

MURDER.

Second Trial of Amasa J. Foulke for the Murder of his Wife.

Two Days' Proceedings.

Testimony of Witnesses for State.

Only one New Witness thus far examined.

The Jury and other Matters of Interest.

Judge Craven having been absent on Monday, Court for the trial of the cause of the State of Indiana vs. Amasa J. Foulke, indicted for the murder of his wife on the 16th day of November, 1878, did not convene until Tuesday morning, when at 8:30 promptly, Judge Hervey Craven appeared in his place on the bench, and by the proper officer the Hamilton Circuit Court was declared to be in session for the transaction of business. The attendance of curious spectators was small, and the interest manifested at the previous trial materially decreased. There was but little apparent curiosity on the part of those present when the prisoner, looking in fine health and spirits and neatly dressed, appeared, in company with Major Jonathan W. Gordon, of Indianapolis, who had since the other trial been retained for the defense.

GETTING A JURY.

In addition to the regular panel of jurymen, a large venire had been issued from which to select in case the regular panel, or any portion of it, proved incompetent. The regular panel of jurors took their places in the box, when His Honor Judge Craven, called "The State vs. Amasa J. Foulke." Thereupon the jury was duly "sworn in," when the indictment of the Grand Jurors was distinctly read by Thomas J. Kane, charging that Amasa J. Foulke, on the 16th day of November, A. D. 1878, at the County of Hamilton, did then and there, unlawfully, feloniously, purposely, and with premeditated malice, shoot and mortally wound Lucette Foulke with a certain pistol, then and there loaded with gunpowder and leaden ball, which he, the said Amasa J. Foulke, then and there held in both his hands, contrary to the form of the statute in such cases made and provided and against the peace and dignity of the State of Indiana. Thereupon the several jurors were promptly challenged, and for proper reasons excused from service. Then the new venire were called, and the forenoon was exhausted in filling the box.

AFTERNOON SESSION.

The Court was duly convened at 1:30. The attendance and interest were considerably increased. The work of challenging was proceeded with with varied success until 5 o'clock when it was found that a competent jury was seated, and the oath provided by law was administered.

THE JURY.

The gentlemen composing the jury are not remarkable for their attainments, nor distinguished in appearance. Indeed, one would not regard them as well calculated to master the intricate questions involved in this most important case. As compared with the jury which sat in the former trial, they are as a body greatly inferior. The following list comprises their respective names:

Eliab G. Brattain.	Milton Hadley.
William M. Osborne.	George Armentrout.
James A. Brandom.	Alfred Hess.
J. W. Barnes.	W. W. Reynolds.
Benjamin Lennen.	Robert Stout.
W. F. Pearce.	George P. Huntsinger.

THE WITNESSES.

The witnesses for the prosecution were now called, twenty-five in number, but three of them answering as their names were called. Upon the calling of the witnesses for the defense, only two answered to their names. Those present received precautionary instructions from the Judge, directing that during the trial they should not converse with each other, and that only one at a time remain in the Court House during the examination.

SECOND DAY.

Court duly convened at 8:30, the jury in their places; prisoner and attorneys within the bar.

PRESENTATION OF CAUSE TO JURY.

The cause was then, in a masterly manner, presented by Gen. Moss, counsel for State, explicitly setting forth the statute upon which the prosecution is based, and explaining to the jury the different grounds of murder or manslaughter.

After this statement, which was attentively listened to by the jury as well as the audience, the examination of witnesses began.

