FROM OUR ORWIGSBURG CORRESPONDENT.

Proceedings of Court.

Before Judges Kidder, Palmer and Huntzinger.

COURT OF QUARTER SESSIONS OF SCHUYLKILL COUNTY, OF JUNE SESSIONS, 1847.

JUDGE KIDDER, Presiding.

Commonwealth *vs.* Martin Shay, Indicted for the murder of John Reese.

Counsel for Commonwealth, Deputy Attorney General E. W. Hughes, John Bannan and James H. Campbell.

Counsel for Prisoner, E. O. Parry, J. C. Neville and Benjamin Bartholomew.

The prisoner upon being arraigned, plead not guilty.

The following are the Jurors sworn in the case:

1 Isaac Thompson,	7 Daniel Bock,
2 Joseph Brubaker,	8 Charles Christ,
3 Charles Craig,	9 Peter S. Martz,
4 Dr. John Kleinmiller,	10 Jacob Glace,
5 Samuel R. M Kepner,	11 Isaac Strauch,
6 Frederick Longabach,	12 Edward Yardley.

The Court then adjourned till to-morrow (Saturday) morning.

Saturday Morning, June 12, 1847—Court convened at 8 o'clock. The Counsel for the prisoner moved that the Court order the witnesses for the Prosecution to be kept out of the Court Room, while the other witnesses for the prosecutor were being examined The Counsel for the Commonwealth assented, and urged the Court to make a general order embracing all the witnesses in the case, both these in behalf of the Commonwealth, and these in behalf of the prisoner.

The Court accordingly ordered that the witnesses in the case should be kept in an upper room of the Court House, during the sitting of the Court, until they are severally called, and appointed an officer to take charge of them.

The case was opened between 9 and 10 o'clock, by J. H. Campbell, Esq., in a lucid, able and comprehensive manner, after which the Commonwealth proceeded with their testimony.

Ann Reese, Sworn.—I am the widow of John Reese—I was living by Watkins Pritchard in Pottsville. We and the children were going to the new house at St. Clair. I told Reese he had better go to his sister in Roaring Creek. He said he would go, in a day or two. He said he would go and stay with his brother in Wadesville that night, and come over and see us next day in St. Clair. He and Reese, my sister-in-law Ann Humphreys, and daughter Mary Ann, started between Christmas and New Year to go to St. Clair. Reese was going as far as Wadesville—we went up the East Norwegian Railroad. I wanted Reese to go round by Port Carbon with the load of furniture, but he told me he was'nt able to walk. We all went a-foot, going very slow—we had a little child with us, and Reese was not able to walk fast. Reese met a good many he knew, and they said they were sorry to see him look so poor. We stopped first below Scalpingtown, and talked to Dr. Phillips—we didn't sit down—we did'nt stay many minutes. We stopped next at Edward Morrison's house where Reese used to live—she wanted us to come in, I said we had no time—we stayed no time there—we went up so far as the houses at the Delaware Mines, and John talked to several there—we stopped at Wm. Daniels and Mrs. Porkley's. John went out to the Railroad while I was giving the child water; John went on before me to the rail road and talked to Samuel Hunter, and there I overtook them, and talked to Sam'l. Hunter. John was on a little ahead, till we came up to Mr. Brennan's house. Mrs. Brennan called on us and asked me how we was. I said we was poor—and the child was poor ly, it had been sick four or five months I saw a man standing there; Mrs. Brennan talked a good bit about the children. Mrs Brennan came out on the bench and said is that Reese, and John said yes it is I. This man was standing with a pick in his hand, and looking down with his cap over his head as much as he can—when she asked if it was John he put his head up, and she turned her head to him, and nodded to him. When she nodded first to that man, I didn't take particular notice of him, but wanted most to speak to him, but was so poorly—I wanted to speak to him because he was standing there, and used to live below with his uncle and aunt—they called him Martin—that (looking at the prisoner) is the man. John asked the old woman about horses—she said some were dead, and we then started on, and was talking about one thing or another—I was ahead—we did'nt go very far before I heard something like a shot go off, like somebody shooting off a gun, I looked up towards the mountain where the houses are—I saw men looking about—I told my sister-in-law I was shot—she said no it was John had it—I looked round and saw John fall—I thought he was closer to me than he was. Before I heard the shot, I heard him say Ann, did you see that old woman shake her head at that man; he never spoke again after that—he fell down in the bank into the water—one arm he had in a sling, and was carrying an umbrella in the other hand. I saw this man run on before me with a pick in his hand, running up the Railroad. I watched him to see which way he went, and he went toward the Pike—we made a great deal of noise—and no one came to help us—we hallooed murder; all of us hallooed—there was a great number of people about there looking at us, but none came to help us; these people were about forty yards off or more; they were outside of the houses, droves of them together—they could see us—we thought they were coming towards us—my sister said I will go for some one; I said hold on here's some Englishmen coming; when we saw them come nearer, she said they are Irishmen and had clubs in their hands. My daughter went on to Wadesville for help. We called for assistance—one man I called by name, I forget his name—I did'nt see him. I did not hear them say anything but I saw one man pointing his finger towards the way this man did go, to another—they were outside watching on us up, some were looking out of the door, and some out of the window men and women; this was on Wednesday evening, a little after 4 o'clock as much as I can think. I told Mrs. Humphreys my sister-in-law, to come on for I believed there was a great show to see us come up the Railroad together; she said she did'nt care for the show. I thought a good many were glad to see John come home, that he was'nt in the mad house. I thought if some were savage they could'nt all be. My daughter went to Wadesville, and just as the people came from Wadesville, a train came up from Pottsville, they lifted him in the cars. Where my husband was struck was about half a mile from Wadesville, and about 30 or 40 yards above Mrs. Brennans'—there were houses on the hill opposite, where he was struck—one Carey'lives in one of the houses. We took him to the brother to Wadesville. He remained there till between 3 or 4 o'clock the next morning when he died. He never spoke all the time, and gave three very heavy sighs just before he died. He was insensible from the time he was struck—he was struck on the side of his head, he had his hat on—my sister held him up out of the creek on her lap. John Reese was his name—he was not in good health—he was out of his mind—we had great work to take him from the Court House. I think he was out of his mind then. He was weak in body and could'nt walk fast. It took us very near two hours to walk from Pritchards to Brennan's. Mrs. Brennan was first in the house, and as she was talking, she came out on the porch. Martin Shay was standing outside the fence—it is the same kind of a pick as they use in the mines.—Shay had a blue cloth cap on his head, and a British waistcoat was a buff, and dark pantaloons, no coat on. He had lived by us between the East Mines and Scalpingtown. He was a single man and lived with his uncle and aunt, James Brennan and wife. He lived there about a year while we lived there. When we accounted out the time Reese was struck, Mrs. Brennan was near enough to have heard us. I know Carey; there were people in every house, but none came to help us—we remained there about a quarter of an hour, during this time the people were standing all about, watching us like. It was a colored man I think, came up with the cars from Pottsville. Yesterday when Shay came into the Court House, I saw that he looked the same that he did when standing at the old woman's door. When he stood before Mrs. Brennan's door his face was very white, whiter than now. He did'nt look at me, at Mrs. Brennan—he was then about ten yards from me; he did'at look up until Mrs. Brennan nodded to him, then he lifted up his head and looked at us. John Brennan came out and stood with his back against the door, at next saw Shay at Frack's tavern in St. Clair. He had then just came out of the mines At Mrs. Brennans he was not dressed in his mining clothes, he was in his clean clothes. I can't tell whether he was just washed—I had not such a good look at him, but I thought he was out of his place. This was a middling clear day—not sunset yet—it was so light in a manner as it is now; the roads were very dirty, and might have been snow in some places.

