## The Advocate.

Henry A. Parsons, Jr., -Editor

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## HARRY ENGLISH.

CONTINUATION OF THE EVIDENCE I THIS CELEBRATED TRIAL. Thursday Afternoon, Sept. 23, 1880.

Geo. Kreig, sworn. Was along April 17. Burke asked me to go; left between 10 and 11 o'clock. Stopped at Spring Run; Frank Warnith went from there. Tied horses near Caledonia, then went to Caledonia; slept in Dixon's barn, Fran's Warnith and Wurzell went to Dixon's. Woke up about 4 o'clock. Went down across the road to Rummer's house, where Harry English lived. Did not see H. E. I was at front door first, then went to the back door. Heard a racket; heard yells and tramping; had been no firing before. Heard firing in about half a minute after tramping. Thought the first shooting was up stairs. In a short time heard as many as three shots. Saw Frank Warnith come ont of the front door, he limped along and fell down. Heard shooting after that from front window. Then two more shots sometime after that. Think there was another which came from front window. Heard no firing from outside. Wurzell was behind me; do not know that he shot. Warnith and I went up to Dixon's house. I helped him along, Doctor sent for. I went for doctor, Cross-examined. It was at break of

day when we went to English's house. I was standing first at front door of house, then went around by my right hand to rear of house, Burke and Wurzell were standing at right hand corner. All was silent up to this timejust going around the house as I heard the shot; went to my place. Sounded to me as though the shot was in the house. Am not certain but that it might have About half a minute before I heard the shot, from the time I saw Burke and Wurzell. I was armed with a shot gun or musket. Think it was loaded with buckshot. Don't know what was in it. George Wurzell had a revolver. Suppose my evidence. Never said or did any there was whiskey in jug; there was whiskey called for, to put in the jug; I times. Drew as fine a sight as I could took two drinks; don't know as I saw any one drink but me; was in back seat; saw jug put in the wagon; got the whiskey at Windfelder's. Tom Burke got the whiskey, it was a two quart Took first drink at Spring Run. All got out of wagon at Spring Run. I took the jug out of the wagon and I took the jug out of the boby; took carried it into Joe Dill's lobby; took track a drink. Eating lunch in Joe Dill's lobby; wanted whiskey to wash down lunch. Att'y was eating bread and something else set the jug down. Was in town and took some beer; generally take beer when in town. Don't know as Burke and I took any before we went. Took two glasses of beer together in afterncon, Took another out of jug at Dixon's barn. Wanted to have it there and left it there. Did not know that whiskey was for Burke's old father

Re-direct. Saw no one drink out of jug along the way or at Spring Run, except myself. Burke was in saloon. First saw Vollmer at Windfelder's, at about 5 o'clock. Wurzell and I went T. W. Lane. Never heard of such a up and woke up Warnith at Spring Run. Two drinks did not make me

hayloft, Burke, Wurzell, Vollmer, Warnith and another man I did not know. Went from barn in direction of Rummer house. Next heard a yell ran to window, looked out, and saw two men go in front door of Rummer's house. Next saw flash in chamber window-repeated flashes-perhaps a minutes between flashes. Two in quick succession. Saw two men come out at same door they went in. Soon after saw another flash from bin at the window. Heard no sound at window. He swore some words; Can't just say what. Said he would come back and kill more. I was 200 or 300 yards nway, was at home; did not hear clearly; that is the way I understood it; not spoken very loud chamber window; gun pointed toward road. Two shots from house. Three shots toward house. Burke said he (Vollmer) was wounded. Don't know where last shot came from. Saw Eng-lish come to door and look out, per-haps one-half hour after Vollmer came

Cross-examined, Was at home haps one-half hour after Vollmer came up. Saw E. run across fields, when more shooting was done. I shot a couple times. At the time I shot I was up stairs over store. Shot at English. Fagley directed me to take

my position to guard English from escaping. Fagley was there before me. He had shot but could not load the gun again and called me. Cross-examined. Fagley told me to

writing on back and in body of check written at different times and with different kinds of ink. On cross-Ex-amination he testified that there was an average the discussion in the amination are to be and the there of the amination in the second second second second second and the second second second second second second second and the second take my station there. I was told Fagley coud not re load, Fagley was in back room over store. He borrowed my gun. He was watching for Harry English. He called for me when I went up. I took deliberate aim. Have an apparent disguise in the capital while I was the H

