OPENING FOR THE DEFENSE

SAY THOMAS WAS KILLED IN SELF DEFENSE.

In Opening the Case to the Jury Attorney Oliver Declared That Thomas Attacked Tomashifski with a Sprag and the Latter to Protect Himself Used a Small Drill and Not a Pick as Charged—Defendant Will Be Put on the Stand Today and Tell His Story.

Considerable progress was made yesterday in the trial of Anthony Tomashifski, who is charged with killing David Thomas in the Archbald mine June 5 last. All of the testimony for the commonwealth was heard yesterday and when court adjourned in the afternoon the greater part of the evidence for the defense was in. The defense is urging the plea of self-defense and that Thomas, by a long course of annoyances and indignities, had angered Tomashifski past endurance.

When court opened yesterday morning the work of selecting the three additional jurors was taken up, Sheriff Schadt having produced the twenty additional jurors ordered by the court Monday afternoon when the regular panel was exhausted. The special venire was as follows: John Wahl, J. W. Sando, Leo Crossin, William Morris, Dennis Hughes, John J. Coyne, Frank Wertey, Thomas H. Kelly, J. F. Orms, William Coughlin, John H. Lynch, David Johnson, Patrick Sweeny, John Lloyd, Maurice Walsh, John Fork, A. Overbaugh, A. L. Raper, Thomas Walkey and C. S. Robinson.

The men selected from these to complete the jury were:

J. F. ARMS, fireman, Scranton.
JOHN H. LYNCH, conductor, Scranton.
JOHN FORN, laborer, Scranton.

The other members of the jury selected Monday are:

ANDREW MALONEY, miner, Archbald.
VIRGIL H. CHRISTMAN, miller, Scranton.
COLONEL H. M. BOIES, gentleman, Scranton.
TOWNSEND POORE, mechanical engineer, Scranton.
SAMUEL S. HINES, agent, Scranton.
MICHAEL BRENNAN, fireman, Mayfield.
CHARLES HAMMER, barber, Dunmore.
WILLIAM KLIPPLE, farmer, Ransom.
PRESTON BROWN, farmer, Scranton.

OPENING FOR COMMONWEALTH.

For the commonwealth the case was opened to the jury by Attorney H. L. Taylor. He said the accused was employed in the Archbald mine on June 5 and David Thomas, the man he killed, was also working there. The two men had a quarrel and Tomashifski took up a pick and hit Thomas on the head with it, inflicting a wound which caused death.

County Surveyor George Stevenson, who made a map of the scene of the fatal encounter, produced it and explained the position of the parties and their surroundings and was followed by Daniel Morris, a seventeen-year-old boy, who claims to have been an eye witness to the affair.

Morris testified that he had worked with David Thomas, the murdered man, on the day of the killing, the latter being employed as a runner. Just before the killing they went into the chamber of David Evans, the miner by whom Tomashifski was employed. He (Morris) was riding on a mule while Thomas walked on ahead. They met Evans at the first cross-cut of the chamber and stopped to talk to him for a moment or two. Thomas went on toward the face and he remained for a minute longer talking to Evans. Thomas was five yards ahead of him when he reached the place close to the face where Tomashifski was topping a car of coal, using a pick in doing so.

Thomas went up to him and told him to hurry up with the topping of the car. Tomashifski, thereupon, with out further provocation, raised the pick and brought it down on Thomas' head, Morris said. He ran to the injured man's assistance, calling to Evans the while. Tomashifski, as soon as he struck Thomas, hurriedly left the chamber and the injured man was taken to the surface.

The attorneys for the defense, on cross examination, sought to bring out that both the witness and Thomas had continually plagued Tomashifski. Morris denied this and also denied that he had made a statement after the killing that no one knew just how Thomas had been killed.

EVANS' TESTIMONY.

David Evans, the miner, testified as to the meeting with Morris at the cross-cut and to having heard Morris call for him a minute or two later. He hastened to the face, he said, and met Tomashifski coming hurriedly out. The latter said when asked what was the matter "I've killed the —— ——. He won't fight me any more." On cross-examination he denied that he made a statement in the carpenter shop, to which Thomas was taken, to the effect that he didn't know how the killing occurred.

Coroner J. J. Roberts testified to having performed an autopsy after Thomas' death. He found a lacerated wound on the head about an inch and a half long and a fracture of the skull. He uncovered the skull and found a blood clot on the brain as large as a man's hand. It was this blood clot which caused death, he said.

