THE COURTS.

YESTERDAY'S PROCEEDINGS.

INTERESTING BUSINESS IN THE CIVIL COURTS—TRIAL OF THE CARTAN HOMICIDE CASE.

[Reported for The Press.]

NISI PRIUS—Justice Strong.—White vs. Welsh. *Before reported.* The latter portion of the session was occupied by Mr. Gerhard, who delivered a very able address to the jury.

SUPREME COURT IN BANC—*Chief Justice Lowrie, and Justices Woodward and Thompson.*—Non pros. were entered in each of the following cases: Raynor vs. Johns; Eudy vs. Alspach.

Parvin vs. Capewell; York County Bank vs. Carter; McBarron vs. *Gilbert. Each of the three preceding cases are continued, to be heard at Harrisburg, 25th May, 1860.*

Chalfant vs. Ogden. Submitted on paper book.

Murphy vs. Potts. Same vs. Same. Argued by *Francis W. Hughes* for plaintiff, and by R. C. Parry for defendant, and by James Cooper for plaintiff.

Commonwealth vs. Straub. Argued by A. V. Parsons for plaintiff, and by Chris. Lesser for defendant; by Cumming for plaintiff.

Russell vs. Silvers. Argued by E. C. Parry for plaintiff in error, and by Francis W. Hughes for defendant in error.

Dundas vs. Miller. Jas. Dundas and George W. Stroud were owners of a tract of coal land, which *they held as tenants in common, in equal undivided moieties.* Dundas owned an adjoining tract of coal land. Dundas and Stroud leased to Bittinger a right to mine a particular *coal vein on their land,* for which he was to pay, as rent, so much per ton, and *was to be used on an adjoining tract of land,* which was wholly his, and upon which he agreed to suffer the waste, or refuse coal, to be deposited. It was also argued that Bittinger, in consideration of opening the coal vein and sinking a slope, was to refrain from the payment of rent to his landlords to the amount of $500. After this amount had been retained by him, he was to begin to pay rent to the landlords. Bittinger accordingly commenced opening the vein, &c., on the ground of his landlords; and after mining coal to the agreed value of $500, which he retained, paid to them, from time to time, $512 92. Bittinger owed his landlords $201 01 more than he had paid, and when he became unable to pay, ceased to work the mine. After he had ceased to work, Dundas and Stroud, by means of an exploration and survey, discovered that Bittinger had sunk the slope to the distance of one hundred and forty-six feet, half of which had been on the tract demised to him by Dundas and *Stroud, and the other half on the lands of the* plaintiffs, and by an engineer computed that Bittinger had mined 3,905 tons of coal on land of plaintiffs. The trespass of Bittinger had been done unwittingly, from a mistake as to the boundary between the tracts. He had acted not only without the authority of his landlords, but his trespass was unknown to them, *and they became acquainted* with it only after *Bittinger* had ceased to mine.

Plaintiffs, after this discovery, brought their action, and on the trial claimed payment for the coal which Bittinger, according to the calculation of the engineer, had taken from their land. Verdict was given in their favor for $1,096 45 in the Court of Common Pleas of Schuylkill county. The case is now up on writ of error from that court. Argued by *John Bannan for plaintiff,* and by Francis W. Hughes and Green for defendants.

Appeal of the Commercial Savings and Loan Association. Opinion by Thompson, J. Decree affirmed at costs of appellant.

On motion of Francis W. Hughes, David B. Green, Esq., was admitted to practice as a counsellor and attorney in this court.

COMMON PLEAS—*Judge Ludlow.*—Finley vs. Kemble. Before reported. Munday and Budd for plaintiff; Geo. A. Coffey for defendant. Verdict for plaintiff for $151.75.

O'Neill vs. Kster. *An action for rent.* Verdict for plaintiff for $36.00. Armstrong for plaintiff; Bull for defendant.

Melcher vs. Ege. An action on a book account. Pearce for plaintiff; L. Guest for defendant. Nonsuit.

There will be no more jury trials in this court this week.

DISTRICT COURT—*Judge Hare.*—This court was in session but a short time. No business was transacted. No jury trials will be had until Monday next.

In the case of Martin vs. Blaylock, before reported, the jury rendered a verdict in favor of the *plaintiff for four dollars!* Morris for the plaintiff, and Dougherty for the defence.

DISTRICT COURT—*Judge Stroud.*—Collins vs. Thayer. (Before Reported.) Verdict for plaintiff. R. C. McMurtrie and Paul for plaintiff; O. W. Davis and Wm. H. Ledyard for defendant.