no knowledge I said "I took as deliberate aim as ever I did at a deer." Did not tell Burke this, might have said so in a joking way. It would be accord-ing to the man whether I took delib-Comotose condition means condition In a joking way. It would be accord-ing to the man whether I took delib-erate aim or not. Didn't say the gun would shoot him. Didn't call him a  $s \rightarrow b$ . Know Mrs. Currie, she lived in kitchen back of store at that time. Never saw her asleep. Don't whow that Burke was up stairs at all. Nido in suite of the nontheridential took of the north rib and breaking it off. Nido his leg which was bleeding badly. He shis leg which was bleeding badly. He s know that Burke was up stairs at all. Did not hear him say" I'll G-d d-d if I know who shot that man, whether I shot him or Harry English shot him." Never spoke to Mrs. Currie. were not on speaking terms; didn't send my wife to tell her that 1 would give her a present in case Harry Eng-lish was caught if she said nothing lish was caught if she said nothing about it. Postively I did not tell my intestines. Stomach was not injured wife to do so. Was not drunk, had neither were the large vessels of liver. not tasted liquor that morning, did not fall down in road; did not fall up stairs. Should judge from the size of wound that it was made with a 44 cartridge. I have a pistol that carries a 44 car-tridge; might be gun or pistol. [Win-chester rifle shown witness.] Think Am one of those conscientious men that would shoot a fellow man in order to protect my wife and family. der to proteet my wile and minity. Shot at him because I was afraid he would burn my house; was afraid he would kill me. Did not offer to bet two gallons of oysters that Harry English would be hung and that wound as that gun would. It would kill the man; he would die from the I would be there to help hang him by 25 years. Evidently the cause of death was the wound. Cross- examined. Ball almost par-

such a thing. Shot two or three allel, a little lower on left side. Two could. ribs fell off. Warnith was about my Re-direct Hard feelings between

size. Harry English and me commenced on Could introduce my finger into the Christmas night. That was the hole made by the ball. Did not examine clothes particularly as to exit. first.

Cross-examined. Did not bet with Levi Bateman the two gallons of oysholes lodge in clothing. ters, nor with any other person. These men did not get any liquor at my house that night. Warnith and Wurzell were in kitchen. Could not have side. gotten a drink myself as the bar-ten-Saw other shots in the army. der slept in the store and kept the keys to the bar. Burke was there.

A. T. Eaton, re-called. [Certificate of 1st National Bank of Olean, N. Y., produced in court.] This is the in-strument under which we have been existence.

Two checks each bearing the No. 14024 on the First National Bank of Olean were then offered in evidence, but the court refused to admit them. Cross-Ex. Know no such a man as man.

Mr. McDonald, of Emporium wa

J. Nelson Smith, sworn. Was at home 17th of April. Got breakfast, then went in tavern. Heard some one say it was over at Rummer's house. Harry English said something to the effect that if that was not enough if they would come back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make the some one back he would give they make they make the some one back he would give they make they make the some one back he would give they make they make the some one back he would give they make the some one back he would give they make they make the some one back he would give they make they make they make the some one back he would give they make they make they make the some one they they make th to run out; I went out after wood; layed pistol on table. He put it in his pocket. Heard Mrs. English say, "What are you going to do with it?" I found it in the front vard, Harry English was at home very little. wife was at our house sick, and he came back and forth; during two weeks was there but two nights. They had been living at Gardner's

Cross-examined, Was at home pistol. As door was burst open Eng which is down below Bateman's, was lish stepped behind the door. Wartenant of Dixon's, the man who knew handwriting. nith shot just as English raised the gun to his face. They shot 'wo or handwriting. *A. T. Eaton*, was re-called as an three times. Two or three shots fired I gave pistol to English. English expert to prove the handwriting of in hall beside those heard at foot of Harry English with that admitted to stairs. One went into the floor.

harry English with that admitted to be genuine. [check was shown with ness] when he testified that the name Harry English is in the same man's writing on back and in body of check written at different times and with different kinds of ink. On cross-Ex-amination here to the first states in the siting room. 'there wheeled and went stip ped into my room wown stairs. The first states in the siting room. 'there wheeled and went were the first states in the stip ped into my room when here wheeled and went the states in the states in the stip ped into my room when here wheeled and went when wheeled into my room when where E was

