GAZETTE—CITY DEPARTMENT.

PITTSBURGH

THURSDAY MORNING, OCTOBER 18, 1855.

COURT OF ALLEGHENY COUNTY.

Trial of Henry Cummings.

U. S. District Court—Before Judge Irwin.

WEDNESDAY, Oct. 17, 1855.

Court convened at ten o'clock.

The case of the United States vs. Henry Cummings, indicted for secreting, embezzling and destroying a bank note of the denomination of $50, taken from the U. S. mail contrary to the twenty-first section of the Act of Congress of the third of March, 1825.

Judge Shaler and R. P. Flenniken, Esq., for the U. S., and S. W. Black and John H. Hampton, Esq.'s, for the Defence.

A Jury was called.

Judge Shaler challenged Mowry Irwin, peremptorily.

Col. Black—Defence, inquired what rule the Court followed with regard to challenging jurors. Could the United States challenge without cause?

Judge Shaler, for the United States, said the rule adopted here was identical with that in the State Courts, viz: that the prosecution may challenge after the defendant.

Col. Black objected to this rule, and desired the Court to make note of the objection.

The Court ordered the objection to be entered on the minutes. It is as follows:

"Brown Irwin, A juror, was challenged by the United States peremptorily, and without cause, to which defendant objects, and prays the Court that the challenge may be stricken off and that the juror being regularly called shall be directed to remain in his seat."

Judge Shaler opened for the United States with a few remarks, explanatory of the case, and proceeds to sketch the following evidence.

P. C. Langdon testified—Resided in Monterey, Mass.; Oliver Judd also resided there; in June, 1854, I was clerk in the Post Office. Mr. Judd, June 16, '54, came into the office with a letter and requested me to endorse two $50 notes and direct it to Nathaniel Hubbard, Harrison Valley, Potter county, Pa. I took memorandum of the number—one was 806 and the other, I think, on the Mahawie Bank. I have the memorandum; the notes were No. 802 and 806; the memorandum is in my hand writing, and reads "Mahawie Bank, No. 802 and 806"—this note (here produced) is of the same bank and same number as one I mailed; never saw the letter after I placed it in a box, the usual deposit of mailing matter, some time after that Mr. Judd came into the office and said—

Col. Black—Stop, I object.

Witness—Some time after I wrote to the Post Master at Harrison Valley with regard to the letter, dated June 16th; got a letter in reply; the Post Master said he had not received it, afterwards I received a letter from the Harrison Valley P. O., signed Henry Cummings, inquiring for the letter. [The Register of the Monterey P. O. was offered in evidence.] This is the P. O. record; the record of June 16th is in my handwriting.

[At the former trial of this case, but one page of the register was in evidence. It had been taken out of the book, brought to this city, and the court then excluded it because it was only a part of the record.]

By Col. Black—Were not the entries of the name of the P. O. on the top of the page, written after the letter was registered and the purpose of serving as testimony in the trial?

Witness—Those entries were made after the day of the mailing of the letter. I think I made the entries, but am not certain.

Col. Black then objected to the record as evidence on the ground that it had been tampered with and mutilated. He cautioned the Court against the sanctity of the register for the purposes of evidence had thereby been destroyed.

The court ruled that the register was valid and proper as evidence.

Col. Black desired the court to make note of the objection.

Witness—The memorandum "Oct. 7.. $100," on the leaf of the register is in my hand writing.

Cross-examined—Mr. Judd brought the notes with him and handed them to me; I took a memorandum of the number but not of the amount of the notes; if one of the notes had been handed me a week or two afterwards I could not without any memorandum, have told that it was the same note; the only way I can now tell the note is by the number, (806) corresponding with that on my memorandum; without the aid of a memorandum I could tell that the two notes were $50 notes; from my inspection of the note that day I could not now tell; the numbers were signed to it as President and Cashier, or to whom it was made payable; there is but one bank in Great Barrington, and that is the Mahawie Bank; I can remember without a memorandum that it was a Mahawie bank note; cannot remember it in letter; put no private mark upon it; I put the two notes in an envelope, sealed it up, and put the letter in a wrapper; it was about seven o'clock in the morning; the record of the letter is in my handwriting; made the entry before putting the wrapper on the letter; I then put the letter in a box containing letters for the west; these letters were to be put in the mail bag; the putting the letter in that box is the last knowledge I have of the letter; can't tell who, myself, my father, or the clerk, put the letter in the mail bag that day; don't know how far it is from Monterey to Harrison Valley; if the letter started from our office, it went to Great Barrington where the bag was overhauled; from there it was sent to Albany or New York and thence it was again overhauled; it would probably be three hauled a dozen times before it got to Harrison Valley; each letter would pass through a great many hands; it would be the work of an instant to take the wrapper off, I would not be able to tell by its weight whether or not a letter of single postage contained notes; [Register No. 806 Mahawie Bank, $50 to Nathaniel Hubbard, Harrison Valley, Potter county, Pa.]

