The Advocate.

Henry A. Parsons, Jr., - Editor

THURSDAY, SEPT. 30, 1880.

ENTERED AT THE POST-OFFICE AT RIDGWAY, PA., AS SECOND CLASS MAIL MATTER.

Republican National Nominations.

For President,
JAMES A. GARFIELD, of Ohio.
For Vice President,
CHESTER A. ARTHUR, of New York.

Republican State Ticket.

For Supreme Judge,
HENRY GREEN,
of Northampton County.
For Auditor General,
JOHN A. LEMON,
of Blair County.

For President Judge 37th District.

WM. D. BROWN, of Warren.

For Congress.

C. R. KLINE, of Elk county.
(Subject to Decision of District Conference.)

Republican Electors.

EDWIN N. BENSON,
HENRY W. OLIVER, JR.,
JOHN L. LAWSON,
EDWIN H. FITLER,
M. HALL STANTON,
JAMES DOBSON,
GEORGE DEB. KEIM,
DAVID F. HOUSTON,
MORGAN R. WILLS,
HENRY S. ECKERT,
JOHN M. STERMAN,
ISAACS. MOYER,
EDGAR PINCHOT,
JOHN MITCHELL,
CORAD F. SHINDEL,
CHARLES B. FORNEY,
NATHAN C. ELSBREE,
ANDREW STOUT,
GEORGE B. WIESTLING,
GEORGE M. READE,
MICHAEL SCHALL,
WALTER W. AMES,
JOHN P. TEAGARDEN,
NELSON P. REED,
AUGUSTUS E. W. PAINTER,
THOMAS McKENNAN,
JAMES T. MAFFETT,
GEORGE W. DELAMATER,
CALVIN W. GILFILLAN.

Respectfully yours,
JOHN CESSNA, Chairman.

HARRY ENGLISH.

TRIAL AT RIDGWAY, COMMENCING WEDNESDAY MORNING, SEPT, 22, 1880, AND CLOSING SATURDAY EVENING, SEPT. 25, 1880. EMPANELING THE JURY. OPENING OF CASE, EXAMINATION OF WITNESSES. JUDGE WETMORE'S CHARGE. CASE TO JURY. VERDICT "NOT GUILTY." GREAT EXCITEMENT AT THE ANNOUNCEMENT OF VERDICT.

A celebrated case as our readers are well aware. The New York *Herald's* description of the place the crime was committed, as well as a lengthy argumen on the circumstances surrounding the crime, and the particulars generally, attracted considerable attention at the time, and helped to make the murder notorious. The subsequent escape of English, an authentic account of which appeared in these colums at the time, and is therefore well known to our readers. His arrest, and imprisonment, with the facts connected therewith, are also familiar to our readers. Great interest was manifested in the case on all sides, which increased as the time for trial drew near. A. J. Rummer a principle witness, was seriously injured several weeks ago by being thrown from a buggy. And it was thought the trial would be postponed on that account. An attachment was issued for Mr. Rummer, however, and the trial proceeded. We gave the proceedings in the trial, up to Wednesday night, in our last issue. But in order that the trial may be in one issue, for convenience in preserving, we produce part of what we said last week, adding somewhat to that and then giving the trial in full, excepting of course the speeches of counsel, which we did not get, and which if gotten would be too long for one issue of a paper the size of the ADVOCATE. We give a short synopsis of the speeches. The evidence in full in all essential points. The charge of Judge Wetmore, we give entire, from the notes of the stenographer, Mr. Weed, to whose courtesy we owe an acknowledgement of thanks, which we now make.

THE TRIAL OPENED.

The case of the commonwealth vs. Harry English was called at 9 o'clock. Deputy Sheriff Wensel brought the prisoner Harry English into court. He was neatly attired in a dark suit of clothes, hair trimmed and face smoothly shaven, with shoes blackened. There was no appearance of bravo, or dare-devil demeanor, but instead a quiet good looking young man came into court and took his place beside his counsel to be tried for the highest crime of which man can be charged. Viz; murder. The indictment in this case was for the murder of Frank Warnith, constable of Benzinger township.

Hon. Geo. A. Jenks, of Brookville, Jefferson county, Hon. Jno. G. Hall, and C. H. McCauley, Esq., of Ridgway, with District Attorney Wurzell, were the attorneys for the commonwealth.

Hon. A. B. Richmond, of Meadville, P. R. Cotter, Esq., of Port Allegheny, Col. W. W. Ames, of St. Marys, and Eugene Mullin, of Bradford, conducted the case for the defense.

GETTING A JURY.