henglish said, "They Ugh the leg." Don't staggered. Just beginning to get light; not light in house. Dark in *H. Dr. W. B. Hortman* sworn. Knew Warnith. Was at Dixon's before his death; got there between 1 and 2 o'clock. He was in a semi-connotose condition. Wrs. English and myself. English *Mrs.* English and myself. English *James Bateman*, sworn. I live at Cabaching the leg." Don't hall at head of stairs; no window in hall at head of stairway. Door was not opened until I was standing in it. *James Bateman*, sworn. I live at Cabaching the leg." Don't hall at head of stairs; no window in hall at head of stairway. Door was not opened until I was standing in it. *James Bateman*, sworn. I live at Cabaching the leg." Don't hall at head of stairs; no window in hall at head of stairway. Door was not opened until I was standing in it. *James Bateman*, sworn. I live at told his wife to get a cloth and tie up side. Had his clothes on. Saw hole on right side, but did not see the place where ball came out. No evi-dence of bullet in clothing. He died atout 5 o clock the same day. Examwas out talking with the men. I saw Wurzell on outside yard fence, and close to fence with gun in hand; he at the gun-a double-barreled shot had his gun raised and was sighting gun. Wurzell said he did not kill Warat the house; saw Burke sitting near Dixon's shop with back toward shop; Burke had a gun in his hand and was backing toward and the gun which is gun was not loaded. looking toward our house. I said to Wurzell and Burke, "You are a smart lot of men to shoot in a house where there. If you saw Wurzell, Burke, or there are women and children. We Kreig? also what was said by Wurzell might have all have been shot. If Harry English has done anything to Ans.-Had no

Harry English has done anything to be punished for, had you given us a moments warning we would have got out of the house." To this they made no reply. Wurzell went toward Bateman's sons? Ans.—Had no conversation from the with Wurzell. Did not go back to Rummer's house at that time. Wurzell cane to my house after he left Rummer's. Heard no more shooting Ball entered on right side Have seen bullets that made as large Re-direct. I ent up shirt with sels-sors. Dr. Swier assisted. Ripped up shirt in centre and then thrown to one Did not take the shirt off; Was army surgeon 3 years 9 months. Mrs. Mary Warnith, sworn. Was acquainted with Frank Warnith He was my husband. Witness shown

through. To the best of my opinion English was shot through the it was Burke; he was at our house for calf of the leg. He complained of no dinner the day after, and I judge by other wounds. Saw pistol outside his voice it was the man I heard with when I came down stairs; first thing Dixon up stairs; I never heard him before; don't know where they went; they were in the spare room next to me; there was but a board partition between the rooms. They went into the rear end of the building; I went down stairs, and was getting break-fast when I heard several shots.

H. H. Wensel, sworn. Had conver-cation with Burke; he said the same ball that went through Warnith hit him in the leg; he showed me the cut since the former escape. Did not come home frequently. No men in house until after English ran away. in his pants; said he was standing at the side of Warnith; don't know as he stated where ball went. Dixon told me he had fired four shots. Told Burke and number of men about finding pistol; did not tell them men

"I'm going to take it along.

E. H. Dixon, re-called. Do not recollect that I told Mr. Goff that I had shot seven times; was somewhat snys, "I'm going to take it along." Re-direct. The men surrounding excited; was not drunk. A. E. Goff, affirmed. Dixon said he had shot seven times at Harry English

and took as good aim as ever he did at a deer. The conversation was between Burke and Dixon. Burton Munn, Charles Chase and wife, George Thurston and E. W. Gray were pres-

ent at the time. Cross examined. The statement was not that he had shot several times. He said he had shot seven balls as direct to his heart as he could. This was said in Dixon's store.

Thomas Stottsberry, sworn. Was at Franklin House when these parties came to St. Marys on the night before Caledonia 14 or 15 rods from the house the shooting; went to Franklin House in March; John Hansom kept the house, he is dead now, died the night after the big fire at St. Marys; I was coming in from the barn, when Hanscom called me to go the cellar; went down with Mr. Hanscom and filled the bottles for Burke. I carried up one, Hanscom the other; I gave the whis-key to Hanscom and he gave it to Burke; took his revolver out of his coat pocket and put in the whiskey; Put the revolver in his breast pocket. Hanscom told Burke to go home to his wife that he was not fit to go over there; gave Vollmer four drinks myself: he came down in the morning, was at Frank Sorg's all night, gave Burke three drinks in the morning; I was at the Hyde House last Monday Ques.-State all that occurred from morning; I went to the McFarlan

house; Burke came to the bar room and asked me to drink. I refused. Burke said "you and I have always been good friends; you are subpoenaed in this case and your testimony may do me harm." Told me if I would go