Jesse Kouk sworn:

I am father of defendant; defendant is aged 26 years; I was acquainted with Lucette; she was a little older than Amasa; Amasa had lived on that place about two or three weeks; had

lived at our house since September 15; came from Tipton; had lived in Tipton about 1½ years; was in the bakery business at Tipton; kept grocery for some time in Tipton, and at times worked at carpenter trade; have lived in house where murder occurred before going to Tipton; I saw her first about quarter past three o'clock on the morning of the murder; think my time was right; Amasa came to my house and called me; I was asleep; he told me what had taken place; had no coat on but a shawl; was not very warm; he said: "I am shot; there has been robbers at the house and shot me through the arm; Lucette is shot and may be killed;" he said the report of a pistol woke him; he saw two men, one a short, chunky man, and the other a tall man; when he jumped out of bed they ran into the kitchen; the tall man shot him in the arm; when he was shot the men ran out of house; and saw no more of them; he said they generally fastened the door, but did not recollect of fastening the door that night; undressed in kitchen, where he went to bed evening before; think he said he called his wife's name, but couldn't say positively; he told me to go to his house; expected Lucette was dead, and wanted me to go and see after children; he said he wanted some one to go to Deming with him; he wanted to get his arm dressed and get doctor to go to house; wanted me to get some one to go with me and see if his wife was dead; told him was afraid he couldn't stand it to ride to town; said he thought he could stand it; looked at his arm and found hole in sleeve and blood on the sleeve; went to barn and got horse for him to ride to Deming; I asked him why he didn't go into the room of his wife before he came over; he said he was afraid he would be so affected if he found her badly hurt that he could not go from the house; I was scared myself, and don't remember distinct; as I went over to Merris' I saw the moon, and know there was moonlight; was about fifteen minutes going over to Amasa's; Temple Merris went with me to Amasa's house. When I came to the door I shook it, and called; L. spoke distinctly, said door was fastened and she was shot and could not get up to open it; "go round to the kitchen door;" we went round to south door and went into the house; found the door locked. [Here followed a long description of positions of furniture, lamp, stoves, etc.] I went to the bed and asked her if she was hurt; she said she was shot in the side; found her lying in middle of bed, with cover down to her waist; one child on each side, one child was awake, and said she was not hurt; I found on drawing the clothes down that the ball had penetrated her left breast near the middle; said she did not know who shot her; said she was asleep when shot; said she did not see any one in the house; complained of cold and soreness, and said her head was too low; I raised her up and put quilt and pillow under her; she called for something warm, and said her stomach pained her. [Another long description of furniture]. Went to kitchen and got stuff to make fire; put coal oil on it; asked her if she knew where the matches were; she told me where they were; I put water on the stove; I asked some questions during the time I was doing this, but she didn't answer; requested me every three or four minutes to rub her limbs; was suffering; Dr. Pettifohn came over soon; some persons came with him; I had no further conversation with her after that; (after he told me all about being shot, I told him the robbers didn't get much money; he said, "no; if they got my pocket book, they didn't get more than \$2;"

Mary Foulke testified:

I am mother of defendant; he is my youngest son; Amasa came to our house, I think, about half after three o'clock; my husband got up first; Amasa told father that he was shot, and Lucette was shot; he said she was shot, and he was afraid she was killed; I heard him say but little to my husband; I had but little conversation with Amasa while my husband was gone for horse; Amasa told me about the robbers, and their shooting him and running off; this was about all the conversation I had with him before he went to Deming; I asked him if he was badly hurt; said there were two women in the house; saw them, one at the bedside and one at book-case; they ran, and he followed them into the kitchen and ran against them, and the tall man shot him; one was tall and the other low and chunky; I think he said the tall one stood by the bed; he said they were masked, and I asked no question as to what was taken; he did not say the pocket book was gone or that the drawers were rummaged; we met Temple Merriis while going over; Jennie Jones and my father and myself went together; we found Amasa's pocket-book; I had seen his pocket-book several times and knew it; it was a large pocket-book, and was shut when we found it; Kersey Baker and John Baker were there when we arrived; I did not speak to her after I got there; my husband told me to make her some tea; William Owens' wife gave her the tea; I did not hear much conversation between her and the doctor.