The Girard Building and Loan Association of the *City and County of Philadelphia* vs. Coyle. Action on a bond and mortgage. Verdict for plaintiff for $300. George W. Thorn for plaintiff, and Wm. B. Hood for defendant.

Frost vs. Baker. The plaintiff resides in the second precinct of the Twenty-third ward. At the late State election there was considerable excitement among the partisans of the several candidates, excited by the unhanding of rival bands of music which the several parties employed to visit the different portions of the ward in an old omnibus, and anxious to obey that portion of the political rule of conduct, which requires freemen to "vote early," the plaintiff presented himself at the precinct house and offered to vote. The defendant and some bystanders intimated that "*blood of Erin!*" *flowed in the veins of plaintiff* —that is, he was partially a negro. In consequence of these suggestions the plaintiff was not permitted to exercise his political franchise, and this action is *brought to recover damages* from the defendant who was judge of the election. Plaintiff suffered a non-suit. Earle for plaintiff; Letchworth for defendant.

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TRIAL OF JOHN SWEENEY FOR THE MURDER OF CHARLES CARTEN.

VERDICT OF THE JURY.

COURT OF OYER AND TERMINER—Judges Allison and Thompson.—The trial of John Sweeny for the murder of Charles Carten, in the Fourth ward, on the 30th of November last, was resumed at ten o'clock, yesterday morning, in the Court of Oyer and Terminer. The room, as on the previous day in the trial of this cause, was densely crowded by interested spectators. The prisoner occupied a seat at the end of the dock, and manifested but little or no concern in the proceedings. *District Attorney Mann* and Wm. Brantley Hanna represented the Commonwealth, and Messrs. H. R. Warriner and William N. Ashman appeared for the prisoner.

The following additional evidence was elicited:

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Thos. Keelin sworn.—I know the prisoner; he worked for me in February, 1859; I saw the woman he called his wife; she came to my place twice; she asked for him; he went to the door and went out; they talked together; he sometimes went to her to get shirts; he came back like a *crazy man* if he was treated cool; he was all the time talking about her, and wanted to get her out of that house; he told me to put my hand on his head, and the skull seemed as if it was broken; he told me the skull was broke in; *I did not see him* on the day of this occurrence; his conduct was good in my house; he was excitable; he would rather give his wages to his wife; he said "he would go to hell, for her."

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Mrs. Scanlan sworn.—Am the wife of last witness; live opposite Carten's; *was home this night;* I saw the occurrence; I was in my room on the second floor sewing; the two windows were open; I seen Carter, his wife, and sister-in-law at the door; Sweeney was coming up the alley; *did not* hear him saying anything, but calling out for his wife and child; seen Carten come out, run down to him at Mrs. Brady's door, struck him, and knocked his hat off; I did not see anything in Sweeney's hand; Carten only walked quick down to him; he did not run; he struck him once.

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Charles Dougherty sworn.—I reside in Nugent's court; know the prisoner by sight; saw him in the court on the Sunday before the murder; he came up shouting; he was calling these people that kept the house names; said they kept an "ornary house;" he went down to the end of the alley, and said he "*took a life in that house, or lose his own;*" he said "all he had was to lose his own;" "*I was in my own house the night Carten was stabbed;* I heard the noise, and opened the door, and looked out; I seen Sweeney; he was the man that opened the shutters; saw *Carten come out of his own door,* and went about two steps; then I saw Sweeney make a rush at Carten, and whatever he done, he said, "that will do you;" Carten then went in the house, and I heard he was stabbed; Sweeney was gone when I came back; I went to get on my shoes."

Bridget Gorman recalled.—Mary would always send the prisoner away; she said she was not married to him; she said she was a widow; the prisoner had on a coat the night he came and an old Kossuth hat. 216

DEFENCE OPENED BY MR. WARRINER.

Thos. *Rosch sworn.—I know John Sweeney; he worked six weeks for me;* lived in my house; did at the time of this occurrence; his wife came to see him several times; she is the woman (pointing to Mary); I was only shortly acquainted with them; *he wanted always to be seeing her;* he treated her kindly; whatever he had he would give her; seen him give her some money once or twice; I told him to let her alone and not mind her; it was all in vain, I believe; he was always queer when he would not see her; he would get some drink when he would think of her; get drunk and could not work; after she left him he would work; he always wanted his Mary; used to scream in bed at night for his Mary; when he would get drink he threw himself about; he acted honest for me *always* sober; never bought and sold wrong.