David J. Thomas, father of the dead young man and William McAndrew testified as to his splendid physical condition, both declaring that he was heavily built and very robust for a man only 19 years old.

This closed the commonwealth's case, except for the evidence of Dr. Olmstead, of Taylor, who was not present when called in the morning and for whom an attachment was issued. He testified in the afternoon, explaining that he was unable to be present in the morning because of a fire and death case which he had on his hands. He had attended Thomas after the affair, and testified as to the nature of his wounds.

Attorney C. E. Oliver opened the case for the defense. He said that the defense would show that Thomas had a habit of annoying the Polanders working in the Archbald, and that Tomashifski was the especial target of his maliciousness. Thomas, he said, was a big man and was exceedingly domineering, cruel, abusive and vicious. He declared that one of his (Thomas') favorite pastimes was to rub the flame of his naked lamp on Tomashifski's flesh, and pour burning oil on him.

He said that the defense would also show that on the day of the killing Thomas poured oil down Tomashifski's back. He declared that evidence would be adduced to show that it was Thomas who started the trouble by hitting Tomashifski over the head with a sprag and that the latter then picked up a small drill and hit back. He declared that it would be shown that no pick was used.

FOR THE DEFENSE.

Patrick Sweeney, Simon Getz, Calvin Lynch, Uriah Fraley and B. F. Fern testified that David Evans, who testified for the commonwealth, had stated in the carpenter shop that he didn't know how Thomas had been killed. Fern said that Tomashifski had shown him a lump on his forehead, which he said had been caused by a blow which Thomas had struck him. Thomas Cook also testified to having seen this lump.

John Sharick, Stanley Strike and Theodore Flinvinski were sworn as character witnesses, and testified that Tomashifski was a quiet, peaceful and law-abiding citizen. Tomashifski will take the stand in his own defense today.

MINOR CRIMINAL CASES.

A verdict of not guilty was returned yesterday in the case of Mrs. Mattie S. Cummings and son, Howard Bates, of Carbondale, who are charged with conducting a bawdy house by Constable Michael Moran. The defendants were directed to pay the costs.

John Smith and Anna Fitchok were acquitted of conducting a bawdy house on West Linden street, but they will have to pay the costs. The prosecutor was James F. Butler, from whom they leased the premises. The evidence showed that Mrs. Fitchok was the only woman who occupied the apartments. There was some evidence of immoral acts upon her part, but the charge of keeping a bawdy house was not made out.

A verdict of not guilty was taken by Plumber Arthur Mullen, charged by Plumbing Inspector A. C. Menles with violating the rules of the board of health. Mullen was charged with failing to have the plan of certain plumbing work he did approved by the plumbing inspector, and also with failing to make the required test after the work was completed. The arrest was made primarily as a warning to plumbers, many of whom were violating the law in a similar manner at the time. There is now a disposition to conform to the rules of the health department all along the line, and it was decided to allow a verdict of not guilty to be taken in the case of Mullen.

Helen Cummings, who was convicted Monday of stealing a bundle of clothes from Mrs. Biesecker in the waiting room of the Delaware, Lackawanna and Western station, was yesterday sentenced to four months imprisonment in the county jail and directed to pay a fine of $1 and restore the stolen goods.

A verdict of not guilty was taken in the case of Benjamin Howie, of Throop, who was charged with stealing articles of clothing from Julian Coolick, also of Throop. It appeared that Howie was convicted of this crime some time ago and spent thirty days in the county jail.

Thomas Gibbin pleaded guilty to stealing a suit of clothes from the house of Thomas Lavin, at Vandling. He was sentenced to pay a fine of $1, costs, restore stolen goods, and spend six months in the county jail.

Miss Minnie Veste was tried and acquitted on the charge of stealing a $20 bill from a till in the store of E. E. Greiner, at Peckville. The young woman was employed in the house as a domestic, but also assisted in the store, and had access to the money drawer. Mr. Greiner alleges that on the night of June 15 last he saw the girl go to the money drawer and take something. Soon afterwards a $20 bill was missed. The girl denied the taking and the jury evidently believed her.

Yesterday's Marriage Licenses.