Cross Examination.—When I saw Shay at St. Clair, he was not washed. I next saw Shay at Esq. Reed's in Pottsville, the same night he was washed there—he hadn't the same clothes on—I said before the 'Squire, he didn't look as pale as when I saw him at Mrs. Brennan's, perhaps I might have said to the Squire that this is not the man, but I was afraid—I have seen much about these things as to make me afraid. I hadn't seen him often in his miner's clothes, and didn't take particular notice of him in any kind of clothes, he never came into the house—I seen him sick at his aunt's going in and out—he lived nearly opposite to one side from our house. It I am used to them I can tell a miner in his mining dress. I said, at the second examination before the Justice, that he had on a lightish back to his vest; he had a light shirt on; when I was asked before the Justice whether this was the man, I said he didn't look then as he looked at Brennan's, he looked browner, had more color; I said that he had more hair then than he had before Mrs. Brennan's, but he might have his hair up under his cap. At Brennan's I hadn't a full view of his countenance, because he didn't look up; he was in our house once, the time he drank porter, at night: I don't remember him ever calling to get a $2 note changed; he paid me the levy for the porter at the door afterwards—I saw him while he was sick walking on his hands and feet in and out of the house—I didn't see his face after John was struck, he was on a piece from me, at Frack's, he had his mining cap on—he asked me there, you say it is me that killed your husband. I said yes, if it ain't you, I never saw one that looked more like you. They brought him from the mines and he washed and dressed himself—there were a good many people there—there were not near as many Irishmen there as before the Justice—I was afraid before the Justice, because I had further to go home, and had a great deal of trouble, and more than any man could tell—Shay looked fresher—I said at Frack's tavern, after he was washed, that he didn't look like the same man. When he looked up at me, he had the same look as he had when he looked up at me at old Mrs. Brennan's—the night at Wadesville after my husband was killed, I said it was Martin Shay. I didn't say before the Justice that his features were not the same.

Re-Examined.—I was afraid to swear too quick before the Justice, on account of the Irish who came about the house nights and made great noises. After my husband got clear, 'most every body would tell me that my husband would be killed. I was afraid before the Justice for fear they would kill me. At that time I lived in St. Clair—I heard some Irishmen say that they did not believe he'd live long, I can't remember who they were.