Thos. Keelin sworn.—I know the prisoner; he worked for me in February, 1859; I saw the woman he called his wife; she came to my place twice; she asked for him; he went to the door and went out; they talked together; he sometimes went to her to get shirts; he came back like a *crazy man* if he was treated cool; he was all the time talking about her, and wanted to get her out of that house; he told me to put my hand on his head, and the skull seemed as if it was broken; he told me the skull was broke in; *I did not see him* on the day of this occurrence; his conduct was good in my house; he was excitable; he would rather give his wages to his wife; he said "he would go to hell, for her."

James Scanlan sworn.—*I live back of 714 Shippen street; never knew the prisoner before that day; knew where Carten lived; I lived opposite him; could see into his house from the top floor; I saw Sweeney coming in the alley; I was at my own window; he shouted out "where is my child;"* he wanted his child out of that place; said it three times; said "to hell with the alley after getting my child out;" he did not go up to Carten's house; he did not pass the second door; Carten's is the third; I saw Carten in his door, and two women *stirring to come out;* he turned them in, and said he would come out himself, clear him out of the alley, and knock the head off him; Carten ran down to Sweeney, struck him a *lick* on the head, and knocked the hat off of him; *I saw nothing else;* Sweeney said not a word, picked up his hat, and walked away; *I was looking at them* all the time; if Sweeney had said anything I would have heard him; there is a fence between my house and Carten's; I was in the third floor; *the alley is about six feet wide; Sweeney could* have stabbed him without my seeing him; Sweeney said he wanted his child; made no threats; can't say if I was home the Sunday before; I did not hear him knock at the door; he did not reach *Carten's door* at all.

Mrs. Scanlan sworn.—Am the wife of last witness; live opposite Carten's; *was home this night;* I saw the occurrence; I was in my room on the second floor sewing; the two windows were open; I seen Carter, his wife, and sister-in-law at the door; Sweeney was coming up the alley; *did not* hear him saying anything, but calling out for his wife and child; seen Carten come out, run down to him at Mrs. Brady's door, struck him, and knocked his hat off; I did not see anything in Sweeney's hand; Carten only walked quick down to him; he did not run; he struck him once.

Michael Sullivan sworn.—I know the prisoner; known him about two years; did not know Carten; never saw him; I was coming up Shippen street; heard a noise in Nugent's court; I stood there and looked up; saw two men; they "seemed to be in hell;" saw the feet struggling; could not see the bodies; it was dark; stood there; Sweeney came down; hat in his hand; he was was walking down smartly; he seemed to be intoxicated; he walked out very slow; I could walk faster.

Geo. C. Collins, Esq., sworn.—I was on one occasion in the house of Scanlan; it is three stories high; they live in the third story; Mrs. S. drinks occasionally; Mr. S. don't drink any; he collects rags and sells them; he is an *industrious man;* the stories of the house are not high; can't describe the window; sure they live in the third story.

Celia Roach sworn.—*I know Sweeney; he lived in my house; about two months;* saw this woman come to see him; she got two dollars from him once in my presence, and offered her a $5 note, which she refused; he did get drink; he was drunk that day, and drank six or seven bottles of brandy.

Mr. Scanlan recalled.—At the time of this occurrence I lived in the third story; now live in the second story; moved since the occurrence; no lamp in the alley, only the window-light; can't say if Mrs. Brady's window was open; this was about eight or nine o'clock; there was a light in a window over the alley, in the first house toward Shippen street; did not notice a light; *I moved in the* second story about a week after the occurrence; it is a frame house; the window is like the second-story windows; it is something like the window like that, (pointing to windows on the roof of houses on Sixth street.)

Mary Bartley sworn.—I know the prisoner; never married to him; at the time of the occurrence *I was living in Carten's house;* lived there twelve months and two weeks; was there on the night of November 30th; up stairs part of the time; I heard Sweeney's voice; he called for his child out of that alley, and then the alley night go to the devil; I don't know who he meant unless me; I thought he meant me; I ran down stairs through Carten's kitchen; the front room; I did not go out; I wanted to; the deceased man was on the settee; he jumped up; I thought Sweeney was coming towards the house; Carten said he would go out; his wife said not; Bridget caught hold of him and said he should not go out; his wife held *the door by the knob, and cried;* his sister-in-law put her arms round him; I went and took Carten in my arms and tried to pull him from the door; he then said "he was able to rule his own house;" he went to the top of the stairs of cellar; looked around, and said he would knock the "d—d head off of Sweeney;" he went towards the door, and told me to go to my own room and mind my own business; he went out and I went up stairs; he used to come often to the house; "I knowed he was crazy;" he always spoke foolish; he seemed to care a great deal of me; I told him not to come; he used to cry, pull off his coat, and get quite crazy; he often asked me to live with him; he went away crying; *I told him when he got in his* right senses we would get married; I was at church the Sunday previous.