away he would give me something. I told him the people of St. Marys no reply. Wurzell went toward Rummer's, Heard no more strongh not go away. Bateman's and staggered as he until I saw English running through not go away. Cross-examined. Went to work for walked. I picked up the word and went into the house. The children were then up. Saw a large revolver near steps in door yard; didn't take particular notice of it. Lay the revolver on back part of table out of the way of the children. I built a fire when English said he would take the revolver along and put it in his pocket. News came that they would this office; he went over and stood be-the at the holes and the back better be at home in his office; he went over and stood be-the at the holes and the back better be at home in the softer the home full of the holes and the back better be at home in the softer the home full of the holes and the advector over and stood be-the softer the home full of the holes and the hole of the holes and the back better be at home in the softer over and stood be-the softer the home full of the holes and the hole of the holes and the holes and the hole of the holes and the hole of the holes and the hole of the holes and the holes and the holes and the hole of the holes and the holes and the holes and the hole of the holes and the ho shoot the house full of bullet holes and burn it down, this about 21 hours after the shooting. The man had gone away; Dolan said this, Persons came to the door two or three times, the Mrs. Mary Worldh, sworn, Was<br/>nequainted with Frank Warlith<br/>He was show<br/>coat, vest, pants, drawers and shift of<br/>her husband which she indentified as<br/>the ones he had on when he was<br/>shot.Inter the door; woor three times, the<br/>neighbors—one my brether, and said<br/>the noise would be shot full of holes,<br/>shot.about He acted either drunk or energy<br/>as shout. He acted either drunk or energy<br/>or as though their was something the<br/>matter with him; stayed some time<br/>shot.and men were there. Tord Dutw<br/>was too cuthe ap of his wife and children goed bye, and<br/>many with the gun h his hand.through<br/>the fields. He was shot at several<br/>toread either. Sum with dut ranges as shot as several<br/>the requeed builtet. That is the is all<br/>the super term washed.Ite super terms of the fields. Was not there before<br/>the fields. He was shot at several<br/>and ran toward Bateman's. A first<br/>has never been washed.Ite super terms of the field on there washed<br/>the field on the out the super several<br/>the field in the super several through the window. There<br/>from din't know whether it was Burke<br/>or into the out with was in the origin in shirt;<br/>the other way, wurzell find a mean and ran toward Bateman's. At first<br/>has never been washed.and ran toward Bateman's. At first<br/>shot came near my head: I jumped<br/>over the fine petty quick for an old<br/>the other way, wurzell fired a re-<br/>sup, suppose it was a week; did<br/>if any suppose it was aweek; did<br/>if any suppose it was aweek; did<br/>if any suppose it throw there. Cro-Ite super terms for the super suppose it in the super suppose it is and through the super suppose it was aweek; did<br/>the other way, wurzell fired a re-<br/>suppose it suppose it was aweek; did<br/>if any suppose it was aweek; did<br/>if any suppose it was aweek; did<br/>if a term out suppose it is had law of the bistrict.<br/>The washow the men with Warnit strument under which we have been acting, Act of Congress gives us the result of the husband which she indentified as right. There is such a corporation in the ones he had on when he was the or burned down if English didn't go.

took a rag out of a crack and looked | Heard a return fire from outside the

Re-direct. Heard report of 4 shots. Do not know what awakened me; the yells were the first thing I heard or knew that morning.

Counsel for defense asked permission to call Zenas Webb, a witness, in case he should appear in court, to prove that Dixon offered to bet that English would be hung. Permission was granted. The witness, however failed to appear.

DEFENSE RESTS.

The commonwealth then offered the following testimony in rebuttal.

The commonwealth then offered the following testimony in rebuttal. A. Kaud, sworn. I am acquainted with Mrs. Pheobe Rummer, She stated in my presence, speaking of this affuir, that English had first shot; she said sho that in going up statist one or two shots were fired she could not tell which. Cross-examined. The lady was right at-head of statist in Rummer's house when I had there also. She said that English got the first shot up statist. (The witness was asked four times and replied each time in a decisive tone, "She said that English got the first shot up statist. (The witness was asked four times, and replied each time in a decisive tone, "She said that English got the first shot up statist."] Patrick Mainey, recalled. I was one of the party that assisted to make the first arrest at Gardner's house. I did not hear Warnith make any threats. Cross-examined. I think 1 would have heard all that was said in the wagon. Z. W. Gigord, sworn. Saw Thomas Burke about 9 o'clock the evening of 16th of last April. Saw nothing to indicate that the was in the least under the the influence of liquor. Saw Wurzell botween s and 9, whom I con-sidered sober. Saw Vollmer who was also sober. Did not see Warnith. Cross-examined. Saw these men in my stors. They were taiking this matter over. Saw nothing that indicated that they were drunk in the least. Don't know that 'Squire Burke gets drunk. He drinks frequently. Never saw him so drunk he could not mavi-gate. Don't known anything about the quart of whiskey. *Geo. Weidenbearer*, recalled. Am in the hardware business in St. Marys. Remember the kie of April. Saw Burke between 8 and p oclock that evening. Considered him sober. Did not see Wurzell, Vollmer nor Kreig. *John Collins*, sworn. Remember the night preceding the attempted arrest of Harry