Ann Humphreys, sworn.—I am a sister of John Reese, deceased. I left Pottsville, with John Reese, his wife, and daughter, about two o'clock, and went along the Rail road that leads to Wadesville—we walked slow and met a good many—we met several people, strangers to me, that shook hands with my brother—my brother turned into William Griffiths' house—he stopped at Mrs. Brennan's, while I stayed behind, talking with Morrison—William Daniel came out shaking his head, and his wife looked pale—Daniel's wife asked how Reese was, and turned right round as if somebody had called her—Mrs. Reese called me to come on, that she thought that there was to be some show there—I went to Mrs. Brennan, and they were talking together. Mrs. Brennan said, how are you, Mrs. Reese, she replied, quite poorly—then she looked up and said, is that you, Reese? Reese came and stood between me and Mrs. Reese; Reese asked about Mrs. Brennan's children—there was a man standing by with a pick in his hand, not opposite to us, but the next door between us and Wadesville—he stood sideways, with neither his face nor his back to us—the old woman looked hard towards this man, and kind of shook her head, and as she shook her head, stumbled down against the fence—at me she looked sideways towards Mrs. Brennan, and then earnestly towards Reese. Before Mrs. Brennan shook her her head he was looking at Reese—he stood as if he was ready for a blow right away—I noticed the man, and saw his face, (points to the prisoner,) this is the man—I never saw him before I saw him at Mrs. Brennan's, to the best of my knowledge. We went on then towards Wadesville—Mrs. Reese and baby went first, Reese next, I next, and the daughter behind. We got about 30 yards on the Railroad, my brother turned round and asked me, did I notice Mrs. Brennan shaking her head at the man with a pick in his hand—then I turned round, looking behind—I thought somebody was coming behind, and saw Martin Shay crossing from the houses until he came on the road where we were—I turned back my head to give an answer, and Reese was asking his wife the same question—he had not straightened himself hardly, when Martin Shay came on behind, shoved Mary Ann aside, came by me up with the pick and gave him a blow, and jumped off just as he gave the blow, he held the pick in both hands, then he run on and I looked after him until he passed Mrs. Brennan's about 10 or 15 yards, then he turned looked round Reese about 10 or 15 yards, then he turned looked round and looked back, when I saw he was doing nothing to any one else, then I went and picked up my brother, he was lying down on the ice, where there would have been water had it not been frosty weather. I took him and laid his head upon my arm and edided to him. O! my poor boy, if you can pity your feet under you, and we'll go from here or we will all be killed, as he tried to move his hand round a rock there, he fell down dead in my arms—then I screamed out murder, that he was dead—the nearest that any come to us was Mrs. Brennan's son that we saw standing at the door, he came on till he saw that he was dead, and then he put his two hands in his pocket, and turned away laughing—we were there a good while hollowing and screaming—a woman came to the door of a house opposite to us, I raised my hand to tell her that he was dead. I cried out so that any one might hear me, but thought she might hear, she clapped her hands and said it was good for him, I said to his wife you stay here, and I'll go look for some one to take away his body—she answered, Oh, no! they'll kill me if you go away, if we are to die let's die together; she then turned her head towards Pottsville and said O now we shall have help, I believe there is a lot of Englishmen coming up the road. I went to stand on the same part of the road where she was and seen them coming. I noticed them coming with clubs in their hands slinging them, when I saw that, I hollowed he was dead, when they came on far enough to see that he was dead, they turned off like a regiment of soldiers and stood by the houses, they looked towards us but not one came to help us—I cant tell how many their were, but saw two foremost walking sideways. I think there were more than I reckoned; some coal cars came up the rail road, and I asked please take that body in; the driver asked what was the matter, and I said I'd let him know when we went on; he said he couldn't put him in without help, no body helped him although the Irishmen were looking, until some men came down from Wadesville; the driver was a colored man, dont know his name. I couldn't understand what these men that were looking on said, but they had a loud laugh, and kept up a hollering, when they turned off from the rail road they gave such a laugh, and clapped their hands as if they gloried in it; I told the driver to put his body in the cars, I told he is not quite dead yet, a couple of you go in and put set under him; all that came down, jumped into the cars and we went on to Wadesville. Reese never spoke, and was insensible, he died after three o'clock towards morning.—It was on the Wednesday before Christmas. Its about 2 of a mile from Mrs. Brennans to Mayors.—Martin Shay was standing by a stump off the road, about 20 to 30 yards from Mrs. Brennan's.

