Mr. Gurley made a great deal out of the girl's recognition for Neel's pressures so almost conaccounting for Neal's presence so almost con-tinuously on February 3. He also tried to convince the jury that there might have been another man on the farm in addition to the one whom Martin Reuther saw there—Neal And in this connection rung in the other fact of Reuther having seen. Sherman out there Then, as during the taking of the testimony the speaker harped long and loud on this

"If Sherman has been arrested—and he has -for the murder of those old people, and if it is now being asserted by the state that this defendant is the murderer, why don't they let Sherman go-why in the name of God don't they let him go?" The speaker then brought in a reference to Shellenberger as if to reply to any argument

advanced by the state. Mr. Mahoney rose and objected to any ref-erence to Shellenberger.

Mr. Gurley said that he was only replying to a bit of imagination indulged in by Mr.

The court did not see it so, and addressing

Mr. Gurley, said:
"You cannot proceed with any reference to
Joe Shellenberger."
"Very well, your honor," returned Gurley,

"Wery well, your honor," returned Gurley,
"we will let that part of it go."
Returning to his general line of thought
Mr. Gurley went on to say that he thought
there was no doubt at all but that the shots
which one witness had testified to hearing
were the ones that killed the old people. He drew a picture of the murder as it is supposed to have occurred, and then asked if there lived a man who could return after committing such a bloody crime and steal the

"No," argued the speaker, "the man doesn't live who is capable of doing that. "Would not such a man have feared that with cattle running about the shallow sepul-chered bodies would have been revealed! "Yes, gentlemen of the jury; no man would ever do so careless, so utterly foolish a

The fact that Neal, on the day after he is supposed to have committed the murder, took

a little babe up in his arms and played with it showed, the speaker said, that he had a great, bright spark of God-given kindness in his heart. Mr. Gurley paid his compliments to Wit-ness Davis, the detective who spent ten days

in Neal's cage. In doing so derision was used free as the air. "The fact that the great state of Nebruska will get down to such a resort as the evidence of that detective revealed, is certainly as deplorable as anything that I can imagine,"

said the speaker.
"After all, gentlemen of the jury, why didn't this detective tell you more of what had transpired while he was in that cell with this defendant? "If this defendant was the murderer he is

charged with being don't you think that in the still nears of the night that detective would have heard Neal murmuring in his "Don't take the straw from there! Don't, for God's sake, don't step on that pile of

"If that detective had heard any such re-marks don't you think he would have testi-fied to them? Certainly he would. He heard

Leaving the subject of the detective, the speaker turned to consider the ring testi "Even if they had proven beyond all doubt that that old gold ring belonged to the mur-dered woman, there was no proof that Neal

took it from her finger.
"Again, I want to call your attention to the fact that this man staid in South Omaha three days after the date on which the state supposes he killed those old people, and that then and upon every occasion thereafter he gave the same name—Ed D.

"In closing my argument, gentlemen of the jury, I warn you against allowing it to be flashed all over this country that suspicion is all that is required to hang a man in Ne-

Mr. Mahoney followed immediately for the

"I feel somewhat disposed to congratulate you that you are near the end of this trial,' began the county attorney.
"The testimony in this case occupied over

"The testimony in this case occupied over 200 pages of typewriting—an amount almost unprecedented.

"When we opened this case and made a statement of the facts we expected to prove, and counsel for defense said they would go to trial simply on their plea of not guilty. I wondered what they would rely on as against the awful testimony produced against them. "I am willing to concede that the evidence "I am willing to concede that the evidence against this defendant must be that which leaves no doubt in your minds as to his

You have sat here since 3 o'clock Tues day listening to the ingenious arguments of the defense, and, like myself, you are still waiting to hear the defense make one argument consistent with explaining Ed. Neal's whereabouts at the time this murder oc curred. The fact that no reasonable explana tion has been offered is sufficient proof that

it does not exist.
"I learned what the hope of the defense was when I heard both attorneys beg of this jury to stay out until the moon turned to blood—until the last moment of time.

"I propose to argue this case from the facts
I know them; from the testimony as I have heard it.

"I shall not attempt to coerce any man on this jury, for I would have each one act as his iscience dictates. Estelle has tried to make you think that I have put a number of aliases upon the back of the information against Neal, and so to order to prejudice this jury against him. I am surprised to hear such an inference from the man that Estelle pretends to be. Estelle tooped very low in his despair over the case-

He stooped lower than I had any idea was possible for him to stoop."

