

# The Centre Democrat.

FIRST SECTION.

Second section will be issued at the conclusion of the murder trial.

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## Murder Trial Now in Progress

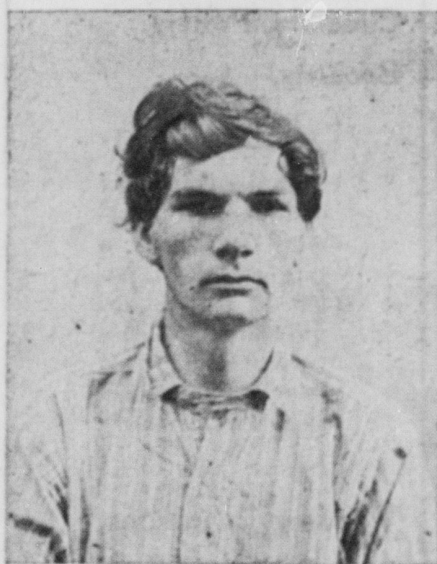
### Supreme Court Refuses a Motion for Continuance.

## MURDER, FIRST DEGREE

### Dillon and Green Indicted for the Murder of Turnkey Jerry Condo—Constance and Henderson are Charged Only With Jail Breaking, and Plead Guilty—Constance Convicted of Arson on Wednesday—Judge Dean's Decision on Wednesday Afternoon.



IRA GREEN.



WILLIAM DILLON.

### THE INDICTMENTS.

The Grand Jury on Tuesday ignored the bills of indictment for the murder of Turnkey Jerry Condo against George Henderson and Dominic Constance, and found true bills of first degree murder against Ira Green and Wm. Dillon. Henderson pleaded guilty to larceny, jail breaking and escape, and Constance pleaded guilty to jail breaking and escape.

### MOTION FOR POSTPONEMENT.

On Tuesday afternoon the attorneys for Ira Green and William Dillon presented a petition to court asking that the trial of the two men who are indicted for murder, be postponed to November Term. The petition was presented by Messrs. H. C. Quigley, A. O. Furst and Clement Dale. They maintained that time was too short to give proper preparation and to secure necessary testimony; that the popular prejudice existing in the minds of the average citizen at this time would be so strong as to prevent the accused from securing a fair and impartial trial. This was due in a large measure to the elaborate articles that were published in the various papers, and rumors.

Wednesday morning Judge Love overruled the motion for a continuance of the case, and notice was given that the trial would be called Thursday morning.

Notice was given soon after that an appeal would be taken at once to the Supreme Court to overrule Judge Love's decree against a continuance.

At 1:05 Wednesday noon H. C. Quigley representing the prisoners, and E. R. Chambers the commonwealth, left for Hollidaysburg Pa., where the motion was presented to Justice John Dean.

At 5 p. m. a message was received from Hollidaysburg stating that Justice Dean had refused the petition for a continuance. That means that the case will be called this Thursday morning. The work of securing a jury may consume some time, but the testimony will be hustled and the trial should not be an extended one.

The following attorneys are interested in the case: For the prosecution, District Attorney N. B. Spangler, Ellis L. Orvis and E. R. Chambers. For the defence, H. C. Quigley, Clement Dale, W. Harrison Walker and A. O. Furst. The case will be heard by Judge Love.

### COURT NOTES.

#### A Complete Report of Proceedings This Week.

(By S. D. Gettig, Esq.)

August sessions of court convened on Monday morning at half past nine o'clock, with His Honor, Judge Love, on the bench. A very large portion of time was consumed in hearing motions and petitions, after which the grand jury was called and

Daniel Irvin, farmer of Ferguson township selected as foreman, when the Court gave them a full and comprehensive charge as to the duties of grand jurors in misdemeanor, felony and homicide charges. John Kelley, a grand juror from South Phillipsburg borough, was excused, not having been naturalized. Constables' returns taken and list of jurors called after which the civil list of cases was called over and the following disposed of: Frank McCoy and John M. Shugert and Kate M. Shugert, executors of J. D. Shugert late of Bellefonte, deceased, vs. Lewis Rosenthal; appeal from decision of justice of the peace. Continued.