Wilson Wall testified:

Am toll gate keeper; have been engaged in that business for two years; my niece was with me on the night of the murder; Foulke came to my house between three and four o'clock in the morning; lived west of Amasa Foulke's between a quarter and half quarter mile; was awakened by hollowing from the road; it was Amasa Foulke; he wanted me to go with him to his father's; said that he was shot and his wife also; my wife and niece would not let me go; I keep toll house on Cicero and Boxley gravel road; Amasa had on his pants and shawl; I went to bed the night of the murder about 11 o'clock; slept soundly; in about half an hour after Amasa had been there Mrs. Foulke his mother, came along.

Cross-examined:

When I asked who was there, Foulke gave his name; didn't know his voice at first; was excited; didn't go to the house; there are two roads, one coming into the pike from the south, west of the toll house, and one from the north, east of the gate; Amasa went fast after leaving my house.

Mrs. Wall testified:

I remember the murder of Mrs. Foulke; was awakened on that night by hollowing; am wife of Wilson Wall; was awakened by the hollowing just before day; my husband went to the door and was met by Amasa Foulke; said he was shot, and his wife also; wanted him to go to his father's house; my husband came back to the bed-room to put his clothes on; I told him he couldn't go; Mrs. Foulke came along in a little while, about half an hour thereafter.

Cross-examined:

I was sick and didn't want my husband to go. Jacob Griffin testified:

I remember the murder of Mrs. Foulke; live south and west of defendant one mile distant; Amasa lived one-fourth of a mile from the toll gate; I live half a mile south of defendant's father; was aroused by defendant between two and three o'clock on the morning of the murder; he was horse back; he called five or six times; I went to the door and asked who was there and what was wanted; he said "come down here," it is Amasa Foulke; said he was shot, and his wife too; wanted me to go to his house; said his father's folks had gone; I went back to the house and put on my clothes, but was prevented from going by my family; went up at daylight; Mrs. Foulke was dead when I got there; Mrs. Foulke and Elizabeth Baker were there, and am not positive, but think Wm. Owen's wife was also there; defendant was in the kitchen, sitting by the cook stove; went in the room, and uncovered face of deceased; had some conversation with defendant; asked him where he was shot, and who shot him; said he was shot in lower part of arm; it was bandaged; saw some blood whers the bullet went in; he said two men were in the house; one a tall man and the other a low, heavy-set man; said he was alarmed by the firing of a pistol; then jumped up and ran out of the room after them; ran against one of them in the kitchen, and received a shot in arm; said he then put on his clothes; said he was shot in left arm; I said nothing to him as to how his wife was shot; had no further conversation with him; said the low heavy-set man shot him; I staid at the house until about nine o'clock Sunday morning; I then went to his father's; saw him there; he appeared to be in trouble when he awoke me at my house.

Cross-examined:

From his voice he seemed to be suffering; said his wife was shot; didn't go into details at that time; it was about 3 o'clock when I first

thought of going to Amasa's house, and was prevented by my family; I went over about day-light; Amasa said one was a tall, and the other a low, heavy-set man; I might have used the words small man at the last trial; I was excited at the time; I might have said at the last trial that it was between three and four o'clock.

Dr. Ames Pettijohn testified:

Remember the occurrence of Mrs. Lucetta Foulke's murder; was called on by defendant about four o'clock on the 16th of November; it was on Sunday morning; am a physician, and have practiced twenty-seven years; I heard hollowing in the street; told the defendant to come in and asked what I could do for him; said he had been assailed by robbers and shot, and wanted his arm dressed, and then wanted me to go and see his wife; he then came into the house and showed me his arm; it was powder burned; said he had been asleep on the lounge; that a pistol was fired, when he jumped up and ran out into the kitchen; ran against one of the men and he shot him; said his wife was dead; said he knew she was dead as he had hollowed at her and she didn't answer; therefore he believed she was dead; said he didn't know he had any enemies; said they had got his pocket book; the robbers were masked; I dressed his arm and started to his house; defendant walked back to his house; distant about one mile and a quarter.

Court then adjourned to 1:30 o'clock P. M.