The speaker made a passing reference to The responsibility of the case now shifts Neal's being brought back and Eastelle objected on the ground that there was nothing in the evidence about how Neal was brought back. The court sustained the objection.

"By charging me with unfairness by en-

dorsing these names on this information Mr. Estelle has sought to draw me off from the main point of attack. How, if I had followed, would be have laughed at his little ruse—his little ignis fatuus! Mr. Estelle is a much older man, a much older lawyer than I am, but I am too old a bird to be caught by

I am, but I am too old a bird to be caught by such chaff. And you, gentlemen of this jury, are too intelligent to let this man Estelle blind your eyes to this case by kicking up a great dust regarding whether Mr. Shea or myself has acted honestly or reasonably in this matter. Neither of us is on trial here.

"Mr. Gurley says it is unreasonable to suppose that if Neal had killed those old people he would afterward go back to the farm! Well, gentlemen, somebody killed old man Well, gentlemen, somebody killed old man Jones! Somebody buried his body, and so skillfully that it was not found for ten days! "Tell me, is it in human nature that some body should have gone out there and slaugh-

tered those old people—shot them down in bloody fiendishness! "No, gentlemen, that is anything but human nature! Whoever committed this crime, whoever

slew old Mr. and Mrs. Jones is not to be judged by the ordinary rules of human na-No, no, no! 'Is there anything with a particle of human

n it that would perpetrate such a crime?
"You are not to expect in a man who yould perpetrate such a crime, a particle of numan nature.

"Mr. Gurley says its remarkable that Neal stayed in South Omaha so long after commit-ting that crime. If I remember correctly Neal got out of South Omaha just as quick as he could after securing the price of the stolen ne could after securing the price of the stolen stock. You, gentlemen of the jury, judging by the mass of clear evidence on Neal's great haste and hurry to get away from South Omaha, can but see how foolish was Mr. Gurley's reference to this part of the case. "Murder will out! The assertion was made ong ago by a brighter mind than is here to-

day,
"It is a part of every criminal case, that, at some time, counsel says that if his client had done so and so it would stamp him as an idiot. The statement is old—almost as old as the hills themselves, but, for all that. Estelle rung it in, I notice, and he did so as if it were new and would bear a particle of weight in this case.' The noon adjournment was here taken.

In the Afternoon.

"What I said to you this morning was for the purpose of brushing away a species of driftwood which had been pushed into my way by counsel for defendant," resumed Mr. Mahoney in the afternoon.

"I now wish to go over the most important facts in connection with this case. There is hardly a sentence in the entire record of this case over which there is any dispute unless it is regarding a small part of the testimony of Martin Reuther and Miss Racek.

"There can be no doubt but that at the time Ed Neal was at the livery barn in South Omaha with that little black horse, and when he had old Mr. Jones' overcoat on his backat that very time old Mr. Jones was murdered and in his horrible tomb. Ed Neal had been at the Pinney farm before he was at Carpenter's livery barn, Gentlemen of this urv, there is no doubt but that it was on the 4th instead of the 5th of February that Neal killed Mr. Jones. If it was on the 3d, as counsel for defense maintains, how happened it that Neal was able to tell where the farm was

"How did Neal know that the farm was owned by a doctor in Council Bluffs; that it was known as a Pinney farm? Remember, gentlemen, the testimony of A. B. Cadwallader, who said that he (Cadwallader) had told old man Jones all about who owned the farm! Remember again that Neal came into South Omaha riding old Mr. Jones little black horse and wearing old Mr. Jones

"The victim was an old, old man. He had been on that place only since January. He knew none of the neighbors. "Can I make it clearer! Is it possible for

"Can I make it clearer! Is it possible for mortal man to make it plainer—that Neal got his information from old Mr. Jones!
"Tuesday night Neal was not seen. He was not there for supper. Why! Because shortly before supper he rode into Carpenter's livery stable on the little' black horse and wearing that old overcoat. Where had he been! He had been to the place where he got that little black horse and that old overcoat, and that information about the farm. the farm.

"Mr. Gurley says, 'How anxious the county attorney was to draw out the fact that Neal was a butcher.' If I had wanted to draw out Neal's occupation I would have said occupa

ion. "I didn't ask the witness anything about Neal's occupation.
"I don't find it necessary to translate any word that has been spoken here into any other meaning but its own.