J. H. Lingie vs. Lewis Rosenthal, appeal from decision of justice of the peace. Continued.

Harrisburg Grocery Produce Company vs. C. P. Long, appeal from decision of justice of the peace. Continued.

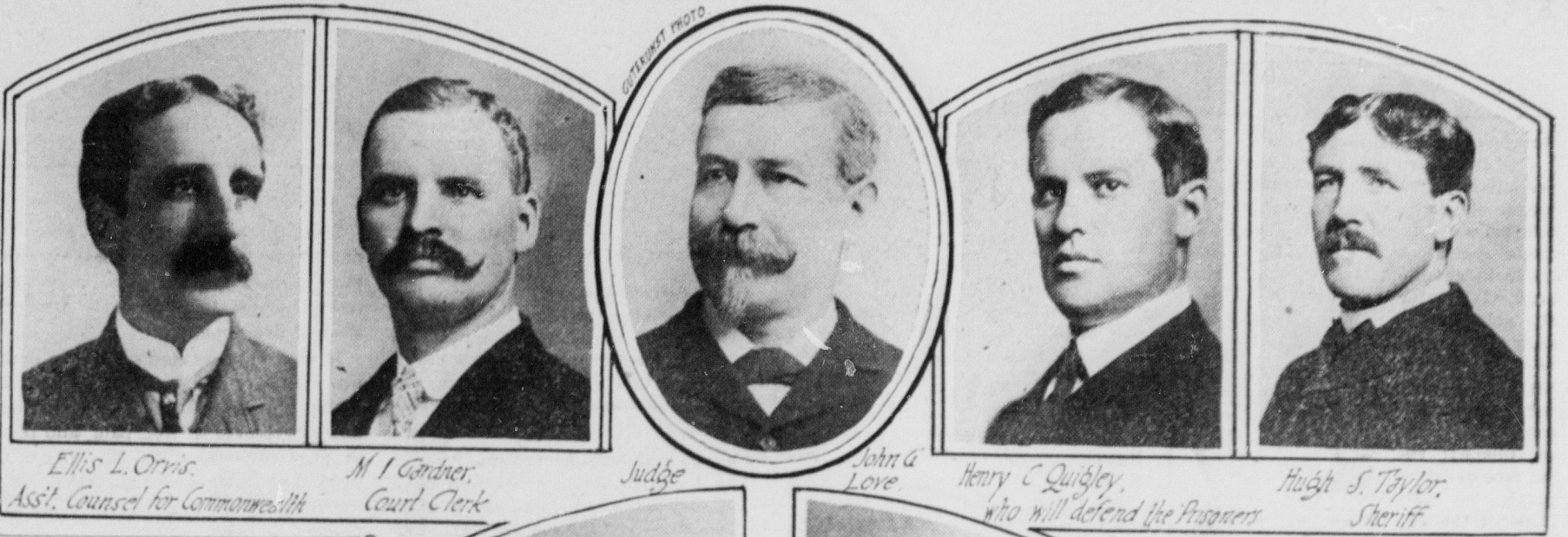
Thomas E. Griffith vs. George B. Lucas and Reuben Lucas, administrators of Morgan M. Lucas, deceased. This is an action to recover judgment on two notes, one signed as principal, and one as bail by the decedent during his lifetime. Verdict for plaintiff for one hundred and ninety-seven and 48/100 dollars, and an attorney's commission of eight and 42/100 dollars.

Thomas F. Brungart vs. same. This action is brought to recover judgment on a mortgage. Verdict in favor of the plaintiff for nineteen hundred and eighty-three and 27/100 dollars and an attorney's commission of one hundred dollars.



JERRY CONDO.  
The Murdered Turnkey.

Charles W. Tripple, Mary A. Geisinger, D. Olive Kerstetter and Ruth E. Yeager, assignees of John P. Harris, trustee, vs. Eliza Valentine, administrator of Abraham S. Valentine, deceased. This action is also brought to recover judgment on a mortgage. Verdict in favor of plaintiffs for twenty-six hundred and twenty-seven and 91/100 dollars and an attorney's commission of one hundred and twenty-five dollars. Auditors were appointed as follows: In the estate of Morgan M. Lucas late of Boggs township, deceased, N. B. Spangler. In the estate of James M. Lucas, late of Boggs township, W. H. Walker.