Commencing with U. W. Rogers, who was stood aside, the names of nine others were called, who were requested to stand aside, or were challenged by either side for cause, until the name of John Mosier, a farmer, of Fox township was called, and no objection being offered he was given a seat in the jury box, and counted as No. 1 in the panel. Andrew Dippold Jr., the 9th man called, and coming two names before the first successful man, was a step-cousin of Warnith the Constable, for whose murder English is now being tried. That is his aunt was the second wife of Warnith's father. Deceased was the son of the first wife. This point caused considerable talk among the lawyers, as to affinity, consanguinity, ties of blood, marriage ties, &c., all of which summed up had no bearing whatever on the case at issue, as any one could see. Sixty-eight jurors were called also thirteen who were at first set aside, were recalled, before the jury, which we give in full below, was completed. At ten minutes to 5 o'clock, Wm. Doane, of Spring Creek, one of the first set aside and recalled, was sworn as the 12th juror, when the names of the jurors were called and the case was ready for the lawyers.

THE JURY.

John Mosier, farmer, Fox township.
Wm. H. Devereaux, farmer, Jones.
Jerrey S. Stewart, laborer, Ridgway.
Wm. Fannin, laborer, Ridgway.
A. S. Horton, clerk, Horton.
Rufus Underwood, farmer, Highland.
Isaac Avery, lumberman, Ridgway.
Geo. T. Rothrock, laborer, Benezette.
Wallace Johnson, farmer, Benezette.
U. W. Rogers, farmer, Fox.
S. W. Miles, plasterer, Ridgway.
Wm. Doane, laborer, Spring Creek.

FIRST SPEECH.

C. H. McCauley opened the case for the Commonwealth. Commencing with the date of the crime, April 17, 1880, he reviewed the case at length, setting forth the line of prosecution to be followed by the Commonwealth. He defined the crime of murder, argued at length, on the enormity of the crime, and the importance of sustaining every man in the right of life and property. He especially showed that an officer in the discharge of his duties should be zealously upheld by all good citizens, that the law of the country might not be trampled on. In glowing periods he pictured the cutting down of the man Warnith in the prime of life, and the gloom of that family circle, made desolate by the hand of the assassin, while a broken hearted wife mourned and could not be comforted, over the broken hearth-stone. Maps were produced in evidence of the scene of the murder, also separate maps of various views of the house wherein the deed was done. In closing Mr. McCauley said that he asked the jury "to render substantial justice, such justice as is indicated by the statute that adorns this temple. Justice even-handed and we shall all be satisfied."

EXAMINATION OF WITNESSES ON THE PART OF THE COMMONWEALTH.

O. D. Coleman, of Kane, was the first witness called and sworn. He testified that he had had business transactions with Harry English, and that English once gave him a check (check produced) for $112,00, No. 14024, dated Dec. 17th, 1879, and drawn on the First National Bank of Olean, to the order of Harry English, and with the name T. W. Lane signed thereto. Coleman saw English endorse this check, and sold him some goods and gave the rest of the check in money.

The Commonwealth offered this check in evidence, proposing to show that the check was a forgery, and that the forgery was committed by Harry English, to be followed by evidence that for this forgery the officers were making the arrest.

The defence objected to the check as evidence on the ground that it was irrelevant; that a man cannot be tried for an offence of which he is not charged, for the reason that it proves another distinct crime, and might prejudice the minds of the jury.

By the court—The commonwealth propose to show that Frank X. Warnith was the constable of Benzinger township and that at the time of his death he was in pursuit of defendant, alleging that he had committed the crime of forgery, and that the constable so stated to English informing him of the charge.

Thursday morning, Sept. 23, 1880.

Jury called in box.

The court overruled the objections of counsel for defense and allowed the check to be offered in evidence.

The check was then read the description being as we have stated.

Mr. Coleman was again called, and stated that he did not know where English resided, that he took the check from defendant, at Kane, Dec. 20th, last, giving him $75 worth of goods, and paid the balance in currency. He saw English write his name on the back of the check. English said he had been at work in the oil country.

A. T. Eaton was sworn and testified that he lived at Olean, and was teller of the 1st National Bank, that no person by the name of Lane kept a deposit at that bank.

T. J. Burke was called, and produced the evidence taken by him while acting coroner in the case of Frank Warnith, deceased. The court orderd the evidence filed.

Coleman was recalled, and testified that he was acquainted with John A. Mell. (Show the warrant issued for the forgery) said that Mell was a Justice of the Peace and that the warrant was in Mell's handwriting. The warrant was dated in Wetmore township, McKean county, Dec. 31, 1879.

This warrant issued by a justice in McKean county, was objected to as not valid in Elk county until properly indorsed, and on the ground that the Commonwealth must prove that it was endorsed by a Justice of Elk county.

Counsel for commonwealth stated that this evidence was to be followed by evidence that warrant was indorsed by Justice Burke, of Elk county.

The court refused to receive the warrant as evidence until offered as properly endorsed in Elk county.

T. J. Burke was sworn and testified that he was Justice of the Peace Jan. 6, 1880 and also April 15, 1880, and that the signature to endorsement was his. On cross-examination he said he was the justice that went to the house of English at the time of the killing.