Cross Examined.—The man by the stump looked at me, and I looked at him, and I knew who it was. I didn't take much notice of him, when I passed he turned and looked at me. Major lives in the Delaware Row in the next block to the shoemaker's shop. I heard no shouting or hallowing; I was on foot, when I was out in the yard with Major, I heard no shouting or noises, but when we got in the house, then the noise came that Reese was knocked in the creek, every body was out then, but I saw nobody with clubs; they were going up where the accident happened; I know some who lived along there; some English, the largest part Irish; the Major's are Englishmen; the Majors did'nt go up the reason I did'nt go up was that my brother was abused there once before, that they might abuse me too. I staid there about 20 minutes. I have not said while in Court here that Shay was a d—d rascal, and ought to be hung, and would be hung any how; I never said any thing like it; I never was in company with Martin Shay, but knew him from seeing him often. When he was at the stump I was about 8 feet of him. The first time I thought of it, was when I saw the reward offered for Martin Shay. I did'nt say before the Justice that I was not certain that this was the man. I said before the Justice that I would not swear rightly that this was the man, but that I believed it was; I say so now.

George Starr, Sworn.—I am nearly 70 years old, the 16th of October. I live in Mahantango street, in Pottsville. I saw Martin Shay the last day of the old year. I went to Henry Shelley's to fetch corn; his clerk told me the Welchman was killed. I was going for malt when I met two men walking on the pavement; the wind came from the men towards me, they talked very loud. I heard one say, I know I struck him with a pick—he cannot be up again. I did'nt know rightly what was his meaning; I was then about 8 yards from him, the man that walked with him, said hush, hush, hush; then I came close to him, and Shay smiled, then Shay began the story again, and said I know I struck him with the pick, he cannot be up again, and repeated it, that Welchman; they passed me about 6 yards, then the wind blew from me, they were both very lively, and Shay said I am not afraid of that old man, that's a friend of mine. The other man then asked for what I was afraid of such a friend of his. Shay said my sister lives at Joseph Shellys, and she thinks so much of that old grandady. They were coming down from the Catholic Church, they behaved just like a couple of boys who have something, and feel very glad. I had known Martin Shay about a year; I dont think it is; at the 1st time I saw him was at Joseph Shelly's; his sister told me that was her brother; I saw him ten times may be more—O yes I talked to him, and we are good friends; his sister and I are good friends. Joseph Shelly is my son-in-law. When they were as far off as the Court house door, (about 20 yards) I knew it was Shay; I did'nt speak to him. I told this in my house not right-away to the old woman, my wife. I told it to nobody else. I did'nt tell it right away; I told it before Squire Reed. The man with Shay had red whiskers. I never saw him before.

Cross Examined.—I am certain it was the last day of the old year; it was on Thursday, on Friday was New Year. I didn't take right notice of the dress; Shay had his Sunday clothes on; his clothes were clean.—The man with Shay first walked a little after, then got a little before him; they walked in the common gait, this was on the pavement near the Catholic Church; I don't know whether they came out of the brewery or the church. It was in the afternoon about 3 o'clock, may be later; it was the next day after Reese was killed. About two weeks after this or something more, I was examined before the Squire.

Court adjourned till Monday Morning, 9 o'clock.

Monday Morning, June 15th.

Edward Morrison, sworn.—I live at the East Delaware mines, I did not know Martin Shay—I saw the crowd going up, after Reese was killed, principally women and children, some men were among them—I saw the crowd first pass my house, after I heard that Reese was killed, I saw a crowd on the top end of the Delaware houses. Some of the crowd passed my window, one or two in particular went out of my shop. I did not know which house Mrs. Brennan lives in. The spot where Reese used to live, is about 40 yards from my shop. I saw Reese pass my shop on his way up—it was between 4 and 5 o'clock I suppose, I have no timepiece. It was about 20 minutes, to the best of my judgment, after Reese passed my shop, that I heard he was killed—I know the house where he other lived, it is between the Railroad and East Delaware houses about 40 yards from where I live. I now speak of my house. Don't know what countrymen were in that crowd—did not take particular notice—do not know that I saw Mrs. Brennan and James Brennan go up.

Cross Examination.—The house I live in is my own—I live about 60 yards near Pottsville than the Delaware Row—my shop is in the Delaware Row, between the 3d and 4th block from the bottom. The crowd was principally women and children, not to say a very large crowd. About 20 minutes after the crowd went up I heard Reese was killed; the crowd went up soon after Reese went up. About 20 minutes after, I heard he was killed or beaten; I did not go out in the street till 5 or 10 minutes after; I heard the report that Reese was killed or beaten. The people that were standing by doors and windows, and there seemed to be a crowd at the upper end of the row; I did not go up; I did not hear any hollowing or shouting; did not see any men drawn up like a regiment of soldiers shouting. The crowd appeared at the upper end of the houses; I did not see any persons on the Railroad, the crowd were on a road between the Railroad and the houses; I don't recollect that I saw a train of cars go up the road after I heard Reese was killed—may have been the case. I don't think you can see from my house, the last house of the Delaware Row; if on the Railroad opposite my shop you might see; I think you can see farther up the Railroad from my shop than you can along the houses. I didn't see any persons on the Railroad at this time; I know Martin Shay by sight now, did not know him then; I do not know that I saw Shay before I saw him at the Justice's office, but when I saw him at Hill's, I thought I had seen his features before that day. I am an Englishman.