Ellis L. Orvis  
Ass't. Counsel for Commonwealth

M. I. Gardner  
Court Clerk

Judge

John A. Love

Henry C. Quigley  
who will defend the Prisoners

Hugh S. Taylor  
Sheriff

At this point court adjourned till 2 o'clock in the afternoon, when motions and petitions were again presented by the different members of the bar, among them being a petition for a rule on the county commissioners and others on behalf of O. A. Harvey, Horace Stiver and Elmer Flanigan to show cause why the reward for the capture of William Dillon, Ira Green and George Henderson should not be paid to them. The rule was granted and the case will probably come up at October Argument court.

Several returns of inquisitions were then taken in Sundry decedents estates. Elmer Aikens and Oscar Schenck convicted at a previous term of betrayal were finally discharged from custody.

Marilla Dawson, assignee of H. Y. Stitzer vs. Meshie Graham and Meshie Graham administrator of etc. of Sarah Graham, deceased; Melissa Palmer, Kate Freeman George C. Graham, Tennie Riley and Meshie Graham, guardian ad litem of William Graham, insane, heirs and legal representatives of Sarah Graham, deceased, tire tenants. This is an action brought to recover judgment on a mortgage. Verdict in favor of the plaintiff for two hundred and twenty-two and 23/100 dollars and an attorney's commission of ten dollars and sixty cents.

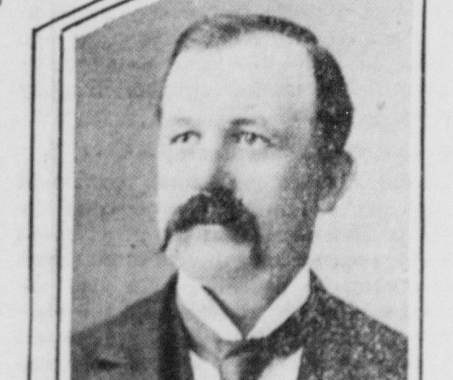
Com. vs. Charles Viard, Hilary Viard and Oscar Viard indicted, first count resisting officer; second count assault and battery, prosecutor Daniel M. Stine. This case is from South Phillipsburg, and it appears that late in the afternoon of May 18th last Hilary Viard was using some vile, profane and obscene language on the public street near his home, when the prosecutor, who is a police officer in that municipality told him to cease the use of the language and behave himself. There is an ordinance in the borough prohibiting the use of such language. The language used, according to the Commonwealth, was an annoyance to the neighborhood and the officer's caution instead of stopping this language, seemed to aggravate the young man and when the officer went to arrest him he resisted arrest and the officer was assaulted by him and his father and brother. Defendants denied the use of the language by Hilary Viard and alleged that the prosecutor had exceeded his authority. Verdict on Tuesday forenoon of guilty. Hilary Viard sentenced to pay costs, fifteen dollars fine and sixty days in jail. Charles and Oscar Viard sentenced to pay costs and twenty dollars fine each.

Com. vs. George Henderson indicted first count entering store to commit felony; second count larceny, prosecutor J. H. Turner. This case is from Julian and is the case of the entry of the store on the night of June 3, 1904 and discovering that someone was in the store Mr. Turner, the proprietor was notified and the store was surrounded by citizens and Mr. Turner shot the intruder through the window of the store and in the morning the defendant was found and brought to the Bellefonte jail. The defendant plead guilty to the second charge in the indictment and the Commonwealth extend a nol. Pro on the first count.