the leth of April. Saw Burke between 8 and 9 o'clock that evening. Considered him sober. Did not see Wurzell, Vollmer nor Kreig.
John Collins, sworn. Remember the night preceding the attempted ærrest of Hærry English. Sæw Burke that evening at about 10 o'clock. Think be was perfectly sober. I boarded at the house where Thos. Stottsberry lived at that time. Saw Vollmer. He was sober, Vollmer and Burke were not there as the same time. Did not see Wurzell.
Coss-examined. Trink it was about 10 o'clock. It don't take any longer to get drunk in St. Marys than anywhere else.
Jas Rogan, sworn. I was the tamster that drove the team on the night of the first arrest of Harry English at Gardner's. Did not hear Frunk Warnith threaten to shoot him down like a deg, on sight.
Tross examined. This was the time of the first arrest when he got away.
These dargen of the state and the state of the first arrest when he got away.
These Daugherty, sworn. I live in Shippers to sober. Did not see Wurzell. Burke was sitting there, the wonseded men were sober. Did not see Wurzell. Burke was sitting there, He was suber.
Tross-examined. Have been acquainted where the two wosended men were sober. Did not see Wurzell. Burke was sitting there, the was suber.
Tross-examined. Have been acquainted whether he was under the influence of the two wosended men were sober. Did not see Wurzell. Burke was sitting there, the was suber.
Tross-examined. Have been acquainted with the Burke sone years. Don't know whether he was under the influence of the own or not. Though the was suber.
Tross-examined. Have been acquainted with the mather before and took wrath.
Tross-examined. Have been acquainted with the moring the was suber.
The Murke in odor of whiskey about him.
Tross-examined. Have been and took them all to be sober. I waited on Warrall atter the shooting, and took them all to be sober. I waited on Warrall were wisked there with

A. J. Rummer, sworn, Was at house in Caledonia on the morning of April 17. Defendant is my son-in-law. idn't see anything it was too, dark. I do not know who shot Warnith. suppose Harry English fired the shot. was in same room, no one in room but English and I. Saw flash; heard click of Winchester, there was a Winchester rifle in the house; it belonged to me; saw it first at window was in English's hands. Kept it on lower floor handy to kitchen hung on leather straps. (Arrangement of straps indicated by witness.) Know that gun had been taken off' straps. Gun was in straps when I went to bed. Next saw it at the window in the hands of Harry English; he was pointing it out window.

Cross-examined. Was asleep, in stairs. I was sound asleep and the from hall into the room heard first, first thing I heard was the racket in Saw flash. Flash from head of stairs the stairway which awakened me, into room. Heard glass rattle in front wiper in the gun; always kept wiper in gun. Found it on floor of room. Heard one shot coming up stairway; then heard another shot. Two shots then heard another shot. Two shots about the time they got to head of stairs. Heard click of Winchester be-true, E. H. Dixon, re-called Have seen E. H. Dixon, re-called Have seen hind the door in room. Saw flash in stairway, then two shots simultaneously all about the same time, not twenty seconds until all was over. Heard five often I have seen him write; have shots sure. Said not one word to any one. Went down stairs and said they office; have seen \*backing of let-ers. Have seen name on letwere no gentlemen or they would see ers. what they were shooting at, where ters written to me. Don't know certhere were women and children, E.'s, tain that I ever saw him write his tween floor and ceiling below. [Ball ebildren across the hall, only 1 inch name. Think letters to me were from produced by witness.] Ball and cartpine loard partition between them and the parties shooting. Geo. Wur-rell called me and said "Andy don't you know me?" I said, "no I do not." I said to Harry "don't shoot." He said, "what an I to do?" Pulled up this particularly fixed on account of receiv-ing letters. I was postmaster at Cale-donia three or four years ago. Can identify some letters in post office. some cannot; sometimes identified his bandwriting. his pant leg and showed me his handwriting. Harry English wrote wound, Harry said he would either letters from Bradford three or four years ago; can't tell the season of year. have to shoot or be shot. Wound in calf of leg was bleeding as was also a Letters were in regard to business be tween English and Morey in regard to wound in the thumb. Harry said they had shot him iwice. He toid me this immediately after the shooting and then went down stairs. Told them that Harry was shot, Burke said, "English has shot a man teo." "Harry's wife and three children, and alone. Can't remember the time he my wife were in the house [English stepped out in front of the jury at this juncture and exhibited to the jury the wound on right leg below the knee, and also wound in the thumb.] Re-direct. Harry said he would Can remember his handwriting pretty

shoot every one of them if he didn't well. [Check, Dec. 17, 1879 shown get away. He said, "I'll kill every to witness.] To best of my knowl-one of them if I don't get away." This after I had said, "Harry, tor God sake don't shoot, there has been enough shooting around here," All in a box r the knowledge I had of his being in the house was when he came up stairs present at post mortem examination English, my room was across the hall he was not there the night before; the house is mine.