"Neal probably spoke just as truly to Jerry Dec about his being a butcher as he did when he told Dec he had been 'baching' on the

farm.
"Counsel for defense says that it is against human nature that Neal should have taken Mott and Dee to the farm after the pe had been murdered and buried. Before and Dee went down into the field after the cattle everything had been arranged for the start, and Mott was left employed in holding the team. All the stock was down in the field—none of them were in danger of tramping about where the bodies were concealed. Not until Neal was on his horse ready to give the word to start were the cattle allowed to come into a road that even adjoined the lots

where the bodies were buried."

Again, and for the last time, Mr. Mahoney drew a startlingly vivid picture of the millet stack incident; Dee's starting toward this stack alongside of which was buried the body of old Mrs. Jones, and Neal's crying out "Oldon't take hay from that stack-it's to good!" It was all outlined clearly and fully. Then, when they reached South Omaha, Neal's talk to Tom Hector about the little mare was mentioned fully, as showing what Neal knew about the horses he was selling. Every one of the incidents about Neal being

n South Omaha was dwelt upon with great fervor. "I never said that Ed D. Neal did that "I never said that Ed D. Neal did that crime alone, as counsel for defense would have you believe. I also promised to prove that Ed D. Neal reaped all the reward of this crime, and I now ask you, gentlemen of this jury, if I have not fulfilled my promise? If the fact that Sherman was seen on the highway near the Pinney farm throws any doubt on your mind as to Sherman's guilt it cannot throw a doubt of Neal's guilt, but only a doubt whether he did it alone or had an assistant. Did Neal do it alone, or was he assisted! For the purposes of this case I care not which.

"Now we are to that part of the story where we find Neat has gotten the money for the cattle. On the very next day after the murder we find him buying jewelry—hand-some jewelry," and the speaker held the glit-

some jewelry," and the speaker held the glit-tering stuff up before the jury.

"Neal paid for all that jewelry in cash but 50 cents. In payment of that remaining 50 cents Neal gives the jeweler a little old ring. What does the son say about this old gold ringf—'I think it is my mother's.' What does the grandson of old Mrs. Jones say!—'It looks exactly like my grandmother's ring.'''
After dwelling upon the ring for several
minutes, the developments reported in the ail at Kansas City were expatiated upon. It this connection the speaker paid Mr. O'Brie

of The Bee a very fine compliment for his vigilence as a newspaper man.

As to the fact of putting a detective in the cell with Neal, the speaker said that the city of Omaha employed detectives and paid them with the money which came from the taxpayers. It was a properly legitimate busi-ness, and resulted in the trapping of many a man whom fate seemed now and then to favor

for a short time.

Among the concluding sentences of the speaker were these: "Neal never went back to that house on the 5th, taking Mott and Dee with him, withthe 5th, taking Mott and Dee with him, without knowing to a certainty that
there would be no old people there
to hinder him in taking the stock.
He knew that old man Jones would not be
there to claim his overcoat. He knew that
old Mrs. Jones would not be there to peep
across her book and see him coming around.
If Neal had been found with nothing else but
one of the horses I would have prosecuted
him but for horse stealing. But I find him
driving off ten horses and every horn of cattle on a farm, saying they are his own; I find the on a farm, saying they are his own; I find him wearing the cont of his victim; find him randing off the ring of another of his victima for a mere bauble; I find these things and many more that I have mentioned, and I have

doubt.
The responsibility of the case now shifts from our shoulders to yours. I have done all in my power to show you every particle of

fact in connection with this case "In the name of the blood of old Mr. Jones that was spilled upon the Pinney farm, and which now cries out for justice—in the name of that blood I ask that you do your full and your complete duty in this matter. It was just 4 o'clock when Mr. Mahoney dosed his argument, he having spoken a little nore than three hours.

The Instructions. Judge Clarkson read the following instruc-

tions in a very earnest manner: 1. The defendant is informed against by the county attorney in manner and form as required by law and charged with murder in the first degree by, in the county of Douglas, state of Nebraska, on the 4th day of February, 1890, shooting and killing one Aller

The information consists of two counts, in the first of which it is alleged in substance that the shooting and killing were done with a pistol; in the second of which it is alleged, in substance, that the shooting and killing

in substance, that the shooting and killing were by means of a gun.

In both counts the sheoting and killing are alleged to have been done by defendant unlawfully, purposely and feloniously and of his deliberate and premeditated malice, and with the intent unlawfully, purposely and feloniously, and of his deliberate and premedited malice, to kill and murder said Allen Jones. Allen Jones.
2. To the information and both counts of it the defendant has pleaded not guilty, which plea puts in issue each and every material al-legation in each and both counts, and before

you can convict under either count you must be

satisfied from the evidence that every ma-terial allegation of such count has been proven beyond a reasonable doubt. 3. The statute defining murder in the first degree is 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, kill another, every person so offending shall be deemed guilty of murder in the first de-

gree, and upon conviction thereof shall suffer death." 4. The statute defining murder in the second 4. The statute defining murder in the second degree is as follows: "If any person shall purposely and maliciously, but without deliberation or 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 peniton thereof.

tentiary not less than ten years, or during life in the discretion of the court."