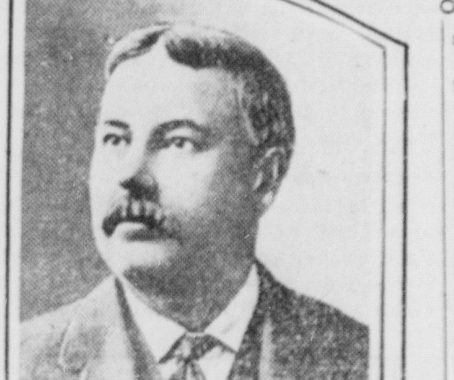
Com. vs. George Henderson, indicted for jail breaking and escaping, prosecutor H. S. Taylor, sheriff. This one of the five men who broke and escaped from jail on the night of July 29th last and one of the three captured near Flemington on August second. Defendant plead guilty to the charge.

Com. vs. Dominic Constance, indicted for jail breaking, prosecutor H. S. Taylor, sheriff. Defendant plead guilty.

At this point, namely, two o'clock Tuesday afternoon, A. O. Furst, who has recently been employed by one of the defendants in the case of Commonwealth against William Dillon and Ira Green indicted for murder, made application to the Court for a continuance of this case, on the ground that defendants had not been able to prepare their case, as counsel had just recently been retained and that they had nothing by which to enforce witnesses to attend court in their behalf, and on the further ground that one of the parties to the jail breaking had not as yet been captured, as well as on the ground that the newspapers had published broadcast the act of the jail breaking, as well as the killing of Mr. Condo, and that public opinion was strong



Newton B. Spangler



Edward R. Chambers  
Counsel for Commonwealth

and it would be difficult to secure a jury at this time to properly try the cases. This application was made before Judge Love and Judge Martin Bell of Blair county, who took the case under advisement and will probably hand down their opinion on Wednesday morning.

Com. vs. Dominic Constance, indicted for felonious arson. Prosecutor, David Rothrock. This case is being tried in theoyer and terminer, and Peter Mendis of Bellefonte was sworn as interpreter, to interpret the testimony of Italian witnesses. The Commonwealth is being represented by District Attorney N. B. Spangler and Col. W. F. Reeder, while the defense is being looked after by H. C. Quigley and W. Harrison Walker.

David Rothrock sworn and says that he was at home on June 12th of the present year, it being Sunday, and that that night he himself, his wife, a son and a granddaughter were in the house. That sometime during the night, being near midnight, Mr. John Grove, a neighbor, came to the house, kicking against the house, and that his wife got up and went down and that the house was afire, the fire being in what is known as the summer house. That when he himself got up he found John Grove on the house putting water at the pump and handing the summer house was all ablaze, and the blaze going up along the partition wall, and that the roof had become ignited. The house proper is nearly square, to which is attached a summer kitchen connected under the same roof. The couch having been saturated with coal oil, and that he found his own coal oil can outside of the building when he came down; the can was a five gallon can and had been filled about a week or so before. When he saw the oil can it still had some oil in it; also that he found a cartridge the next morning after the fire near the store, and that the tracks were to and from that direction; that he discovered these tracks early in the morning.

John Grove sworn—Live about twenty rods from Rothrock's place, saw him on the evening of June 12th, but about eleven o'clock had gone to the Keystone Lime Kilns to telephone to Bellefonte for a doctor, and on returning from the lime kilns towards Rothrock's house he saw a flash at Rothrock's house as though oil or powder was burning. He found that the summer house was afire and went to the house and pounded the house, kicking and calling "fire" to the occupants, then went to the pump, got some water and put the same upon the flame, the fire being in a couch alongside the partition wall and towards the roof. The couch was saturated with oil; was about thirty rods from Rothrock's house when he saw the flash; also I heard something running from the house and heard something crossing the wire fence; saw tracks in the potato patch on Monday morning from and towards Hastings, the noise I heard was going in the same direction. Dominic Constance lives with his sister northwest of Rothrock's. They were fresh tracks when I saw them. The ground had been cultivated on Friday or Saturday before. Saw Dominic Constance Monday morning at about nine o'clock at my place and again after dinner. Rightnour arrested him at my place in the afternoon, being Monday. I did not go across the potato patch, I found oil can inside of the summer house about eight feet from stove, I put it outside, door was not locked.