Jenks, counsel for commonwealth, read the warrant issued on account of the forged check on the 1st National Bank of Olean for $112,00. This warrant was endorsed April 15th, 1880, and authorized Warnith to serve it. The oath and bond of Frank Warnith constable of Benzinger, township, and of Philip Vollmer constable of St. Marys borough were also read, each dated May 27, 1879. As also a warrant dated Aug. 8, 1878, issued by C. C. Moses, a justice of McKean county, for obtaining money and goods under false pretenses. This warrant was endorsed by Thos. J. Burke, March 10, 1880, to constable Vollmer, of St. Marys borough.

Patrick Maloney, sworn, testified that he lived at Kane, and was acquanted with M. O'Connor. Saw the warrant before M. O'Connor had it in his possession. He is the constable of Wetmore township McKean county, saw him at Kane and in St. Marys, came from Kane to St. Marys Jan. 5, 1880, for the purpose of going to arrest Harry English. Did not know where he lived. Got constable Vollmer, constable Warnith, and Burke, to help him. Got a team and went to Caledonia, ariving there at 4 o'clock A. M. on the morning of Jan. 5, 1880. Stopped to give horses something to eat and get warmed up. Got Mr. Burke at Caledona, warmed and started to house of Harry English. Arriving there on Jan. 6th. Burke, O'Connor and Warnith were to go into the house. We were to stay outside. The party that was to go in did not go. No one entered the house but me and Warnith. Arrested English who was in bed. There were two beds in the room, wife and children in one bed English lying alone on foot of wife's bed. Warrant was not read. English jumped out of bed. Told him he was our prisoner. He said his clothes were up stairs and that he wanted to dress. Signalled the party outside that all was right and asked them to come in. Went into his brother-in-law's bed room down stairs. Had conversation. English went up stairs to get his clothes and said he could not find them. I found them in plain sight and brought them down to him. He asked to see his wife and then escaped. Warrant was read to English by O'Connor and Warnith. Warnith had warrant got it from Mr. O'Connor. There was a back entry in house where English made his escape.

On the cross-examination Maloney said: In January myself and O'Connor from Kane went to St. Marys. Started from Kane on the 5th. Stayed at St. Marys until 11 o'clock P. M. Then went to Caledonia. Got justice at St. Mary's to endorse the warrant; he then went with us. Vollmer, Burke, O'Connor, myself and teamster, six persons, formed the party. Arrived at English's house between 4 and 5 o'clock on morning of 6th. Saw Burke on 5th late in the evening; after 11 o'clock before we started. Warrant endorsed late in the afternoon. Warrant was issued by John A. Mell. Got there on morning of 6th. Endorsement on warrant before we left St. Marys. The door of English's house was not fastened. Left three men on the outside; two went into house. Warnith said to English: "You are my prisoner." O'Connor was outside. Went up stairs and told English we had a warrant for him, did not say what for. English got up, dressed, and went down stairs, where the warrant was read. Did not see English after he got out back door. Heard a shot, but heard the word "Surrender" three times before I heard the shot; think it was Warnith who called on him to surrender. Don't know where English was when the shot was fired, for I was in the house, but Warnith was not in the house at the time of escape. He and English went up stairs. The men outside were called in when English came down. Heard shots fired. Did not see Harry English after the shot; heard three shots and next saw Warnith run across the road. Got our breakfast at Dixon's, Caledonia; warrant was not endorsed at this place. Did not see warrant endorsed. I saw men writing in Burke's office; this was after dark; 7 or 8 o'clock. Dist Att'y and Burke were present at the time.

G. W. Wurzell, sworn. I saw warrant (warrant shown). The endorsement is in my handwriting, and was done on the night of Jan. 6, 1880, by lamplight at 8 or 8½ o'clock.

Cross-examined—Endorsement night of 6th in Thos. J. Burke's office. Endorsement, except signature in my handwriting.

Re-direct — Before going to Caledonie, warrant was endorsed.

Cross-ex—Before they started. Endorsement on night of 6th. I think it was on night of 6th.

T. J. Burke, re-called. Endorsement made Jan. 6, about 6 o'clock after mail arived at St. Marys; was along when warrant was executed. Was requested to go by the officer in charge, Vollmer and Warnith also requested me to go. Mr. Rogan drove the team; left St. Marys betwee 10 and 11 o'clock; distance 14 miles. I went through Caledonia to the house of my father one mile from Caledonia. Stayed there an hour or so, leaving at break of day, going to Jack Gardner's house, as far as from here to the Hyde House from father's, where Harry English and Jack Gardner, brothers-in-law lived in the same house, one on one side the other on the other side. Before going to the house O'Connor gave the warrant to Warnith, and asked him to go in and make the arrest. Warnith asked me to go in with him. Did not go. Maloney said he knew Harry and wanted to go in, Maloney hallooed: "Come on boys he is here." Maloney, Warnith and English were in the house. E. asked to have the warrant read; was read; said he would go as soon as he dressed himself; he attempted to go up stairs, told Gardner to bring down his clothes. G. went up and could not find them. Asked E. to come up and get them. I and Maloney went up and got the clothes. I suggested that handcuffs be put on. E. asked to go and see his wife; Vollmer objected. Front and back doors were opened. Put back to one door. Vollmer to the other. E. whispered to wife awhile, then passed into room where we were, and said he was ready to go. Warnith had trouble in getting the door open. I heard some one say: "Halt! halt!!" Heard shooting.