Re-Examined.—Two men went out of my shop that day. My shop stands square and has four windows, and a window and door in front; there is a road coming from St. Clair to Branch Railroad, down to a window on the north east, that is on the side towards St. Clair. Another window looks towards Scalpingtown, and one window and 2 doors in front that looks towards the road from Scalpingtown to Delaware mines. At the time John Reese was coming towards the shop within 40 yards there was a man by the name of Michael Tray in my shop. When John Reese came up they expected he would come in but he walked by. He had hardly been past 10 minutes when a man named Horie came to enquire about a pair of shoes, if they were mended, not promised till next day, a thing that ain't happened in six months, told him no, not till next day; Wm. Daniels came in. I asked Daniels if he saw John Reese pass. He said he did, that he called at his house. Then Horie at that time went out, up the towards the rail road, and after he was the other person that came that John Reese had been beaten; report came from the window. Just as we heard that report, Mrs. Daniels came in and told Daniels that they had killed John Reese. William Daniels said he would go up. I told him not to go if he wanted to keep out of trouble; I told Michael Tray to go up and bring us the news, this is all I know; can't tell whether Michael Tray went up; did not return that evening.—Said Daniels, that is the man that killed him, saw Horie coming down; said to Horie, what is the matter, and said he, a man Reese was drunk and fell into the creek. He then went into John Hanwigs—Horie boarded in Scalpingtown, I think. I noticed something peculiar about him, any one that has seen him, could tell him he has a red mark over his eye. When Horie first came in, he seemed in a hurry, asked for his shoes, seemed as no matter was between them. I thought from Horie's movements that he was full of business. Michael Tray boarded at the Delaware houses, at William Cotes,' know of nothing more; Horie went into Hanwig's, then I came and walked up the row. When Horie came down the river first he walked fast to be a hurry.

Ralph Mailey, sworn.—I saw Reese going up the Railroad, I was in my house in the East Delaware Mines; his wife was along carrying a child; Mrs. Humphreys and his daughter along; he had his left arm in a sling, as at were. I had just gone to eat supper when he passed, and after supper I heard Reese was to run up and down the street, and I went out and met a man by the name of James Horie, a man was going up the Railroad, and James Horie was coming down sharp, and Horie hollowed to the man that he was not to go up there, that Reese was killed, and he was not to go up below he hoped; the man continued to go up the Railroad; I did not take particular notice of the man, but Horie had a particular mark on the right side of his face; did not see any thing in his hand; think he had a blue coat on; can't be certain. When I met Horie he was 30 yards from where Reese was, back towards Scalpingtown. Then I went up to the end of the street and the car was just starting with Reese in. I stopped and talked with Corvin Cute; he was at the door of the upper house of all, and I asked him how that case with Reese had happened, and he said he did not know, he was in the house; then I came down, I didn't go up; did not see any one in the neighborhood but Carvin Cutes and windows, and there seemed to be a crowd at the upper end of the row; I did not go up; I did not hear any hollowing or shouting; did not see any men drawn up like a regiment of soldiers shouting. The crowd appeared at the upper end of the houses; I did not see any persons on the Railroad, the crowd were on a road between the Railroad and the houses; I don't recollect that I saw a train of cars go up the road after I heard Reese was killed—may have been the case. I don't think you can see from my house, the last house of the Delaware Row; if on the Railroad opposite my shop you might see; I think you can see farther up the Railroad from my shop than you can along the houses. I didn't see any persons on the Railroad at this time; I know Martin Shay by sight now, did not know him then; I do not know that I saw Shay before I saw him at the Justice's office, but when I saw him at Hill's, I thought I had seen his features before that day. I am an Englishman.

Re-Examined.—Two men went out of my shop that day. My shop stands square and has four windows, and a window and door in front; there is a road coming from St. Clair to Branch Railroad, down to a window on the north east, that is on the side towards St. Clair. Another window looks towards Scalpingtown, and one window and 2 doors in front that looks towards the road from Scalpingtown to Delaware mines. At the time John Reese was coming towards the shop within 40 yards there was a man by the name of Michael Tray in my shop. When John Reese came up they expected he would come in but he walked by. He had hardly been past 10 minutes when a man named Horie came to enquire about a pair of shoes, if they were mended, not promised till next day, a thing that ain't happened in six months, told him no, not till next day; Wm. Daniels came in. I asked Daniels if he saw John Reese pass. He said he did, that he called at his house. Then Horie at that time went out, up the towards the rail road, and after he was the other person that came that John Reese had been beaten; report came from the window. Just as we heard that report, Mrs. Daniels came in and told Daniels that they had killed John Reese. William Daniels said he would go up. I told him not to go if he wanted to keep out of trouble; I told Michael Tray to go up and bring us the news, this is all I know; can't tell whether Michael Tray went up; did not return that evening.—Said Daniels, that is the man that killed him, saw Horie coming down; said to Horie, what is the matter, and said he, a man Reese was drunk and fell into the creek. He then went into John Hanwigs—Horie boarded in Scalpingtown, I think. I noticed something peculiar about him, any one that has seen him, could tell him he has a red mark over his eye. When Horie first came in, he seemed in a hurry, asked for his shoes, seemed as no matter was between them. I thought from Horie's movements that he was full of business. Michael Tray boarded at the Delaware houses, at William Cotes,' know of nothing more; Horie went into Hanwig's, then I came and walked up the row. When Horie came down the river first he walked fast to be a hurry.