Pasquale Oro ..... Scranton
Adilleti Manaco ..... Scranton
Patrick Sheridan ..... Scranton
Elizabeth Wajed ..... Scranton

Theatrical.

TODAY'S ATTRACTIONS.

LYCEUM—"The Fadettes," Brockway Comes, Night.

ACADEMY.—"Side Tracked." Afternoon and night.

STAR.—Trans-Atlantic Burlesquers. Afternoon and night.

"Telephone Girl."

At the Lyceum last night, despite the bad weather, a large audience was present to see "The Telephone Girl," in which Louie Mann and Clara Lipman created so much laughter a few years ago. The company which presented the comedy last night was handicapped by the presence of six new people, who joined the company yesterday. For several weeks the members of the company have suffered from ailments of various kinds and finally the organization became so reduced through illness that six new people had to be put in the company last night.

They are a clever lot of players, for not many who saw last night's performance would have guessed that one-third of the company was making an initial bow before the public in it last night. Rose Nix was portrayed most acceptably by Frank Blair, and the Estelle Cocoon of Maude Hite and the Beauty Fairfax of Minnie Charlotte Stolle were well done. Winfred Douglas and Margie Ford were other clever impersonators of the company.

"Side Tracked."

The above mentioned farce comedy drew a large audience to the Academy of Music last night. Among the members of the excellent company of comedians and comediennes presenting this popular play are Mr. Willie Bunker, playing the leading character of the tramp; Mr. Mat Schaefer, as the Dutchman; Mr. Peter Curley, as the policeman; Miss Kittie Harrison, the charming soubrette; Miss Cecile Lorraine and a dozen other artists of superior ability.

Today will be the last of this excellent company's engagement in this city this season. Matinee at 2:15 p. m.

"The Fadettes" Tonight.

The Allentown Chronicle and News of Saturday says of the Fadettes, who come to the Lyceum this evening:

"A better pleased audience than the one which attended the concert of the Fadettes in the Lyric theater last night it is hard to find. Women's orchestras and women's brass bands as a rule are not very exhilarating, but it can truly be said that the Fadettes of Boston are superior to anything in their line that has ever appeared in this city. Mrs. Caroline B. Nichols, the conductor, not only is capable of developing a lot of women musicians into a highly trained organization, but she knows how to prepare a programme which was a golden medium between the heavy classical and the lighter and more breezy music.

"Miss Bertha Webb, the solo violinist, charmed and delighted the audience by her exquisite playing and she was heartily encored. Miss Charlotte Lynn was the soprano soloist. Her voice is not strong, but it is pure and sweet and under perfect control and she contributed to the success of the evening."

The Fadettes come here under the auspices of Brockway.

"The Game Keeper" Coming.

"The Game Keeper," which will be presented at the Academy of Music on Thursday, Friday and Saturday of this week, is by Chas. T. Murphy, the author of more successful Irish dramas than any other author. Smith O'Brien, the former star of "The Ivy Leaf" and "The Fairies' Well," has been especially engaged to play the part of Terry Doolan, the game keeper.

When Messrs. Rowland and Clifford purchased the play, of the Irish comedians that were in the field Mr. O'Brien was the most suitable, being a most capable actor of reputation and ability, as well as a singer of note. The play is a wide departure from the former Irish dramas, and has been given a sumptuous scenic dressing, every scene being a reproduction of an original photo. One of the most beautiful stage settings is a scene showing the famous O'Neill castle, of Dublin county, Ireland. Another unique and grand old familiar scene is that of the historic Dublin chapel, that is known to every Irishman of Dublin county. Matinees Thursday and Friday afternoons.

Bowery Burlesquers.

"The Bowery Burlesquers" will open a three days engagement at the Star theater tomorrow afternoon, giving matinees daily. The show opens with a high class olio of specialty artists and vaudeville acts, most of whom are marvelous masters of this line of art. Among them are Gilbert and Goldie, the Taylor Trio, Hopshaw and Francisla, Neva Avnar, the Nachemia Twin Midgets, Hays and Suits, Minnie Gilbert and the beautiful Indian princess, Yutakamee. Following this olio is the burlesque on the lurid and often ludicrous actions and doings of the under-crust of society as it is found on the Bowery and around the East Side, New York. It is called "Slumming." Toward the close of the burlesque there is an harmful of beauty and music, when Yutakamee, a very handsome Indian woman with a marvelous voice, brings to a finish the mirth and comedy with a great outburst of song and melody.