Cross-examined. Started from St. Marys Jan. 6th. English lived 1 mile below Caledonia. The party was in a saloon drinking the night before. I might have taken two or three drinks. O'Connor did not drink. I and Maloney took a drink. Think Warnith did not drink. Stopped at father's; had whiskey along; had drinks on road. The bottle was empty. The teamster, Rogan, carried pint or ½ pt. of whiskey. Might have been another bottle of whiskey along besides the teamster's. Father is a laboring man; he had no whiskey. I got no whiskey. Had no whiskey at Harry English's house, did not know of any whiskey, and saw no one offered whiskey.

Re-direct. Do not know of more than ½ pint. Vollmer, Warnith and O'Connor did not drink. Maloney took a drink. 13 miles from St. Marys to Caledonia. Long mile beyond Caledonia to Gardner's residence. Gardner's residence is in Elk county.

Edward Largay, sworn. Am acquainted with Harry English. Met him on morning before last arrest. E. said that if the Sheriff or any officer came it would be all right, but that he would not be taken by a mob like the one that made the first arrest.

Cross-ex. Said he would go with proper officer. Believe he said drunken mob.

E. H. Dixon, sworn. Live at Caledonia, and know Harry English. Heard him speak of first arrest frequently; heard him say one thing and another. After first arrest he said a gang of men or a mob from St. M. came after him, and they "wasn't a little bit good." That he would not go with such men, that they were cowards, and shot at him while he attempted to get away. Next time it would be his turn to shoot. Said that there were no men it St. Marys who could take him. At other times said he would go with officer, but would not go with Warnith or Burke. Said that if that damned Dutch s——b came after him it would be his turn to shoot.

Cross-ex. Did not complain. Said mob came over and shot at him; said this at different times. Frequently said he would not be taken alive.

G. W. Dixon, sworn. Know Harry English partially. Heard him say that if them Dutch s——bs from St. Marys attempted to arrest him he would shoot them. Heard him say this in barroom a short time before; a week or so before. Cross-ex. Said they shot at him and it would be his turn next. Re-direct. Am in employ of E. H. Dixon.

Burke, recalled. To the question: After the 15th of April what was done with warrant? He replied that constable Warnith had it, and was going to Jay township with it, also a telegram was expected from Kane by the constable, which he directed to have delivered to the witness. Constable Vollmer said he had a warrant himself and went along. George Kreig also went along. I requested Dist. Att'y to go, also asked Kreig to go. All consented. Started between 10 and 11 o'clock on night of 16th. Myself, Wurtzell, constable Vollmer, and Kreig left St. Marys and drove to Warnith's house at Spring Run, which is two or three miles from Caledonia, and ten miles from St. Marys. Dist. Att'y woke up Warnith, when he got ready, got in the wagon and we drove to Caledonia, drove horses 40 or 50 rods this side of Dixon's hotel and hitched them off the side of the road. About 60 rods back. Drove off road before we got to hotel. (map show witness) Drove along to there (indicating the place on map.) Except Vollmer and Wurzell who went to hotel and woke up Dixon. The rest of the party stayed at bend in the road. I heard nothing of what occurred at the hotel. They were gone a few minutes, and returned and said that hotel was full. Dixon took us to haymow where we stayed until about 4 o'clock. After 4 o'clock when we came down from haymow and took stations at house of Rummer. The party were stationed: Vollmer near privy; Dist. Att'y at south-west corner; Geo. Kreig at north-west corner, near cellar door; Warnith stood at one front door and I at another. Wurzell came around to Kreig's corner where they consulted together in whispers. Dist. Att'y said it was light enough to go in we said not. Front door opened and English came out at door nearest north-west corner. I did not see him until Wurzell said: "there he is." E. turned around and looked at us. Warnith said, with revolver cocked: "Harry, surrender, you are my prisioner," when E. ran in yelling. He commenced yelling from the first. Warnith followed E. and I followed Warnith.

E. E. Willard, sworn. Am civil engineer. Last Friday was at Caledonia, went to take measures. Made survey. All buildings are correctly shown. Scale 30 feet to inch. Made drafts of Rummer's house, (shown draft,) that is front view of house, roof drawn from estimate. Six holes in front of house, (shown draft) that is rear of house. Broken glass in rear of house. Two rooms down stairs 4 windows down stairs, 2 windows and door in rear. Stairs go up from rear of house, 8.35 feet from lower to upper story. The boot shown on steps is No. 7 and is correct with the scale of one foot to inch.

Cross-Ex. Holes have appearance of buckshot holes, are through the wall and have the appearance of coming from the outside. Saw where shots landed inside. Could not tell the angle at which they were shot as the balls scattered.

