

THE TRIAL OF THOMAS PURCELL.

The Evidence and Arguments of the Attorneys Upon Which the Jury Found the Defendant Guilty of Murder in Second Degree.—Continued from Issue of August 3rd.

DEFENDANT'S TESTIMONY.

Thomas Q. Purcell stated he was 21 years old the last day of last March and has lived in Malta Bend all his life and had known Charles C. Bailey ten or twelve years. Stated he was living at Malta Bend on the 10th day of March last, and Charles C. Bailey was also living there at the same time, he himself being engaged in the newspaper business at that time with his father. He said I saw Jim on the street on the 9th day of March, 1900. I started home to supper and on the bank corner I crossed over to Jeter's store; I saw Jim standing up by the post on the west side of it. I walked up and little Sammie Johnson was up there and he had dropped a penny; I put my foot on it and picked him up and swung him around and put him back on his feet and went to get the penny and he grabbed for it, too. Jim said "you G—damn s— of a b—, put that boy down and jump on somebody of your size." I jumped back, threw my hand in my hip pocket; I had a pistol there. I walked out about ten steps and he walked to the corner of Jeter's store and started towards me and I stepped out in the street and he said, "By G—, I will get even with you." When I got out there I said "I did not know I was any more of a s— of a b— than you are," and when I got out to the crossing I said: "My name is Purcell; Purcells are all gentlemen, walk down the sidewalk, give half of it and expect half; never impose on anybody, never start anything and are always at the end." Yes, sir, I saw Carl Wilson there, and before that I said something of "not being afraid of him or any of his damn kin folks." I saw Jim the next morning. My father left home just a few minutes before I did; I came down town, going to my business, and I met my father standing in the livery stable waiting for me. Jim was standing there on the outside talking to Payne Slusher; I did not have any conversation with him. I next saw Jim when I was coming from dinner, and then I saw him that evening. I had my shotgun with me, and when I was passing along the barn going hunting he said to me: "Are you as pert as ever?" I turned around and said, "I am the same Purcell you met yesterday." He said, "By God, you are fixed better now, but will not always be so." I smiled and went on to the office and then went on hunting. Went home and came back to the office and started home that evening of the 10th for supper, and when I got to Mr. Lyne's steps, I saw Jim crossing the street, going to the livery stable. That was about 20 minutes before the trouble. I turned around to Will Haggard and was talking to him and he said that Jim said "he was going to make you spill some of that noble Purcell blood." I walked on up the street

to the front of Lyne's store; no one was with me. I then went back to my office and in about 20 minutes I started back with my father, going to Jeter's to buy some eggs; got about three dozen, a sack full. We came out of the store and started home, when C. W. Schooley came up and papa went back with him to the printing office and I started home. I am familiar with Chas. W. Schooley's barn; it is about half a block and across the street from Jeter's. I was going down south from Jeter's store home (that is the nearest and most frequent way home); while I was walking down the street in front of the livery stable, Jim said: "Tom, come in the office." Witness testified he spoke of the snow on the ground, but Jim repeatedly asked him if he had called him a — — —, and finally he had answered: "Jim, you know I'm no spring chicken." At this time he said Bailey struck him, knocking him down and breaking the eggs; then kicked him and called him a — — —, and said he was going to murder him. Defendant testified that he left the office at once, saw Henry Bolden at the door and told him to go for his father, as it was not over yet. Jim, he said, came out at this time, saying as he passed him: "No, by God, it ain't." At this time, he claims, Bailey was walking around him and turned to come towards him from the east, when he pulled his revolver and fired the first shot at the walk, the second being fired as Jim grabbed his hand. From this they struggled into the barn, when two more shots followed. After Jim secured the gun, the defendant said he snapped it at him twice, but he turned and ran across the road, crying "Don't let him shoot me." Denied that Payne Slusher, Pete Kile or Albert Tibbs saw the shooting.

During the winter he claimed to have worked for Mrs. Harrison at the restaurant, where Bailey would come and attempt to taunt him, and brought up an incident when he was book canvassing, stating that Bailey had run into him intentionally on the road and broken the double tree of his buggy; also as to Bailey having kicked him back of Dickson's store at the time he entered the newspaper business.

His testimony in regard to threats testified to by Charlie Franklin and Chas. Downs was as follows:

Had a conversation with Charlie Franklin, in which he told me that Bailey said he had a gun and was fixed for Purcell, as well as he was for him. I went and told my father what he said; it was on Saturday morning about 10 o'clock. I had another conversation with Franklin that day. I went down to the office and went from there to the depot to meet the train and we walked down the track. I had a gun and it was rusty so I had it cleaned

up, and I wanted to see if it would work, and I shot it off four times, and Charlie asked me if I would kill Jim Bailey. I said, "No I would not kill anybody, the Lord knows," and he turned the subject on something else and we went on back to the depot and went up town. Concerning that conversation I had with Downs about the 50 cents: He owed me 75 cents, and I called him in my office and asked him for 50 cents; told him I would give him credit for 75 cents, and he started to tell me he did not have it, and then he thought about me seeing him with it and he gave it to me. I did not tell him I wanted to get 50 cents to get "some of these things with." We boys had planned an egg fry for that night and I wanted some money to pay my part, as we had to throw in 30 cents a piece, and that is what I wanted with the money. Charles Haggard, Bill Downs, Riley Farris, Zinc Miller and myself were in the party for the egg fry.

On cross-examination, witness stated that on night referred to, when Bailey and some one followed him, a brick was thrown at him. Witness stated that he didn't pick brick up till next morning; that he had the talk in the restaurant after this stoning.

Was questioned in detail upon his relation of the facts incidental to the shooting, which were as given in his direct testimony.

Witness stated he and Gracie Harrison were sweethearts. Was asked who was present when he had trouble with Bailey in the restaurant; answered that Charlie Haggard was one of them.

WM. Q. PURCELL.

William Q. Purcell, father of the boy, was next called to the stand, a resident of Malta Bend since 1875, except an interval of three years. Stated the age of his son to be 21 years, and that he had known Bailey for years. Witness stated that he picked the brick up next morning after Thomas had been stoned; saw indenture made in the fence. Stated that when he ran out the night before, when 3 shots were fired, he saw a form entering Mrs. Bailey's door.

Witness stated that Percy, his son, came for him once to come down to Mrs. Harrison's restaurant to avert trouble, which he knew existed between Bailey and Tom Purcell.

Witness saw Bailey at Schooley's barn after dinner, when going to business March 10th. When he saw Bailey, he waited for Tom there and went along with him to town. Related that in starting from office for home that afternoon with Tom, they bought eggs at Jeter's. Witness then went back with Schooley to the office; did not see his son again till after the shooting. Witness affirmed that he visited the livery stable next day, and that Slusher told him he was in the office when Purcell and Bailey came in.

Platt of town of Malta Bend offered as evidence by witness; shown by witness that the nearest way from Jeter's corner to Purcell home is by Schooley's stable.

Witness, upon being asked if he knew what were the feelings of A. S. Van Anglen to his son Thomas, responded that they were inimical. Stated that Peyton Jeter was working up the evidence from favorable quarters against Thomas, his son.

Cross-examined in regard to the night his son was stoned, stated he saw the man's form first on the Bailey porch when near the door; could hear the steps. Asked why he knew the brick had not been where he found it, witness stated he had not seen it there before, and knew that it was not there. Witness said that he did not recognize Bailey the night the bricks were thrown. Witness identified box of cartridges as one which had been in secretary of the office; stated he had taken same out about the 14th of March and presented it.