Mr. Kevlin recalled.—Sweeney worked for me; he sometimes took his shears away with him; so did the others; perhaps they might get a job somewhere else.

Mr. Mayher called by Commonwealth.—Went to look at the premises; the fence is six feet high; the east court is five feet six inches in width; the west is six feet six inches; the alley is twelve feet one inch; the house is two-story, with a high roof; the third-story window is thirteen or fourteen feet from the *ground; the second-story* is eleven feet eight inches from the ground; the bottom of the second-story window is about nine feet to the front roof window; from *ground to second story* is eight feet; from that to the floor of the attic is six feet; from that to the window one foot; can see the pavement in front of Brady's house by looking out of the window.

The evidence on both sides here closed, and Mr. Mann addressed the jury at some length, pressing a conviction of the defendant for murder in the *first degree.*

William N. Ashman, Esq., opened the argument for the defence, and earnestly urged that all the evidence in the case would, at best, justify a verdict of involuntary manslaughter. Mr. Ashman referred to the degraded social condition of his client, who, amid the surroundings of the lowest haunts of the city, had sustained a character for honesty and fair-dealing *that spoke volumes* to his credit. It might be deemed sentiment only to praise of this fact, but the jury must remember that the human mind is fallible, and human testimony uncertain; that they have but an imperfect knowledge of the defendants *who are* brought before them, and that the man whose blood is sought after may be as pure from crime as innocence itself.

Mr. Warriner followed for the defence, and spoke at length, and with great force. He went over all the evidence in the case, and argued that not one sentence of it could be tortured into an implication of malice on the part of Sweeney. He referred to the fair doubts which were suggested by the conflicting nature of the testimony excelled by the Commonwealth as the property and benefit of the accused, who, unless clear and positive proof is adduced against him, is entitled to a verdict of acquittal. Sweeney loved, with tender devotion, the wife to whom he had given his heart, and, goaded on by the idea that she was in a house of ill fame, was *ready* to go to any length to take her therefrom. This love was his excuse and justification.

"What lost a world and bade a hero fly?
The timid test in Cleopatra's eye.
Yet be the soft triumph's fault forgiven;
For this how many lose not earth but heaven.

Contrasted their souls to man's eternal law,
And scaled their own to save some wanton's woe."

Mr. W. considered the threat used by Sweeney as idle, the expression not of vindictiveness, and not the result of a *deadly hate.* He appealed eloquently to the jury to look at all the facts in the case, and then restore to society one whose poor life justice could not properly demand.

Mr. Mann closed the argument in behalf of the *City and County of Philadelphia* vs. Coyle. Action on a bond and mortgage. Verdict for plaintiff for $300. George W. Thorn for plaintiff, and Wm. B. Hood for defendant.

Frost vs. Baker. The plaintiff resides in the second precinct of the Twenty-third ward. At the late State election there was considerable excitement among the partisans of the several candidates, excited by the unhanding of rival bands of music which the several parties employed to visit the different portions of the ward in an old omnibus, and anxious to obey that portion of the political rule of conduct, which requires freemen to "vote early," the plaintiff presented himself at the precinct house and offered to vote. The defendant and some bystanders intimated that "*blood of Erin!*" *flowed in the veins of plaintiff* —that is, he was partially a negro. In consequence of these suggestions the plaintiff was not permitted to exercise his political franchise, and this action is *brought to recover damages* from the defendant who was judge of the election. Plaintiff suffered a non-suit. Earle for plaintiff; Letchworth for defendant.

The Centre Building and Loan and Saving Association vs. Young. An action on a bond and mortgage. J. H. Markland and White for plaintiff; Dilpin and Quinn for defendant. Jury out.

Renkard vs. Rushton. An action on a book account for goods sold and delivered. William H. Ledyard for plaintiff; Greenbank for defendant. On trial.

TRIAL OF JOHN SWEENEY FOR THE MURDER OF CHARLES CARTEN.

VERDICT OF THE JURY.

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