Burke, again called. E. came out at north front door, about ten feet from him when he was called on to surrender. Warnith spoke loud. E. turned around and ran in with a yell. Warand myself followed English ran around to the rear of the house and up stairs. Warnith was close after E. and cried, "Halt!" I was close by Warnith when he fell back, and his revolver was discharged. Found ball sticking at head of stairs 3 feet up from floor. I found ball. English was pretty well up stairs. Warnith says "come on," and rushed up stairs. I followed. He ran to the left door at head of stairs and I think opened the door. Rummer said E. was not in there. There was a light burning in the room just across the hall. Warnith ran in there, came out and looked in another room, then into the room he first went into. As he was going in he said. "that man is in here," got into the room and was going behind the door, or around the door when a shot was fired. The shot struck Warnith. Very loud shot; louder than pistol shot. Inside of first room to left. Same room Rummer was in. Saw no one else in the room. Door half opened. Rummer had no weapon in his hand, as Warnith was shot another shot was fired striking, me in the leg. Think is was a pistol shot. Shot struck in hall, saw it same day; did not examine bullet. 2d shot struck clothes on thigh. Left thigh grazed. Door was shut. Warnith staggered down stairs. Drew revolver and cocked it. Warnith down ahead and into the yard where he fell on his face. I followed him up, had club in hand, piece of pick handle. Got it at Spring Run to strike English in case he resisted. After he staggered down stairs I got out my revolver; asked him if he was hurt, when he said he was killed; that he was shot through the bowels. He fell on his face lying near coal house. Shot fired from rear up stairs window, just behind door in same room as first shot; saw gun sticking out: heard nothing before the shot; gun seemed to be pointed toward us. I told Frank to get up; he tried to get up. Another shot was fired from same place, and another shot fired between them, immediately after first shot, fired from out doors, that is 2nd shot. Wurtzell had shot gun. Holes in house had appearance of buck shot. Warnith fell once or twice going to the hotel. Kreig assisted him. I took position at shop. Remained a few minutes Wurtzell called back that it would not do to miss English' Wurtzell asked for Kreig, when Vollmer anwered; then a shot was fired from the house judging from the sound, Vollmer said he was hit. I told him to come up and not stand there for a target. Vollmer went to the hotel. After Vollmer came over I remained and helped him. Telegraphed to Dr. Hartman at St. Marys also to sheriff Oyster and to a priest at Driftwood. The wounded men were carried to the hotel and were laying on couches in front room. Heard another shot, and saw English run. Louis Fagley was in the store. E. ran from rear of house to creek, he had got about half way to creek when he was fired on, and returned the fire. Fired before he got to log, and afterwards with Winchester repeating rifle. I kept my pistol. Warnith left his where he fell and never got it again The Doctor, came at about 10 o'clock. Dr. Swiers came from Benezette. Hartman came in answer to telegram. Dr's. remained all day and until after Frank Warnith died, then made *post mortem* examination. He died a few minutes before 5 o'clock, afternoon of same day. *Post mortem* examination held very soon after his death. I acted as coroner. Drs. Hartman and Swiers were there. Warnith said from the first that he should die because he was shot in the bowels. Said he was shot by English.