Cross-Ex. Harry English and family live in the same house with me and all eat at my table.

H. Dixon, re-called. Live at Caledonia. Remember the 17th of April last. I kept hotel [shown map] killing. Warnith about 2 o'clock; no one with Warnith when I first saw him. He came to kitchen door and knocked. Wurzell came in afterwards, after Warnith was shot, and borrowed a gun; he remained ten or fifteen minutes. They went to the barn and I ing in partition of closet at head of went with them. Saw them again at stairs. Think Wensel took the bulletso'clock, they came down out of the It was the only bullet I found.

sworn in relation to one of the above mentioned checks purported to be signed by R. C. Marsh, dated Oct. 11, I 1879, and passed on the said McDonald, drawer. A. J. Rummer, recalled. [Gun his evidence was rejected on the ground of irrelevancy.

Court then adjourned uptil 8:30 Friday morning. the action of the gun.

FRIDAY MOUNING.

Court met at 8:30 in pursuance of adjournment. Court maintains conclusions as to

cartridges from the gun. The witrefusing the two checks offered Thursness had the gun in his hand explainday afternoon.

The examination of witnesses was then resumed.

A. J. Rummer, re-called. Heard toward the jury box. Just as he large room at left hand side of stairs. two shots in quick succession after English was in right hand room up the parties arrived there. Light flash gun he discovered a cartridge which was almost simultaneously with his answer that there was no load in the Heard some one say: "Don't shoot! room in window fronting street. Flash gun. Had the piece been handled by don't shoot!!" Then there was a platform at head of stairs into the an inexperienced man, no doubt one clamor in the stairway. There was a room. The lighter shot fired from of the jurymen would have been platform. Heavier shot fired from room out into hailway. Heard the Heard the killed outright or very seriously room out into hailway. Heard the glass rattle at front window nearest the hall. Was confosed slightly. Know the testimony I have given is true. ED. ADVOCATE. arms.- ED. ADVOCATE.

> [Cartridge shown witness.] That Harry English write his name. is the same size cartridge that was in Cross-examined. Don't know how gun.

> Vine Donnison, sworn. Was at Runnier's house. [Board from floor shown witness.] Saw hole before, was seen him write many times in postone of the party that cut bullet out of joice. Ball struck floor and lay be-tween floor and ceiling below. [Ball ridge offered in evidence.

Geo. Weidenboerner, sworn. Loaned the pistol to Burke night of the 16th or 17th, calibre 38. Burke got it the evening before the arrest. Pistol was never returned. Got the pistol for the purpose of going to arrest Harry Eng-Charles Weissworn. My business is

making guns [ball shown, ] Judge it to be 28 calibre. COMMONWEALTH RESTS AT 9:85.

The case for the defence was opened by Eugene Mullin, Esq, who in a short speech set forth the plan of ac-

WITNESSES FOR DEFENSE. Mrs. Phoebe Jane Rummer, sworn.

the morning of the killing shown witness.] Was sleepi stairs in left front room over front door.

Re-direct. Warnith's body was put in a box and carried away. Did see the clothes taken off him. Did not Was on the body of Warnith, Saw no bullet. Found builet in shirt out doors aftewards. Can't swear that it was Warnith's shirt. Understood it was Warnith's shirt. Found it on croquet ground two or three days after the

T. J. Burke, re-called. [By counsel for defence. 'Squire turn around so that the jury can get a front view.] first thing, before that had heard no witness showed jury where ball went into leg.] My theory is that ball went in and came out the same hole. Found lathed or plastered. My bed was over pistol ball afterwards. Found it stick-

shirt and locked it up in my money

Cross examined. Shooting outside on's with his gan in his hand. and inside at the same time, Think Cross-examined. First thing 1 Marys. There was in the wagon it was same time; two shots outside beard was two shots. Heard nothing Burke, Warnith, Vollmer, O'Connor, same time as shots up stairs. Eaglish before I got out of bed. Saw lump in Maloney, and Rogan who drove the and the men were up stairs; the shots road; proved to be Wurzell. He came team. I asked if they were going to shown.] That is my gun; action heard behind door; witness showed were pretty close together I was not to my house, was trembling all over let English go; Warnith spoke up and Cross-Ex. Was wiper in gun; no confused; shots outside and up stairs at and could hardly speak. One barrel said he supposed he would have to let

cartridge in gun now. Nore—Deputy Sheriff' Wensel had removed, as was supposed, all the and burned down if he did not get out of it. Mr Dolan was one who told us and my brother was another. Can't say which was the first one; English ing the action to the jury, and with the muzzle of the plece pointed and I were in the kitchen; English two shots, I could not work the gun did not say that if they would let him kill Burke first he would give himself up. Two hours after the shooting up stairs the complaint was made; think | the fields. stairs the complaint was made; think my brother Burton Mann told us, can't say who else. There were no people in the house. Think Levi Dixon's store to stand guard to prevent English from running off. I wound; was there when they meas-ured it. Put the end of my finger in wound; did not force my finger in. Bateman was there after the shooting. an inexperienced man, no doubt one Did not say that he would or that he