AFTERNOON SESSION.

Examination of Dr. Pettijohn continued:

There were present at my house at the time, my nephew, Walter West, Julia Houser, James Jackson, Martin Baker, Clark Cammack, and son Louis B. Pettijohn; I live one and a quarter miles from defendant's house; got there about 5 o'clock in the morning; met defendant's mother in the yard; went in and took hold Mrs. Foulke's arm; found her extremities cold; Kersey Baker, John Baker and his son, Mr. and Mrs. Foulke, and a little girl that Mrs. Foulke had raised, and one or two others were at the house; I rode very fast on my way over there; examined Lucette; found her nearly pulseless and her extremities cold; she was suffering great pain, and wanted something to ease her; I sent after some morphine; asked her if she saw who shot her; replied that she saw no one; said the report of a pistol awoke her, and that she heard some one leaving the room; said she heard the report of but one pistol; I remained with her until she died; she died in about forty-five minutes after I got there; defendant came into the room before she died; came in, looked at his wife and passed in to the kitchen; she raised up and exclaimed: "They have killed me;" she didn't ask for her husband; I was present at the post mortem examination; she died from the effects of hemorrhage produced by a pistol wound; there were other physicians present at the post mortem examination; she was lying on her back in the center of the bed, was about five feet in height; I found her wound about three inches below the mammary gland, and two and a half or three inches from the median line; it went through the lung and liver but did not touch the heart.

Cross-examined:

Have had some experience with powder burns; some kinds of powder burn quicker than others; it was a small hole in deceased's breast; the bullet didn't penetrate the nipple. [Here followed a learned anatomical discussion which we omit]. I raised her up on her elbow occasionally; she raised up on her elbow, and said "they have killed me," or, "I am killed;" I understood her in that way; she said she heard a person or persons leaving the room; defendant came into the room where his wife was and then went into the kitchen; passing into the kitchen, I found defendant sitting on a chair, leaning on his elbows; he asked how his wife was, and I told him she would be dead in a few moments; he cried and vomited; was sick at the stomach; when he came to my house he wanted me to help him off his horse; the reason he thought his wife was killed was that he had called her three or four times and she did not answer; said he saw two men in the house; they ran out in the kitchen and he followed, running against one of them, who shot him; one was a tall man and one a low man; said the small man shot him; the relative force of the balls shot were about equal; the force of the ball that struck Mrs. Fouke was the greatest, if there was any difference; said the robbers didn't get more than a dollar and a half; had had some money, but he had paid it out to parties at Tipton; didn't state the amount; the effect of the wound upon his wife might cause instantaneous syncope.

Re-examined—This syncope might last a quarter or half minute; examined the bed room and kitchen for blood, but found none can explain that now; the ball didn't go through the shirt on the underside of the arm; the shirt was coarse and thick and soaked with blood; while at my house Amasa said his big pocket-book was gone; the pocket-book was in a pigeon-hole in the desk; I saw the pocket-book afterwards; it was a large one.

Dr. Moore testified:

I remember the post mortem examination of deceased; was present and assisted in it; had some experience in the army, and have followed the practice of medicine ever since; I got there in the forenoon; Lucette's body was just being carried out of the room; the bed sat east and west, with head to the west; the body was taken into the kitchen and laid upon the table. [What followed was substantially the same as the testimony of Dr. Pettibohn.

Cross-examined—Searching for bullets is uncertain; they generally go where there is the least obstruction; in the respiration of a human being there is a rise and fall of the chest of one or two inches; so it is difficult to determine the direction of a ball in probing after the death of a person; don't know what vertebrae the ball was lodged in.

Dr. A. R. Tucker testified:

I was present at the post mortem examination of deceased; have had some ordinary experience in the practice of surgery; I got there about nine o'clock; found deceased on the bed, with head lying to the west, in the middle room; the book case was at the foot of the bed; the lounge at the north side of the bed; deceased was lying on the north side of the bed, next to lounge; the wound was blackened with powder, as also her clothing; we lifted the body up, carried it into the kitchen, and placed it on the table; removed the clothing, and probed the wound; then dissected the parts; the lower part of the right lobe of the liver was perforated; the ball was found at the eighth dorsal vertebrae.