Cross-Examination. About 13 miles from where I live to where English lives; was in St. Marys night before the shooting. They were all with me except Warnith. He was to receive a telegram from Kane when to go, which telegram was to be delivered to me. I was drinking no more than usual. I was not drunk the day before. Kept no count of drinks; did not take great many. Did not have bottle filled at Franklin House. Got no whiskey at that house. Got stone jug filled with whiskey for my father, but think there was not two quarts in jug; about qt. of whiskey in jug. Know Hanscon, he is now dead. Did not want to get whiskey of Hanscom. he did not say that I had too much whiskey, Vollmer was not drinking. Never saw Vollmer drink a drop in my life, I had not drank enough to be visibly affected. Hanscom did not accuse me of being drunk I may have drank some beer. Can't keep track of number. Drank no beer at Crouses, might have been there. Know Thos. Stottsberry, don't remember having any conversation with him. Saw him around for several days. I did not say that I would shoot English or he would shoot me. Saw Stottsberry in town day before, yesterday. Did not ask him what he was going to swear to, and did not tell him to go away or he would do me harm. We had a hack; went to Gardner place thence; to Spring Run. Got no drink there nor on the road; no drinking place at Spring Run. First went to bed. Took no drinks before going to bed. Neither when I got up. Saw no one drink. Did not go to my father's. Left the jug in barn, also whiskey. Took it away after the shooting. Sent my brother after it. None of our party ever tasted it, except a little in water for Warnith. Dixon, Daugherty, and Judge Jones took a drink out of it, I was there all day. Got there shortly after 4 o'clock A. M., just before daybreak, not very dark. Saw Harry English some time after taking station. He stood at door looking up toward the hotel. Wurzell said: "There he is." Wurzell had double-barreled shot gun. I had a pick handle and revolver. Did not have jug of whiskey. Did not arm myself with pick handle. It is not a fact that I had the whiskey inside. Rode in cold, and lay in haymow, and was remarkably sober. It was a sober occasion. Vollmer had a double-barreled shot gun. Kreig had a shot gun. Guns were not loaded when we left St. Marys. I did not examine guns, and had nothing to do with loading them; was not where they were loaded. Said they loaded them at Dixon's hotel. H. E. yelled after Warnith went for him and said: "You are my prisoner." Yelled after he got into house. (Witness imitated the yell which was a cross between the hoot of an owl and the cry of a wild-cat.) Warnith did not shoot first from outside. No pistol shot from outside at this time. No crash made in opening door of house, did not push door in. He was running when we got in, and never stopped. Had nothing in his hand when he was out doors. He ran around to stairway. Warnith and I were after him. No chamber of my revolver empty. Did not load my own revolver. It was a borrowed revolver, and was loaded. Do not know that every chamber was loaded. After the shots in house had all been fired I took out my revolver. Warnith shot twice. E was going up stairs, probably had reached head of stairs; we followed close; he did not stop running, but kept going; don't know where he got the gun, may have snatched a gun going along. Dark in house, and he may have got gun, without our seeing him. Saw blood that afternoon; did not hear him say: "Don't murder me! don't shoot me!!" Did not beg us not to shoot him. The women in house begged us not to shoot. Old man begged us not to shoot. Don't think there was anything said about children. Heard no shot before H. E. got to foot of stairs. Am positive. 1st shot fired may have been on landing. As Warnith fell he came back on me, then shot was fired. I did not shoot. The shot was from Warnith's revolver, which he had in his hand all the time. I am satisfied it was his pistol, it might or might not have been pointed toward H. E. Am certain it was the ball. Ball in partition at head of stairs; we went up together. Only one shot after we got to head of stairs. saw no one in stairway; Saw Mrs. Rummer in little room; she spoke about not shooting; she said quit shooting around here; But one shot from H. E. went up stairs; 2nd shot fired killed Warnith. I did think that it might of happened that the shot that killed him struck me. I think he shot me as I was going up behind him. After we searched the room two shots were fired in quick succession. I was standing near door at left. H. E. shot him; Warnith's pistol went off immediately; he swung around and fell against me; he turned clear around and seemed to be knocked all to pieces; think pistol went off accidentally; don't know whether first shot was accidental or not; think second shot was. Have investigated since. I was not shot badly. I examined the clothing that deceased had on when taken off and since. Have concluded that it was not that bullet that shot me. Know Mrs. Currie; do not know that her name is Lydia. I did not tell Dixon that "I be G——d if I knew who shot that man, whether it was I or English or who, as we were all shooting together.

Thursday, P. M. 1½ o'clock.

Jury in box.

Burke—again.—Cross-Ex. Did not see Vollmer drink. Drank no beer. Nor Wurzell. Know Joseph Dill. He did not tell me that our party was too drunk to go and arrest English; didn't see Dill at all. Suppose H. E. fired; two shots fired at same time; three shots fired in house; two were fired by Warnith, one by H. English. I did not shoot. Might have said that I shot. Say on my oath I did not shoot at all. Do not know that chamber of revolver was empty. Don't remember telling Deputy Sheriff Wensel that my revolver was empty may have told some one that a chamber of revolver was empty; was under the impression that the ball fired by Warnith struck me in the leg; never thought ball went through leg. Think I did tell Horton and Wensel that ball went through leg of pants. I stood at threshold of room. Did say that I throught the ball that went through leg went into floor. Two shots fired, was under the impression at that time that H. E. had fired two shots. Two shots near same time in room, not exactly at same time, but a few seconds apart; went there afterwards aud measured the distance taking the ball holes for it. Now think it was the ball from Frank Warnith's pistol that went into floor. Do not think it was the ball that English fired that struck me because the ball was dug out and was a pistol ball. This might have had something to do with changing my mind. Believe I testified that the ball from Frank's pistol went through my clothes. Measuring distance has changed my opinion. Seeing Warnith's clothes also helped change my opinion. H. E. only yelled going up stairs. Don't remember telling any person that he said, "Don't Shoot! Don't Shoot!" as he was going up stairs. Know I was sober; did not dance a jig in Dixon's bar-room after the shooting nor did not act as a drunken man Have not been on bad terms with Harry English Used to speak when we met. No quarrel with him. Took a few drinks together at Wachtel house and talked over old times; do not think we had angry words; never afterwards had angry words with Harry English; three shots before Warnith fell on ground.