Ralph Mailey, sworn.—I saw Reese going up the Railroad, I was in my house in the East Delaware Mines; his wife was along carrying a child; Mrs. Humphreys and his daughter along; he had his left arm in a sling, as at were. I had just gone to eat supper when he passed, and after supper I heard Reese was to run up and down the street, and I went out and met a man by the name of James Horie, a man was going up the Railroad, and James Horie was coming down sharp, and Horie hollowed to the man that he was not to go up there, that Reese was killed, and he was not to go up below he hoped; the man continued to go up the Railroad; I did not take particular notice of the man, but Horie had a particular mark on the right side of his face; did not see any thing in his hand; think he had a blue coat on; can't be certain. When I met Horie he was 30 yards from where Reese was, back towards Scalpingtown. Then I went up to the end of the street and the car was just starting with Reese in. I stopped and talked with Corvin Cute; he was at the door of the upper house of all, and I asked him how that case with Reese had happened, and he said he did not know, he was in the house; then I came down, I didn't go up; did not see any one in the neighborhood but Carvin Cutes saw people about but did not speak to them.

Cross Examined.—I lived in the Delaware Row, No. 23, at that time, that is above halfway up the row; did not hear hollowing at the time, people were walking up and down in the street; didn't see a man with clubs; I went up there; did not know of a shooting match in the neighborhood that day; I did not hear any screams of murder. At the time I went up, did not see around, there might have been screaming but could not hear that distance; did not go up for half an hour or more after Reese were up; can't say, did not hear any shouting or hollowing, there may have been. I was just sitting down to supper when Reese went; where Reese was killed must be over 500 yards from where I live, as near as I can say. Horie is a middling large man, thick set, he boarded with Jimmy Hannig at that time. Hannig is dead; I moved from there; Carvin Cutes must be about 100 yards from where Reese was killed, in plain sight. I am well acquainted with Martin Shay; didn't see him there that day; don't know where he had worked that day; he had worked before at the East Delaware Mines, he had worked at the East Delaware Mines 10 weeks before that, may be more. He boarded then at James Brennan's, I expect Martin Shay is an Irishman. I lived in the neighborhood where Collahan was shot by Reese, lived same place during both occurrences; I lived there when Reese was in jail; I lived there during the trial. I don't know that I heard them speak of that trial.

Edward Morrison, recalled.—I have heard threats, certainly, against Reese; quite common for people round there to say that he would be in danger of the life of him some back. I heard Michael Troy say that it would be impudent to bring Reese that way. That was just before Reese came; more than one person said that if he came that way he would lose his life. If I said a dozen I would be under the number; quite common; didn't pay much attention to them. Tray spoke as Reese was coming up the Railroad. These threats or remarks were not confined to any one people, Welsh and English, as well as Irish. I still live in that neighborhood, and my place of business is there Reese was a Welshman.

Cross Examined.—What I heard, I don't think were worth caution. I have heard Irishmen make threats. Reese did not stop to talk to me; I had informed John Reese's wife not to bring him that way, more than once; I have more dealings with the Irish than any other people. I have heard in my shop an expression of opinion that it would be dangerous to come that way. I am an Englishman. The people that came there, may have known I was acquainted with Reese.

Re-Examined.—I have heard both threats and cautions; never heard any Welshmen make threats, but the Irish would make them more as threats than as cautions generally.

Dr. William L. Smith, sworn.—I saw John Reese after his death; I made a post mortem examination at the request of the coroner. It was a fracture of the temporal bone of the head, that is on the right side of the head. The wound was about 3 or 3½ inches in length. It was in the shape of a half moon. It was a mortal wound.—His death was caused by that wound. It was a blunt instrument by which the wound was inflicted. The side of a pick would inflict such a wound.

Cross Examined.—I made the examination about 3 o'clock the next day. Thursday, in Wadesville.

Jacob Reed, Esq., sworn.—Mrs. Humphreys was in my office and examined by me. There was one bench on one side and one on the other; it was crowded; office full; she was asked if she could point out the man; she got up, and the minute she got her eye on him she pointed him out. Nothing, to my knowledge, to point him out, he was right among the crowd. Mrs. Reese was examined by me. I heard one man say, take care, Mrs. Reese, and for God's sake don't swear this man's life away; a great many persons in the office. If I remember right, it was Michael Foley who made this remark. I then told him he should be quiet. I think Shay was in my office when Mrs. Humphrey came in; cant say she had her bonnet off, and on a while. Her back was to the door.