> fired in the hall. Don't know the hall, and was standing in the door of Rummer's room, There were two men in the ball, I saw flash of revolver; one of these two men shot the revolver and ball went into floor; the shot fired toward Bateman's; saw but one ball hole there; did not measure distance shots fired at that time; think there was three; one of these men fired the through the back door. Saw him fire The first time he from back door. started to run, he slipped his shoes on; heard a shot at the back door before English shot from back of house out

side; saw English raise the gun to his face; don't think shot at back door touched English. The shot at back door was the first one that English fired outside to my knowledge. The door at head of stairs goes shut itself, It swung to when English went in. Was opened by the man with Warnith. After the firing was over the men went down stairs the door swung to. The man with Warnith held the door open until after Warnith shot English can't say that he held the door open until after all the firing was over. There was a hole through back window. After first shooting was over; this was before English went away. and after he had gone down stairs found no trace in the wall of the ball that went through the window pane. did not tell Andrew Kaul that English had the first shot. Don't remember that Andrew Kaul was there. Didn't tell them this in presence of each twenty nib ates as near as I can guess other. First thing I heard in the heard no stir until I heard gun or re-morning was a shot outside about volver close down by house. Think it was on outside close by door. Door was bursted open. Heard the gun the English go out of house. Opening the front door would have awakened

stir. the house is éciled up inside and me. The door was jammed open; weather boarded on out-ide, it is not nothing broken about the door a I saw; one ball up stairs went through door; heard some one run toward partition above my head and into kitchen followed by others. Jumped clothes press. The other ball went out of bed. Did not know Harry into floor; can't remember that any English was in the house; heard E. shots were fired from the inside out

was taken off.

part of April. He came to my

about 4 A. M. He was wounded: saw

well although he was pretty lame.

exceptions of one or two.

to it.

Mrs. Rummer.

Cross-examined. Live at Liberty

McKean county, on the Buffalo, New York & Philadelphia Railroad. I had

heard of the killing. Knew English

E. H. Dixon re-called. Don't recol-

lect having conversation with John

Munn after the shooting in reference

Cross-examined. 1 am a brother of

Jacob Van Wie, sworn. I was in my

own house opposite and above Rumi-

saw the reflex of four shots in Rum-

Cross-examined. Live nearly oppo

they arrested me and took me to St. Cross-examined. First thing 1 Marys. There was in the wagon

him go this time until he met or saw of his gun was unloaded. Fagley, sworn. Was at him when he would shoot him down Lewis Dixon's store the morning that War-nith was killed, was working for I told English what Warnith and Dixon making stayes. Mr. Dixon Burke had said, and told him not to came up; he said nothing but took stay around my house as he might get the gun out of my hands, and fired me into trouble. I took off Warnith's shirt after he was dead. Commenced after the first shot. Dixon fired four taking it off at the bottom, and took it shots from the window; English was off over his head. Warnith lay on his about 2-0 yards distant running across back ; he also had on an under shirt; took that off the same way. I saw

fired one shot, licard a shot a few cross-examined. Am brother in-seconds before I got up: three shots law of English. This conversation would not go if they would let him altogether before I went down stairs. kill Tom Burke. Dou't know that Re-direct. There was a question in Warnith did not say be would about Re-direct. There was a question in my mind whether I had a right to him down like a dog if he did not surrender; he said he would shoot shirt and explained to the jury how it

Warnith was standing two or three told me to shoot Euglish if he at-feet away. Two or three shots were tempted to escape. Burton Munn, sworn. I was in

men. They both shot; saw flash of gun; English pointed his gun into the hall, and was standing in the door of saloon after the shooting. He had been up stairs where Warnith was laving and came down and danced a lig and sung a hymn tune. Suppose he came from the room of the dying at English went into ceiling; in corner man; my opinion is that he was in liquor, or had been of Don't know how long or had been drinking. Was from ceiling to ball hole; two or three after Warnith was brought into hotel. I was excited and did not note the time Heard Dixon shoot two or third shot. Did not see English shoot three times. Said he took as good aim as he ever did at a buck, and didn't see why he did not hit him. Dixon said he shot seven times. Did not see Dixon fall going across the street.