Re-direct. Drank no intoxicating liquors from time leaving St. Mary's to the time the affair occurred. Rest of party did not drink except Kreig. All of the party were sober. One of the guns got at Dixon's hotel. Wurzell had it. Kreig had an old shot gun. Vollmer had a shot gun. Warnith had a Smith & Weston self-cocking revolver. (Question as to nervous contraction overruled.) Pull the triger when revolver would go off same as any other revolver when cocked; whiskey in jug was for father. All sober at first arrest. Party consisted of James Rogan and team, Maloney and constables Frank Warnith, Vollmer, and O Connor; none of the party drank after leaving St. Marys; driver stayed at father's house. In Rummer's house once in the afternoon of same day. Provision made to hang gun in lower story of house; would pass gun in going up stairs; gun would be in reach; no gun there in the afternoon. Warnith said his pistol was accidentally discharged. Nothing said as to how he came to fall back into my arms (piece of board shown from hallway at head of stairs, with the bullet hole in it.) Hole in board the ball spoken of as going through my leg. (Showed jury where ball struck thigh also the patch taken out of pants.) I had Warnith's pistol, don't know whether it was loaded or not; got it at Spring Run. Borrowed the revolver I had of hardware man. Wensel got the pistol that Warnith had, got it the next day. Said I fired one shot out of it the night before on the hill. Don't know that I spoke to Wensel before about it, may have done so; may have replaced the cartridge as I had cartridges with me.

Cross-Ex. Harry English supposed to be behind the door. I stood in the doorway. No one but driver took drink out of bottle. Didn't drink anything out of jug. It is possible for me to ride 14 miles without taking a drink.

E. E. Willard, re-called. (shown board from hallway.) Board came from floor in entryway. Dixon took up board. I was with him. Taken out last Friday. Ball fired at nearly right angles with partition. Distance from door to ball hole 4 feet 2 inches, the angle of the ball would indicate that the pistol was fired at the height of about 2½ feet.

G. W. Wurzell, re-called. On 16th April last was part of the time in St. Marys, and part of the time in Jay township. About 8 o'clock in evening, after geting cigar, while walking down street met Burke, who said he had received a telegram from Kane to go to Caledonia, asked me to go and I consented. Went to Spring Run which place we reached at midnight. Think Vollmer had a gun, I had no gun. Left St. Marys at 10 o'clock; was feeling well; was not drunk; went for exercise. Did not drink the day before, nor a month before for that matter. Warnith was working for Kaul at Spring Run, where we found him sleeping in a temporary structure. He asked for time to get his clothes and warrant in satchel. I ate some rye bread. At blacksmith shop got pick handle to be used as a club or mace in case resistance was made by party to be arrested. Tied horses on side of the road, near Caledonia, and left one man to watch them. Warnith first went to Dixon's house, came back and then by request I and he again went to Dixon's. Borrowed his shot gun. Stayed in his barn about two hours, or at about 4 o'clock when we all got up and took stations around the Rummer house. After about 10 minutes I went to where Kreig stood and suggested the propriety of going in, and surprising the prisioner while he was in bed. I insisted on going in. Heard sort of rustling sound at door, thought I recognized the prisoner. Burke and Warnith called on him to halt and surrender. He stood irresolute a moment and then fled to the house. Heard tramping in house and in a minute or a minute and a half heard a shot. I stayed outside, heard tramping of feet inside like people going up stairs. Heard shot, then all was silent. Warnith came out supporting himself by the bowels with both hands and said "My God, George I am shot!" Offered him consolation. Saw gun out of wiudow heard a shot. Recoguized a person in white shirt. The gun was pointed toward us. I fired without taking aim the shot taking effect in the eaves of the house. Did not see Warnith for some time. Heard one shot then another, two distinct shots. Vollmer cried out that he was shot. English was in the house after firing out back window. Saw him two or three hours afterward. Meantime, I had stayed sometime at the house of Bateman, Could see the Rummer house by putting head around corner. Saw English running then heard shooting and saw him fire; I shot at him while he was running. Discharged my revolver, and then called to people to head off English; he shot once after reaching the log; I saw the smoke; there was some drinking done at Sping Run; Kreig drank I did not, nor Warnith; think Vollmer did.

Cross-Ex. I am Dist Att'y. Lived in St. Marys at the time. Burke asked me to go and help arrest him. Got pick handle at Spring Run, preparatory to getting into wagon. Knew before we started that Burke intended to go to his father's, he did not intend to go until after the arrest. Pick handle about 2½ feet long, to be used on H. E. in case he resisted. I am Dist. Att'y and always carry revolver in my overcoat pocket for protection, as the town of St. Marys is not lighted. 3 or 4 squares from office to hotel located on street along side the railroad. Office is on public street. Sometimes carried bank key, and had the revolver as a protection against robbers, or any person who trespassed against me, especially at night. We carried the shot gun which by a common understanding was to be used in case of resistance. Burke was to use club on prisoner. I suggested overawing him. Though he would submit. I did not skulk behind an outhouse. It was the programme to hold guns on E. and demand his surrender, and I suggested (You have just struck it, it was the idea that we were going to overawe him and make the arrest without bloodshed.) Don't know why we did not say: here we are with warrant, shotguns, bludgeons, &c., that in case he attempted to escape we would all stop him. 3 revolvers in crowd, 2 shotguns, and Kreig had an old army musket. Waited ½ hour after we were stationed. Warnith and Burke were to make the arrest. I was at the corner of the house. Changed my position several times. I talked to the other parties. Never thought to go and knock. Positive there was no shot outside the house. Distance from my gun to window where I shot between 20 and 30 feet I think an expert marksman could hit a man the size of Burke 30 feet distant. I did not aim when I shot. I hit the house. Do not know as to English's marksmanship. I know James Bateman. Saw him afterwards. Had not been drinking and was in my normal condition: do not know that I said "I would make it hot for the citizens of Caledonia." I intended to have an investigation made in the interest of public justice. I denied to Bateman that I had shot the gun. When I met Mr. Bateman in road he said that E. had done nothing, that what he had done was to the rich and not to the poor. He said E. was all right but for that bald-headed s—— b—— of a Dixon. Advised me to light out for St. Marys. I discovered that my presence was not desirable; told several lies; told them that 4 or 5 men watched the creek. Told the lies to mislead them. The cap was taken off my gun while at Bateman's house; Burke may have drank; I considered the party all perfectly sober, entirely so; Did not have gun loaded after it was shot. Put a cap on afterwards; Told Bateman it made no difference as I had plenty of caps which was not so; told them so because I was afraid the Bateman's were carrying news to English; They said the State's Atty had no business there and that the best thing I could do was to run home. I got down in gully and took deliberate aim at English while he was running, without gauging the result, but with the intention to shoot him; held square on him when he was 200 or 300 feet away; this was after Warnith and Vollmer were shot; when I shot at window did not consider where I shot.