5. The statute of defining manslaughter is 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 there-of, shall be imprisoned in the penitentiary not more than ten years nor less than one

The jury are instructed that to constitute murder in the first degree there must have been an unlawful killing done purposely and feloniously, and of deliberate and premeditated malice. To do an an act purposely is to do it designedly, intentionally, with a will. Deliberate means with a cool nurpose after having weighed and considered the mode and means by which such purpose shall be ef-fected, and premeditated means that the purpose or design to kill must have been formed before the act is performed by which the death is produced; it means to think and revolve in the mind beforehand. A design or purpose must be formed to kill wilfully, that is with the intention that the act to be done shall have the effect of taking the life of a human being, and some space of time, it mat-ters not, though, how short, must intervene between the formation of the purpose or de-

sign to kill and its execution.
7. The jury are instructed that to consti-7. The jury are instructed the second degree tute the crime of murder in the second degree there must be an unlawful killing done pur-posely, feloniously and maliciously, but without deliberation and premeditation. Deiberation and premeditation are not essential to murder in the second degree, but malice is

an essential element.

8. Malice is a wicked and mischievous purpose, which characterizes the doing of a wrongful or injurious act intentionally committed without just cause or legal excuse. Neither premeditation, nor deliberation nor malice is essential to the crime of man slaughter, if the killing be done unlawfully and feloniously, either upon a sudden quarrel or unintentionally while the slayer is in th commission of some unlawful act, the crime

10. Under this information it is permissible for you if in your opinion the evidence will instify and warrant your so doing, to find the defendant guilty either of murder in the first

11. Should you not be satisfied from the evidence beyond a reasonable doubt that defendant is guilty of murder in the first degree, you should acquit him of that offense. Should you not be satisfied from the evidence beyond a reasonable doubt that he is guilty of murder in the second degre, you should ac-quit him of that crime and of murder in the first degree. Should you not be satisfied from the evidence beyond a reasonable doubt that the defendant is guilty of manslaughter, you should acquit him altogether, provided you do not find him guilty of murder in either

degree. 12. If you find from the evidence beyond reasonable doubt that defendant on or about the 4th day of February, 1890, in Douglas county, Nebraska, shot and killed said Allen Jones, and that such shooting and killing were done by defendant unlawfully, purposely, feloniously and of deliberate and premeditated malice and in manner and form as charged in either count of the information, and with the intent unlawfully, purposely, feloniously and of deliberate and premeditated malice to kill and murder said Allen Jones, you should find the defendant guilty of murder in the first degree and state in your verdict under which

count of the information.

13. If you find from the evidence beyond a 13. If you find from the evidence beyond a reasonable doubt that defendant on or about the 4th day of February, 1800, in Douglas county, Nebraska, shot and killed said Allen Jones, and that such shooting and killing were done by defendant unlawfully, purposely, feloniously and malaciously, but without deliberation and premeditation, and in manner and form as charged in either in manner and form as charged in either

count of the information, and with intent un lawfully, purposely, foloniously and ma-liciously to kill and murier said Allen Jones, you should find defendants at guilty of murder in the second degree, and in your verdict specify under what count of the information.

specify under what count of the information.

14. If you find from the evidence beyond a reasonable doubt that defendant on or about the 4th day of February, 1830, in Douglas county, Nebraska, shot and killed said Allen Jones, and that such shooting and killing were done by defendant unlawfully and feloniously, but without malice, either upon a sudden quarrel or unintentionally while the defendant was in the commission of some unlawful act, and in manner and form as charged in either count of the information, you should find him guilty of mansiaughter, and in your verdict specify under which count.

15. To sustain the charge against the defendant the state relies upon circumstantial evidence, not claiming to have any direct

evidence, not claiming to have any direct proof of the shooting and killing.

16. Where circumstances are relied upon to secure a conviction, they must be of such a character that when taken together they are of so conclusive a nature and tendency as to lead to a satisfactory conclusion and produce in effect a reasonable and moral certainty that the accused and no one else committed the offense charged. It is not sufficient that the circumstances produce a probability, though a strong one. It is essential that the circumstances, taken as a whole and giving them their reasonable and just weight, and no more, should to a moral certainty ex-clude every other hypothesis except that of the guilt-of the accused.