Cross-examined—[Here followed a technical anatomical discussion which we can not produce.]

Clark Cammack testified:

Clark Cammack testified:

I am acquainted with defendant, and Dr. Pettijohn and family; live near the doctor; reside one and a half miles from defendant's house; was staying at the widow Baker's house at the time of the murder; I went over to the Doctor's house; some few persons were there; Amasa was there; they were getting ready to start for Amasa's house; I asked defendant if they got anything; I understood him to say they got his big pocket-book with one or two dollars in it; in a few minutes we started for defendant's house; the defendant said he couldn't ride; that his arm pained him; defendant said we were going too fast for him; when we entered the house Lucette raised up and said "O, kill me."

Cross-examined—There were several in the room at the time; her voice seemed very clear; I understood her to say "O, kill me;" was about ten or twelve feet from her; some were closer to her than I was; Louis Pettijohn was further from her than I was; she "kind 'o raised up;" I didn't know of the presence of Mrs. Houser at Dr. Pettijohn's; the defendant seemed to be suffering.

Louis B. Pettijohn testified:

I am nineteen years of age; was living at Deming with my father at the time of the murder; defendant came to the house, and father awoke us; put my clothes on, and went into the room where defendant and father were; father was dressing defendant's arm; Walter West was there; I built a fire and then went to Baker's and awoke them; defendant said his big pocket-book was lying out on the pike; Amasa, Cammack and myself walked together to defendant's house; he said that his arm hurt him, and that he was getting weak; we met Jackson and Baker near Amasa's coming back;

they said Lucette was shot through the breast; we went over to the house and went in at the east door; Amasa was the last to enter, and went on into the kitchen; Lucette raised up on her elbow and said "He killed me."

Cross-examined—I left when Lucette died; I went back to the house the next morning; didn't hear any one say anything of the pocket book at the time.

James Jackson testified:

I live three quarters of a mile north-east of Deming; was at widow Baker's on the night of the murder; was awakened by Louis Pettijohn some time after midnight; went over to Dr. Pettijohn's and saw defendant there; he said he and his wife had been shot, and that his big pocket-book was gone with one or two dollars in it; Baker and myself rode defendant's horse up to his house along with Dr. Pettijohn; came back to Deming for some morphine; met defendant, and had some conversation with him; don't remember just what the conversation was.

Cross-examined—Don't remember the conversation exactly; don't know just what was said; was excited somewhat.

Alexander Karr testified:

Was at defendant's house on the morning of the murder; he was in the kitchen, sitting by the cook-stove; had a conversation with him at that time, and asked where the robbers were when they shot him; he said "there," pointing with his finger to the floor; said the short man shot him; he went over to his father's after that.

Cross-examined—I got at defendant's house between eight and nine o'clock; no one was present at this conversation; a few persons were at the house; he said the men were masked; and that one was a short man and the other a tall man; that the short, chunky man shot him.

Walter West (new witness) testified:

Am "going on" fifteen years old; live at Fairfield, with Sarepta Carroll; was visiting at Dr. Pettijohn's at the time of the murder; the Doctor is my uncle; I got up that morning and went into the room where Bub., Jule, and Dr. Pettijohn and Amasa Foulk were; he said the robbers went out of the back door, out to the pike, and then went west and dropped the pocket-book.

Cross-examined—I live at Fairfield, twenty miles from Deming; was at my uncle's on a visit at the time of the murder; "me" and Bub. Pettijohn, Jule Houser and Dr. Pettijohn were in the room; the Doctor got something to wrap Amasa's arm up in; defendant said that the robbers went out of the back door; down to the pike, turned west, and threw the pocket-book down there.