Cross Examined.—Shay was not sitting on the end of the bench, two persons at the end, then Shay, she could not be far from Shay, for the office is not large. Shay was about 5 feet from Mrs. Humphrey's. I think there was two or three persons nearer the end of the bench. He was sitting in a line with the crowd; Mrs. Reese when she was brought in by Geiss, 2d January 1847, Shay was along, just in the dusk of the evening. Rose said this is the man we have been looking for, then Mrs. Reese was brought in, and I asked her if this was the man that killed her husband, I think I swore her, not certain, she hung her head down, and then she looked up at the man twice and said I dont think it is; I asked her again, she said I dont think it is again,; and then asked her why she had brought him there, cant say that she made any answer to that; then I discharged him; there was no more evidence; on the 4th he was brought up again, on the 3d appearance he was held in $2000 to appear on another day. 4th time he came and on examination on the 10th of Jan. he was committed to answer.

Re-Examined.—The first time Mrs. Reese came to my office I was dark the candle was lighted; Michael Foley brought Mrs. Reese in, I think he had hold of her arm; he was always side of her; that was all at the same time that Foley told her not to swear this young man's life away; Shay had a bluish coat on nearly dark, cant tell what kind of a cravat he had on; no other witnesses there at that time; there were a good many Irish in and others, more Irish at first; many came in with them; and other citizens; Mrs. Reese was again examined before me, she then thought he was the man; that was on the 4th or 5th of January; it was the 5th, that was in the day time. I saw Foley speak to her, just at the door as she came in; other remarks were made in the crowd. The remarks in the crowd were that she should not swear against the man. Mrs. Reese kept her head down I thought she was excited, cant say positively. She said at the first examination, may be; I dont think it is; at the 2d examination I relied on the Attornies notes. I think she said the man looked pale, can't say; I remember the words the first time, the words were I think he is not the man; I depended on the Lawyer's notes the 2d time. I thought there was some variance in her evidence. I had reliance on the daughter's testimony as well as Mrs. Humphreys.

John Williams sworn.—I came down from Wadesville to put Reese in the cars. John Englebee came with me. I found Mrs. Reese and Reese's sister, and I believe the daughter, and a negro man who came up with a train. I did not see any body there when I came but these. A man named Carin Cute came up and looked into the car, said something—cant say what—he was the only man I saw there; the others came from Wadesville. Reese's daughter came up and said John Reese was killed, and I ran down. The man with the cars was a kind of mulatto man.

Daniel Rose sworn.—I was in the Squire's office when Mrs. Reese was brought in—a crowd was in—I met Shay and Mrs. Reese on the pavement, and went in the office with them; the wagon in which they came was crowded; Geisse was there. I don't know that threats were made in the office. Michael Foley was very busy about the matter, but he did not make threats that I heard. Cant say that Mrs. Reese looked any way different than usual—she appeared confused, much more than at the coroner's inquest. There was no examination on oath at Squire Reed's that I know of, the first time. This is my hand writing. I was a juror in the coroner's inquest at Wadesville. Mrs. Rese was examined before the inquest—I took notes of her evidence. [The court decided notes not admissible.]

Robert Smith sworn.—I remember when Reese was killed. On Thursday I saw Geo. Starr go up the street—there were men pacing backwards and forwards; Don't know that I noticed men in particular. It was about half an hour after Starr went up I noticed two men.

Record of the trial of John Reese for the murder of Thomas Collahan; and acquitted on the 9th Dec., 1846; given in evidence.

Daniel Rose recalled.—Thomas Colahan, the man that Reese was charged with shooting, was an Irishman, and a Roman Catholic. I arrested Reese at the time; it was at Scalpingtown, 40 yards from his house, on the Rail Road; he was surrounded by a mob of 40 or 50 Irish, about 15 or 20 of them armed with guns and muskets. Reese was in the midst of them, on the East Rail Road; Colahan was a small distance from where Reese was, in a double house, in bed. I know where Charles Brumm lives—about 40 or 50 yards from where Reese lived; Reese's house was in the vicinity of Scalpingtown.

Cross examined.—Some men who surrounded Reese were members of the Jackson Guards of Pottsville; had their own muskets: I never offered to bet Shay would be convicted; might have said he would be or would not. Jackson Guards are composed of Irishmen; some of them live about Scalpingtown.

Commonwealth close.