"The Trans-Atlantics" conclude their engagement today, giving matinee and evening performances.

Mme. Emma Nevada.

Mme. Nevada, the eminent French pianist and composer, who will be heard in the Nevada concert, is the idol of the fair sex not only in Paris, but all over France. He is a magnificent pianist and his technique and execution are said to be those of a master. With a style full of sympathy and power, a magnetic personality and a handsome appearance, it is hardly to be wondered at that the women crowd his recitals and show their appreciation of his performances in the most enthusiastic manner. Morcau is considered the foremost of the young French pianists and a composer of more than ordinary genius and education. It is no small honor to win the grand prize of Rome, but Moreau did this twice in open competition and in succession.

Mme. Nevada and her grand company comes to the Lyceum next Monday evening, Dec. 9.

STAGE NOTES.

Anne O'Neill, widow of Henry C. Miner, has been engaged to play the role of Jean Travelyan in Basil Hood's comedy, "Sweet and Twenty," which is to be produced at the Madison Square theater. The role is now being played by Gillaine Terris at the Vaudeville theater, London.

Amelia Bingham has engaged Cora Tanner for the company which is to continue in "The Climbers," under the direction of the actress-manager, after Jan. 27, when the organization now presenting Mr. Clyde Fitch's play returns to the Bijou theater, New York.

This country is not at all dependent on native playwrights for acceptable stage work. Mansfield, Gillette, the Misses Allen, Mannering, Marlowe, Bingham, Barrymore, Crosman, De Wolfe and Harned, with Mesdames Fiske and Le Moyne, are all appearing in plays by native authors. The same is the case with Messrs. Wilson, Daly, Murphy, Olcott, Collier, Wakefield, Golden, Skinner, Robson, Crane and many other leading artists of both sexes.

A German play, with the translated title, "Twin Sisters," has hit upon a fresh plot idea. The story deals with the intrigues of a wife, who, finding her husband's affections on the wane, leaves home. She reappears as her twin sister, a captivating and irresistible coquette, the very incarnation of her old self. The husband becomes enamored of this radiant vision. Eventually, of course, the way is paved for the wife's happiness by a revelation of the trick.

LIST OF ADVERTISED LETTERS.

List of letters remaining uncalled for at the Scranton postoffice, Lackawanna county, Pa., December 4, 1901. Persons calling for these letters will please say advertised and give date of list. Ezra H. Ripple, Postmaster.

Aten, Miss Gertrude W.	Lonz, Wm.
Alspaugh, W. F.	Luther, Roland Y.
Bratster, U. S.	La Rue, Miss Grace,
Batzel, Josie,	Lodge, Charles,
Brannan, Patrick.	Lentzer, Bertha (2),
Beck, G. W.	Miller, Mary B.
Collins, J.	Myers, Martin,
Clark, Fred V.	Martin, Rev. H. L.
Cannow, Patrick,	Mitterly, Wm. C.
Crawford, Mrs. Rosey,	Michel, Erhard,
Dinay, Wm.	Matel, George,
Davies, Miss M. Adeline	Marshall, A.
DePotte, James,	Nobles, S. E.
Duggan, Sadie,	O'Hara, Owen,
Digwood, James,	Osborne, Miss Dorothy,
Ely, A. M.	Powlins, John,
Edwards, H. B.	Pierce, S. W.
English, C. W.	Price, Mrs. Maggie,
Evans, Rev. J. E.	Remington, F. (2),
Frank, Charles,	Smith, Robert,
Farowitz, Miss Annie,	Stone, Madeline,
Fay, Warren,	Sinclair, Rev. J. R.
Friedman, Max,	Sheaton, Miss,
Galvin, Mrs. M. A., care of Thos. J. Watkins,	Scranton Building and Loan Association,
Gree, Mrs. S. A.	Soden Douglas,
Guttmann, Adolph,	Shurley, Charles,
Gomm, Thomas P.	Stephens, Miss Emma,
Horton, Mrs. L.	Smith, Mrs. N.
Hubbs, W. I.	Taylor, J. W.
Holl, John, Jr.	Thomas Mrs. T.
Houck, Eddie,	Utley, Thomas,
Hanlon, Miss Julia L.	Walters, Henry,
Hildebrand, Lizzie,	Webb, John,
Hollett, R. L.	Wentz, Mr. and Mrs.
Hinkley, Mrs. Jennie,	Daniel,
Johnson, John B.	Whittlesey, Mrs. Alice,
Irish, Wm. P.	Williams, Alex,
Klein, John,	Wempie, Frederick B.
Kline, Thos.	Wilcox, D. A.
Kramer, Miss Flora,	Young, Miss Lauriel A.
Kline, Emma J.	Yassian, Joseph,
Lacey, E. R.	Yassian, Mrs. Annie,
Little, J. O. F.	