[NOTE—The next witness called was Geo. Kreig whose evidence we omit, together with the rest of the proceedings up to the time of charging the jury. The rest of the testimony will appear in our next issue.—ED.]

Saturday Evening, Sept. 25, 1880.

CHARGE OF JUDGE WETMORE TO THE GRAND JURY.

Gentlemen of the Jury.—The offense charged in the indictment, in this case, is murder. For the purpose of sustaining the charge on the part of the Commonwealth a warrant is offered in evidence, issued by Justice Mell, of Wetmore township, McKean county, to the Constable of that township charging a felony and giving a description of the offense. The Constable, M. O'Connor on the 5th of January, 1880, went to the Borough of St. Marys, Elk County, and he there saw Constable Warnith. (There is an endorsement on this warrant signed by Thos J. Burke.) Burke was an acting Justice of the Peace, in St. Marys Borough at that time. This endorsement gave O'Connor authority to execute the warrant in the county of Elk. O'Connor, as we learn from the evidence, saw Frank Warnith constable of Benzinger township, and also Philip Volimer, constable of St. Marys Borough, and with these persons, together with Thos. J. Burke, and perhaps with the driver went to Caledonia, or near Caledonia, to the house where it is alleged the defendant Harry English was then staying. It appears from the evidence that Warnith stated to him at that time, that he had a warrant and told him *that* he should take him as his prisoner, by virtue of the authority of the warrant that he had with him. Without going into the details of what occurred at that time, there was substantially an escape from the officer, and they returned. The authority of the officer to act after the endorsement upon the warrant, by Thos. J. Burke, the Justice of the Peace of Elk county, was sufficient to authorize the officer to whom that was delivered, together with the persons whom he might call upon to assist in the performance of his official duty, to go to the place where Harry English was, and arrest him. And a warrant with proper endorsement was authority for the officer after it was endorsed in due form if was sufficient authority for him to call to his assistance persons in Elk county to aid him in the arrest which he was about to make. And the warrant that was thus endorsed, was his sufficient authority, as I have said, for that purpose. We learn further from the evidence, that about the 15th of April, 1880, the constable of Benzinger township had this warrant, and again undertook to execute it. On the 15th of April, 1880, there is this endorsement: "Frank Warnith is hereby authorized to execute the within warrant in any part of Elk county, Pa. Witness my hand and seal. Thos. J. Burke, Justice of the Peace."

Under this authority, as we learn from the evidence, the constable of Benzinger township, Frank Warnith, together with Philip Vollmer, and Thos. J. Burke, with the other persons who have been named, after they had met at Spring Run went to the residence of Harry English, or the place where he was supposed to reside, for the purpose of again executing the warrant. It is in evidence before you that the warrant was delivered to Warnith, that these parties accompanied him, and he had it at Spring Run, as some of the witnesses have stated, for the purpose of executing it. A question has been raised as to the authority vested in Warnith by virtue of the endorsement of this warrant on the 15th of April, 1880. The Act of Assembly authorizes an officer, in pursuance of the warrant that has been issued, by the justice of one county to bring it to the justice of another county, and on proof by oath or affirmation of the hand writing of the justice by whom the warrant is issued, the justice in the county to whom the warrant is delivered by endorsing his name upon the back of it, authorizes the person who thus delivers it to him to execute the warrant, and it also authorizes the person or persons to whom the warrant was originally delivered to execute the warrant. We say to you as a matter of law that the endorsement, dated April 15, 1880, by Thos. J. Burke to Warnith to execute the warrant was without authority of law. There is no provision in the Act of Assembly by which an endorsement of that kind could be made; there is no authority in the Justice of the Peace in Elk county, to make a special endorsement, authorizing a constable in