J. C. NEVILLE, Esq., opens for defence.

John Moore sworn.—I recollect the day when John Reese was killed. I know Martin Shay—at that time Martin Shay worked under me in Alfred Lawton's mines; I was then, and am now, foreman there—saw Martin Shay that afternoon between 3 and 4 o'clock, in the mines. There happened to be a wagon off the track in the mines on that day, and injured the road a little, the gangway rail road. I was fixing the road, and Martin and they came by at the time, asked him to assist, he helped about 2 minutes, and then he went back towards where he came, and I went outside of the drift—don't know which way he went, he went back in the mines—that is all I know of him on that day. He had his working clothes on. He was dirty as a miner is. I expect we were between 5 and 600 yards from the mouth of the drift. James Brennan was working with him on that day, no one else—saw Shay working in the morning in the breast, about 30 yards up from the gangway, and above 50 yards from where the wagon was off the track—a Flat vein—for that mine a horse takes the wagons up the breast, and the miners sprag the wheels coming down, one man may take the wagons down, but it is hard to do it; generally two men do it. I visit round the different breasts every day, about once each day—can't recollect exactly that I saw Martin Shay the next day—when Martin and they came to the wagon, he came from his breast.—Did not call him till he came near to me; it was light enough to see; he had his lamp; Shay could not have got in without passing me; I went in about 2 o'clock; I have this in my book; I heard Reese was killed that night; I remembered it; did not hear till the 9th January that Shay was suspected. I remember the day Shay was arrested; Joseph Geisse and I took Shay over to Frock's tavern—he came over himself; he came out at quitting time, Saturday afternoon; generally quit at 2 o'clock; asked Shay if he would go over there, and he was agreed. I told him what it was for, that he was suspected as the murderer of John Reese. We went to the tavern and Mrs. Reese was sent for, and when Mrs. Reese came in, she said it was Martin Shay that murdered her husband, swore to it—he had his miner's clothes on, and then she said she believed it wasn't him—she couldn't tell. Shay did not wash himself while I was at Frock's. He washed himself afterwards. It was daylight while we were at Frock's. I have my account book 30th December, 1846, there are 5 wagons marked for Shay; and his partner, on the 31st there was also 5 wagons, on Wednesday, 4th Jan., 4 wagons, 28th Dec., 5 wagons, 29th, 5 wagons; 5 wagons was about an average day's work for Shay and Brennan. I judge it was between 4 and 5 o'clock when Shay was on the Railroad with me, judge so, might have been later or sooner—the breast was No. 25. David Williams and Patrick Dorsey worked the breast No. 24—did not see them that time I saw Shay. (Draft of vein exhibited.) The air shaft is about 37 feet perpendicular height; think a man could not go up there. The next day the carpenter and I went in between 6 and 7 o'clock—don't remember that I saw Shay that morning—heard no threats made at St. Clair—did not stay long—Shay was taken down to the Squire's on the 9th day of January. I was at Hill's, examined on the 11th January, Monday, I think. It was on the 6th he was first taken down—if the wagons run down they never break the road—one man could bring one or two cars down Shay's breast, but it would be dangerous. I am an Englishman, have known Shay 4 months before Reese was killed—never heard any charges made against Shay at the time he was in the breast, but quiet and peaceable at his work—he seemed to be sober to me, never saw him drink—do not drink with my men. I was at the Justice's office the first time in Mahantango street—did not hear threats. Mrs. Reese said in Squire's office she did not know—she could not swear he was the man.

Cross examined.—When I came out of the mines, I went down towards the breaking engine; the breaker is about 150 yards from the road which passes from St. Clair to Wadesville. The mouth of the mine is on that road; a man could get up the air shaft, if there was a rope or ladder there; the air shaft comes out up the first ravine just before you come to Alfred Lawton's house; that is a good deal nearer Wadesville than the mouth of the drift; heard it said Shay boarded with James Brennan at that time. Suppose James Brennan lives in a place called Scalpingtown. He got the number of wagons from square pieces of tin fastened on each wagon, with the number of the breast on it; the pieces of tin are hooked on the wagons; a man by the name of William Hambridge takes them off; they were taken off down at the breaker; they are brought to us, and we set them down on a slate every night after quitting time; keep the slate in an office we have near the breaker; next morning I take them from the slate, and put them in the small book; I generally go in the mines at 3 o'clock in the morning. Sometimes I have gone in when any thing has required particular attention; on the 9th Jan'y I find no wagons entered; on the 2nd Jan'y, 3 wagons; on the 5th, none; on the 11th, none; on the 13th, 3; 14th, 4; 15th, 2 wagons; dont know the man's name who helped Brennan; in a short time he was killed by a fall of coal on his head. Sometimes coal is prepared, and a larger quantity taken out one day than another; but it is different in this flat vein; hardly ever varies a wagon. Hambridge was an Englishman. I have known two good men take out from 8 to 9 wagons per day from that breast.

Court adjourned to 8 o'clock Tuesday morning.

Court adjourned at half past 7 o'clock.

Tuesday morning, 8 o'clock.

John McCool, sworn.—I know the day on which John Rees was killed; was working in the mines on that day; was driving in Lawton's mines in St. Clair. Saw Martin Shay working in his breast, No. 25; he used to fetch the wagons up to him in the breast; I used to haul them all the way up in the breast; he was in the base of the breast; I got the wagons at the turn out; was up every fifteen minutes; take the wagons to each breast, according to its turn. Watkin Walters and I haul from all the breasts. I haul from the breasts to the turn out; another boy hauls them to one side; then I go to the turnout; and if there are empty wagons, I haul them back to the breasts; do not recollect now how many wagons I have hauled to breast No. 25 on that day