17. Where the proof is by circumstantial

evidence, it is not necessary that every fact relied upon by the prosecution should be proved beyond a reasonable doubt. If there are facts and circumstances, which though relied upon and not proven to your satisfactian, beyond a reasonable doubt, altogether diregarded and there yet remain sufficient facts and circumstances as shown by the evidence to convince you beyond a reasonable doubt of defendant's guilt, you should convict. Every fact essential to estab-lish guilt should be shown by the evidence beyond a reasonable doubt or you cannot con-

18. It is presumed that every man charged with crime is innocent, and in this case the defendant is entitled to the presumption of his innocence as a matter of evidence, and this presumption continues to weigh in his favor until overcome by competent evidence and beyond a reasonable doubt

19. A reasonable doubt, as applied to all the evidence in the case, is that state of the case which, after the entire comparison and con-sideration of all the evidence leaves the minds of the jury in that condition that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge. A reasonable doubt as applied to the the essential, material facts to be proved is that state of proof with reference to any such fact as leaves the minds of the jury in that condition that they cannot say they feel an condition that they cannot say they feel an abiding conviction to a moral certainty of the

truth of such fact.

The doubt as to the whole case or as to a particular fact is not an imaginary fanciful doubt, one sought after or conjured up, and if after the entire comparison and consideration of all the evidence you can say you feel an abiding conviction to a moral certainty of the guilt of the defendant, you should convict of such one of the three crimes hereto-fore described as in your opinions the evidence justifies and warrants. If you have a reasonable doubt of his guilt as to all three of said crimes, you should acquit him abso lutely.

20. You are the sole judges of the credibil-

ity of witnesses, and the weight of the evi-Wherever in these instructions allusion is made to facts and circumstances, in every case such facts and circumstances are meant as are shown by the evidence adduced in court, and all others, if any there be, which may have come to your knowledge, are to be disregarded in prriving at your verdict. are to take into careful consideration all facts and circumstances as shown by the evidence

adduced in court and be governed and di-rected solely by them.

22. If you find the defendant guilty you will specify in your verdict mider which count of the information and of what crime; if you find him not guilty, it will be sufficient for you to return a general verdict of not guilty.

After the Instructions. After reading all the instructions Judge Clarkson said that the defendant had asked for two instructions which were not given owing to a misstatement of the law connected therewith.

Then the usual blank verdicts were handed to the jury, and the court announced that the jury would be in charge of Bailiffs Grebe and Hunt, and that he would receive a verdict any time up to 10 o'clock at night. The tweive men with whom rested the life or death sentence of Edward D. Neal then

filed out and were locked up in the jury room a few feet distant from and on the same floor as the court chamber where the trial had Less than a third of the immense throng that packed the great white room showed any disposition to go away. Attention riveted upon Neal, who had risen to his feet as the

adjournment of court was announced, and for several minutes stood facing the field of faces and chatting and smiling with Sheriff Boye and Jailer Miller. He was taken back to his steel cage looking bright and merry as a May morning, while scores of people who looked into his face as he passed along were heard to remark: "How can he smile now! He don't seem to realize his fearful position a particle!"

The crowds hung about the court room for

ere than an hour and a half after the jury left it, which was at 4:30. A particularly no-ticeable fact in this connection was that fully a hundred women were among those who re mained so long, and in this number was Mrs Cadwallader, daughter of the murdered couple. Indeed, all the Cadwalladers stayed until the last. At 5:45 p. m. the court room was cleared to give the janitors a chance to clean up. The

attorneys in the case were the last to go to They all very naturally declined to supper. express any opinion as to the probable out-come, though Messrs. Gurley and Estelle evinced the greatest anxiety and paced the At 10 o'clock Judge Clarkson went home and the jury was locked up for the night.



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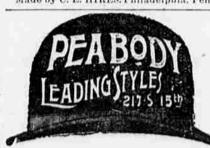
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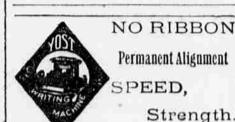
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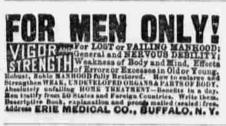
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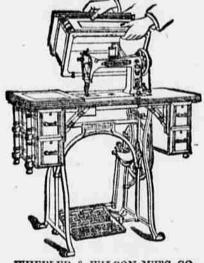
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