Mrs. James C. Rothrock sworn—Wife of David Rothrock, was home on night of June 12th, awakened by someone calling "fire," and saw there was fire through the north window. When I got down saw John Grove, I think it was about half past

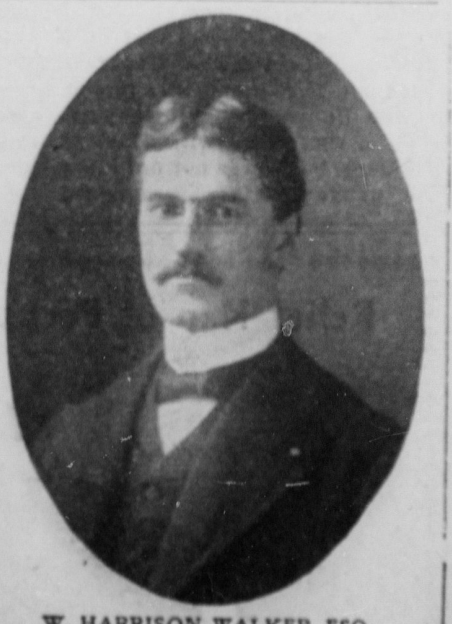
eleven o'clock Saturday night. The couch was saturated with oil and oil was running on the floor. There was no fire in the stove from two o'clock on Sunday afternoon. I was entirely out. Saw shoe tracks through potato patch on Monday morning; saw Rightnour fit shoes in the tracks and the shoes fit the tracks precisely; the tracks looked to me as if some one was running. I filled the lamp on Sunday evening. There were in the house that night myself, husband, granddaughter and son, my daughter was at DuBois.

J. W. Rightnour sworn—County detective and live at Bellefonte, know Dominic Constance, saw him Monday, June 13th in the afternoon, arrested him at John Grove's. After I arrested him I asked him whether those were the shoes he wore the night before. He said, "I did not wear these shoes last night," said that the shoes were at the shanty. Clarence McCafferty was with me. We drove to the shanty. Dominic got the shoes in the shanty. At this point Mr. Rightnour identified the shoes; he told me they were his brother-in-law's shoes, but that he wore them last night. Then we drove to Rothrock's place, left Dominic in charge of Mr. McCafferty and I went and fitted the shoes in the tracks coming and going in the potato patch.

Clarence McCafferty sworn—Live at Bellefonte, was along when Rightnour arrested Constance at Mr. Grove's. He said he wore his brother-in-law's shoes. We went to the shanty and Joe and Dominic went into the shanty and came out with the shoes and then drove to Rothrock's and Rightnour took the shoes and fit them into the tracks coming and going through the potato patch.

John Hampton sworn—Live in Benner township, work for the Lime Company, saw Dominic Constance on Sunday afternoon and evening, June 12th. On Sunday evening about eleven o'clock saw him going away and he told me he was going to take a walk. I saw him coming back about twelve o'clock that night. He was about walking fast. He told me in jail that he would fix the s of a b if he went across his lot. I did not see the fire at Rothrock's that night.

Leroy Leathers sworn—Live at Howard, saw Dominic in the jail at April term of court, when I made my return as constable to the Court. I visited the jail at that time, had a talk with him (Constance) and he told me he expected to get out of jail that afternoon. This was the time he was incarcerated there under sentence of the Court. I asked him whether he was the man that had the trouble with a man by



W. HARRISON WALKER, ESQ.  
Attorney for Dominic Constance.

the name of Rothrock. He said he was and that he was going to get even with him, that Rothrock thought himself a smart man but that he would get even.

Mike Torrence sworn—Live in shanty at Buffalo Run and know Dominic Constance, he also lives there. I heard that Rothrock's house was afire, Dominic was at the house all night; Dominic and I slept together, there are six bunks in the room, each man has his own bunk, went to bed about half past ten or eleven o'clock. Dominic was in bed before me, do not remember getting up that night between eleven and twelve o'clock, I am no relation to Dominic, we always keep a light burning in the room.

and twelve o'clock. I am no relation of Dominic. We always keep a light burning in the room.

John Torrence sworn—Live in shanty up Buffalo Run. Know Dominic Constance. Know when Rightnour arrested him, Dominic was in the shanty all night the night before. Dominic went to bed about half past ten. He went to bed before I did. Dominic was sick and slept in the same room. He did not leave the room that night. We keep a light burning all night.