West Scranton Station.

Brady, Miss Mary,	Perry, Leonard,
Coe, Mrs. Walter,	Scandale, Frank,
Dorr Maria Michela,	Shields, Henry,
James, John,	Williams, Miss Bertha,
Linnerooker, Mollie,	Western, Mrs. Elizabeth,
Markey, Miss Lizzie,	

Sharkey Has Posted a Forfeit.

By Exclusive Wire from The Associated Press.

New York, Dec. 4.—Tom Sharkey posted a forfeit of $2,500 today, with a challenge to Jeffries to fight for the championship. Sharkey also posted $2,500 on behalf of Dave Sullivan to bring about a match with Young Corbett.

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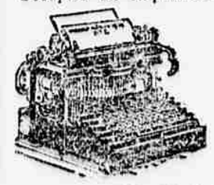

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Offset this statement that colds cost the insurance companies a million dollars a month by another statement; almost every life represented by that million dollars could have been saved by the timely use of Dr. Pierce's Golden Medical Discovery. It cures colds, coughs, bronchitis, lung disease, hemorrhage and conditions generally which by neglect or unskillful treatment find a fatal termination in consumption. That these cures are perfect and lasting is testified to by thousands of representative men and women, including clergymen and physicians.

"I took a severe cold which settled in the bronchial tubes," writes Rev. Frank Hay, of Nortonville, Jefferson Co., Kansas. "After trying medicines labeled 'Sure Cure,' almost without number, I was led to try Dr. Pierce's Golden Medical Discovery. I took two bottles and was cured, and have stayed cured. When I think of the great pain I had to endure, and the terrible cough I had, it seems almost a miracle that I was so soon relieved.",

"In 1898, one of my daughters was suffering on account of a severe cough, hectic fever, wasting of flesh and other symptoms of diseased lungs," writes Rev. Joseph H. Pesperman, of Barium Springs, Iredell Co., N. C. "I promptly gave her Dr. R. V. Pierce's Golden Medical Discovery with gratifying success, and she now enjoys excellent health. This experience caused me to recommend Dr. Pierce's remedies to my neighbors, who, without exception, used them with favorable results. This being true, I hereby heartily endorse your medicines."

"For twelve years I was a sufferer from catarrh and was treated by one of the best physicians in the state of North Carolina, who said the trouble had reached my lungs," writes Mr. J. M. Patton, of Clotho, Transylvania Co., N. C. "I grew worse every day until I tried Dr. Pierce's medicines. Will say Dr. Pierce's Golden Medical Discovery with one bottle of Dr. Sage's Catarrh Remedy cured me and to-day I am well and hearty, and I will say further, that my former physician, Dr. W. M. Lyday, recommends Dr. Pierce's medicine to me and to others. I am sure your medicines will cure any case of catarrh that exists. I recommend them to all."

"I was troubled with a bad cold, which settled on my lungs and left me with a miserable cough," writes Mr. Joseph D. Burns, of 318 Huestis Street, Ithaca, N. Y. "I used two bottles of 'Golden Medical Discovery,' after which my cough disappeared entirely. I cannot recommend your medicine too highly."

These statements are made by representative people. They are reliable statements, and those who are guided by them need not swell the list of victims who die of colds. One of the dangers of a cold, especially as it progresses, is that people will be content to use some syrup or preparation based on opium, and think they are safe. Such things are mere palliatives. They soothe and quiet but they do not retard the progress of disease. Doubtless everyone of the victims of colds used something with the intention of being cured. But they failed to use the one thing which would cure them, Dr. Pierce's Golden Medical Discovery. It always helps. It almost always cures. There is no alcohol in the "Discovery." It is a true tonic, building up the body with solid flesh and enriching the blood with the red corpuscles of health.

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