Re-examined—Was not present at the former trial, in consequence of sickness.

NIGHT SESSION.

Dr. Amos Pettijohn, re-called by the State—Amasa said things were disarranged; the clock was open, and drawers, too. I refused to sign or circulate a petition, signed by taxpayers of Jackson township, for the purpose of employing General Moss as counsel.

Martin C. Morris testified:

Remember the murder; went over to Jesse Foulk's residence to see Amasa; he was standing on the porch; he said he hadn't his clothes on when the robbers entered; was sleeping on the lounge; the report of a pistol awoke him; he ran out into the kitchen and the small man shot him; he went back and put his clothes on; he said he supposed his wife was dead; there was no one present at this conversation but defendant and myself; this conversation took place between two and three o'clock on the day of the murder; I had been to Amasa's house; nobody suggested my going there; am a farmer, and live near Westfield; have known defendant for some time.

E. C. Hiatt testified :

Had a conversation with defendant; Robert Griffin was present, and asked him to show him arm; he said the heavy-set man shot him; the other was a tall man; both wore masks.

Cross-examined—Robert Griffin, Elwood Wilson, Jabez Neal, and myself were present at this conversation; it was in the back yard, between the house and barn; we wanted to get a description of the men, for the purpose of having some clue to find them.

Robert Griffin testified:

Was present at the conversation held south of the house, and between the house and the barn; Amasa said he ran against one of the robbers in the kitchen; that one of them was standing near the door; I think he said something about one standing near the clock.

Cross-examined—He said the low, chunky man shot him; I used these same words on the last trial.

J. M. Phelps testified :

Was at defendant's house on the morning of the murder; had some conversation with defendant at his father's on that day; he was in bed; Peter Stout was with me; defendant said he was asleep on the lounge; a pistol shot awoke him; he saw two men; ran against one of them in the kitchen, and the low man shot him.

Cross-examined—Defendant said he was a low, heavy set man; am not positive whether he said it was the low heavy set or smallest man that shot him.

[Dr. E. C. Loehr was called but rejected, in consequence of having been in the room during trial contrary to instruction of Judge Craven.—Rep.]

[At this point the testimony of Amasa Foulke, the defendant, at the coroner's inquest, was read and admitted in evidence—Rep.]

John Sims testified:

Am acquainted with defendant; went over there Sunday morning; stopped at defendant's house first; defendant was over at his father's; it was supposed by persons there that men in Tipton had committed the murder; had a conversation with defendant at his father's; told him we wanted to get some clue by which we could detect the murderers; said he didn't suspicion any one; had no idea who did it; said he was first awakened by a pistol shot; said there was a tall man and a low, chunky man; tall man was standing near the bed; the low chunky man at the book case; said the tall man shot him.

William Owens testified:

Saw defendant the next morning after the death of his wife; had a conversation with Amasa. [Here it was discovered that the witness was again under the influence of benzine.]

Here counselors Gordon and Garver got into a little war of words which came near being something worse, and court adjourned until Thursday.

Two Houses Burned to the Ground.

Kalip writes from Britton under date of the 8th and says: "Philip Beaver's house burned on Sunday morning about eight o'clock. They saved about all of their furniture and household goods, with some of the doors and window sash of the house. Philip is getting tolerably old and is in a bad condition to suffer such a loss as this; but not so bad as some others. We sympathize with him in his loss, and hope when he builds again he will look well to the construction of the flues; defective flues are the cause of two-thirds of the fires.

Kizer, our excellent Adams township correspondent, writes under date of 4th inst: "Monday night, one mile west of Sheridan, the dwelling of James Whitton burned to ashes; nothing in the house was saved as the family was at church. Their many friends are very liberal and willing to lend a helping hand.

The same night the residence of Jesse Mills, ex-trustee of Adams township, caught fire in the roof and doubtless would have burned up, had it not been for the expert Sam Cook, who ran at full speed about one half mile to the scene, and with earnest effort the fire was extinguished.