Lewis Bochard sworn—Know Dominic Constance and live in the same shanty. Heard the Rothrock house was afire that night. I sleep in the same room with Dominic. He went to bed before I did that Sunday night. He was sick.

Dominic Constance recalled—I did not tell John Hampton that I was going to fix Rothrock and did not tell Leathers that I was going to fix Rothrock. Was at the shanty all Sunday night, was not at Rothrock's that night and did not set fire to Rothrock's house. Do not know who set it afire. I wore a black coat on that Sunday and wore Italian stockings that day. It is much heavier than the one I have on.

At this point defendants rest and the Commonwealth in rebuttal call A. C. Mingle of Bellefonte, who has been in the shoe business for 22 or 23 years. Constance can put that shoe on, his foot measures five which means a seven shoe. This shoe is a seven. His toe does not go to the end of the shoe that he has on. In these shoes the toes go to the end. This is a woman's shoe and is not shaped for a man's foot.

At this point the case closes. The Court this morning overruled the motion made yesterday by counsel for Dillon and Green and refused to continue the case and fixed Thursday morning for the trial to go on.

N. B. Spangler sworn—shoes were placed in my custody by the Detective and I locked them in my vault and they have been in my possession ever since. At this point the Commonwealth rests.

At this point at 5:05 p. m. the Commonwealth rested and H. C. Quigley opened for the defense.

Dominic Constance sworn—Is the defendant and lives in the shanty at Buffalo Run, works at Walker's lime quarries. Been there about two years, was arrested at John Grove's by Joe Rightnour, who asked him whether those were the shoes he wore that night. He took him to the shanty and got a pair of shoes from his sister. I was at the shanty all night before, I could not do much at that time as I was sick. Was not at Grove's or Rothrock's on Sunday evening, was at Grove's some other night, I bought eggs and milk at Grove's, was not out of the shanty Sunday night. The shoes that Rightnour brought were my brother-in-law's, I had no coat on when I was arrested and Joe took me to the shanty to take my coat and took these shoes. I did not tell him that I had worn these shoes the night before; "Me wore these shoes," pointing to his own shoes, I could not get those shoes on. Came from Italy about three years ago, lived at Altoona, was in jail at Bellefonte, the Judge sent me up for five months, got out on April 25th. Have been up at my sister's, the only friend that I got, I got out of jail, went up to the mountain, the jail got open.

Mrs. Verma Constance sworn—live at Buffalo Run, Dominic Constance is my brother, he stayed at my house, I hear about the fire at Rothrock's, heard people say so, I heard this next day, Rightnour brought Dominic to my house and got a pair of shoes, I told him they were my husband's shoes, my husband bought these shoes for me but they were too small, I could not wear them, my husband wore these shoes, Dominic did not have these shoes on that night, they were in my room, I know Dominic was in the house all night.

James Torrence sworn—Know Dominic Constance, he is my brother-in-law, he boards with me, people told me that Rothrock's house was on fire the next day, know that Rightnour arrested Dominic, Dominic slept in my shanty the night before with me, he was not out of the shanty that night. At this point he identifies the shoes as his shoes, I bought the shoes for my wife and we wear them between us. The shoes were in my room that night; Dominic could not wear the shoes, I slept in a separate room. Dominic slept upstairs. We go from the kitchen upstairs. Dominic went to bed the same time I went to bed. Did not see Dominic in bed. Do not know what Dominic did that night. I was in bed. Had beer at next shanty to me. John Hampton was at the shanty the day they were drinking beer.

Mike Torrence sworn—Live in shanty at Buffalo Run and know Dominic Constance, he also lives there. I heard that Rothrock's house was afire, Dominic was at the house all night; Dominic and I slept together, there are six bunks in the room, each man has his own bunk, went to bed about half past ten or eleven o'clock. Dominic was in bed before me, do not remember getting up that night between eleven and twelve o'clock, I am no relation to Dominic, we always keep a light burning in the room.

John Torrence sworn—Live in shanty up Buffalo Run, know Dominic Con-

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