Cross-examined. Did not understand Dixon to say that he had been shot at seven times; I live at Spring Run about three miles from the scene; stayed at Dixon's over night; am a prother of Mrs. Rummer; dou't know how long Warnith had been there before Burke danced a jig; some time in the forenoon; he may not have danced more than three or four steps; think English and I were together mers when he spoke of that pack the night before, don't remember that we drank anything; may have been 8 or 9 o'clock when I went to bed the night before; don't know what time I got up on the morning of the shootmer's on morning of the shooting. ing. Mrs Lydia Currie, sworn. At the

mer's house as I was looking through time of killing I was living in the back end of Mr. Dixon's store; rememthe window. There was a few seconds between first two; next two were simber the killing. I was sleeping in a ultaneous. Don't know that I heard room over the store; they were me up when they came up stairs in the Was awakened by noise and yells. room over the store; they woke me up morning. Looked through a crack, and saw two men; supposed them to be Burke and Dixou; heard Burke site, First heard yell which awakened me; jumped out of bed and ran to the say, "I'll be G-d d-d if I know window with clothes in my hand; bewhether I shot that man or whether English did it." Heard Dixon say "keep quiet," Dixon also said he tween yells and first shot it was only Heard Dixon say a few seconds First and second shots were close together on inside of house. could shoot English with his rifle, as could shoot English with his rifle, as he had killed a deer with it half a next to road. The next two were in mile. the middle window. Next shot

house

Geo. Thurston, sworn, I was at Caledonia on the morning of the 17th of April, Saw Burke and thought he was sobser. Did not sectico, Wurzell, Saw Warnith and Voll-mer. They were wounded and I think sobor.

Cross-examined, Didn't see Burke, War-nith or Vollmer the day before,

All the evidence being in and the hour of six dearly at hand court adjourned until Saturday morning.

## SATURDAY MORNING.

Court conveyed at 8:30, Legal points were presented by the counsel for the respective sides. Mr. Richmond, in presenting his points, occupied about one hour, and in an address to the court, which was also made with telling effect for the ears of the jury, he dwelt with especial forceon the responsibility of each individual juror in the panel And that as long as a well founded reasonable doubt remained in the mind of a single juror it would be contrary to the rules of law, and a violation of the oath of a juryman for him to agree to a ver-Re-direct. The witness took the dict contrary to that doubt although all the rest of the jury should be was taken off, when the fact was disagainst him. Another point made by covered that there was several rents in it that was not there when the shirt the defense was that the jury in criminal cases is the judge of the law and Horace W. Sutherland, sworn, Saw the fact. Another, that the warrant Harry English sometime the latter charging the prisoner with felony was not sufficient to justify the officer in shooting the prisoner until he had exthree wounds Two on inside of thighs

opposite each other, and one in calf of hausted every other means to escape. leg. The balls all went through. He Mr. Jenks on behalf of the prosecuwas badly off. I am no relation of tion answered the request of the de-English. He stayed two weeks and fense on the points of law. one day. When he went away he felt

Mr. Hall then addressed the jury on behalf of the prosecution, occupying one hour and seven minutes in his argument. He reviewed the testimony to be the party. Gave no notice to of-ficer. Saw him every night with the at length, and disclaiming all desire or thirst for the blood of the prisoner, said he simply performed a duty imposed on him by the commonwealth. He asked the jury not to be influenced by any cheap auxiliaries that the counsel John Muna, sworn. Dixon said he for the defense might bring into the had sent one of that pack to the pen-itentiary, and would have to send two more. I believe he meant the Rumcourt room for effect, such as having the wife and children of the prisoner by his side to create a false sympathy. He simply asked that a verdict be rendered without prejudice, and in ac. cordance with the evidence and the law in the case.

Mr. Cotter, followed Mr. Hall, and in a speech lasting one hour and tenminutes, he showed to the jury that there could have been no malice inthe heart of English and that without malice, there was no murder. He alsopainted the prisoner fleeing for his life, which was threatened by a drunken mob who thirsted for his blood. And that the prisoner in self defense was compelled to fire on the pursuing party to defend his own life and the lives of his family. He asked Cross-examined. They were com-ing up the steps. I had my bed in room next to spare room. The con-versation occurred after I got up. I the middle window. Next shot was fired from the house outside. Did not see the persons who did the shooting, Heard the glass jingle and then saw muzzle of gun stick out of the window. Wext shot was the jury to place themselves in his place and then answer the question, "what would they have done? He asked for an acquittal on the ground that the jury to place themselves in his

tion to be followed by the defence. Live at Caledonia. Lived in house where Warnith was killed. Am Eug-lish's wife's mother; was at home on [map Was sleeping up

Mrs. English slept near partition that ran along stairs. Mrs. English slept in north-east room, beds very close to partition. There were three children in the room with Mrs. from where my husband slept. Don't know that Harry English slept in the room that night except what Mrs. English told me. Was awake about