Judge Shaler offered the book No. 806 Mahawie Bank, $50 to Hubbard.

Col. Black objected on the ground that the note was dated too late.

The Court said the proof was sufficient to allow the note to go to the jury.

Nathaniel Hubbard testified—I reside in Harrison tp., Potter county, on the P. O. is called Harrison Valley; Hollis Hastings was P. M. in June, 1854; I did not receive a letter in June, '54 from Oliver Judd, containing two $50 notes; I made inquiry of such a letter at Harrison Valley; inquired a number of times; had conversation with Mr. Cummings with regard to it; he always told me you must letter that came; the first time I made inquiry he said he had sent off his regrets to the Defendant; the next time I made inquiry I saw a register in his desk and pointed to it; he then said, he had a record but none of the month of June, 1854; I think the register of May was there; I thought perhaps the letter had come to the office, and gone into the hands of some of my neighbors and been lost; but Cummings persisted in saying no such letter had come to the office.

Judge Shaler.—Did you receive a letter informing you that a letter containing the notes had been sent?

Col. Black objected to the testimony as hearsay and irrelevant.

The Court admitted the question.

Witness—I received information that such a letter had been forwarded to me and that induced me to make these inquiries. I employed John L. Tryon to assist me in finding whether such a letter had been received at the office; also engaged others to be on the lookout for such bills as had been sent out; I had received information as to the amount, number and bank of the bills; told the Mr. Tryon about the 20th of October I had learned that Tryon and others and Cummings were going West; they went away together; I have no knowledge of the note myself except from seeing it at the former trial; I put my name on it then, this is the same note.

Cross examined—A number of my neighbors were going west; I heard Cummings was going also; the fact of their going was openly talked of in the neighborhood; their object was to look for land in the west; there were three besides Cummings going west; Cummings' son P. M. in June, he acted in the office until October; when I first inquired of him about the letter, don't recollect that I told him it contained money, probably I did not; won't say for certain I told him where the letter came from; I inquired about the letter with a good deal of anxiety and pertinacity; he invariably replied that no such letter did come; the period during which Mr. Tryon, Mr. Fletcher, and Mr. Foxcraft, Henry Rogers testified, resided at Hornellsville, Steuben co. N. Y.; I got the ticket agent of the N. Y. and Erie R. R.; I was agent in October, 1854.

Judge Shaler.—Was there a $50 bank note on the Mahawie Bank offered you in that month?

Col. Black.—Is it proposed to show that any other note than the one laid in the indictment was offered?

Judge Shaler said he did propose to show that fact. He contended that although the note was not the same one laid in the indictment, it was not the same one laid in the indictment, it had been proved that two notes had been mailed, and to show that Cummings had passed another note than the one laid in the indictment of the same bank and denomination it would be strong corroborative testimony.

Col. Black objected on the ground that the note was not referred to in the indictment.

The Court admitted the testimony.

Witness—About the 20th of October, several persons came to my office, and one of them purchased four tickets to Detroit, saying he had a $50 note on the Mahawie Bank; could not recognize the person; sent the bill to New York.

Court adjourned till three o'clock.

AFTERNOON SESSION.

John L. Tryon testified—Live in Wisconsin; lived in Harrison Valley; knew Henry Cummings; came to Harrisville with him and Fletcher and Kortright; [Defendant objected to the testimony of the witness as to the declarations of Cummings, and the Court excluded it.] Cummings said he had to leave till he could get his money changed; we reached Detroit late at night, did nothing; we went to a broker's office; Cummings went in before me; I went to a clothing shop to buy a coat; after words met Cummings and he told me where he had got his money changed; we went to Jones and found one $50 bill on the Mahawie Bank; I went to Mr. Sprague's office, Attorney and Counsellor at Law; Cummings was present; I made an information against Cummings; I signed it; Mr. Sprague drafted it; I made it in Detroit; I am a regular citizen; I arrested Cummings, in the afternoon and took him to jail; next morning took him out for examination, brought him to this city and lodged him in jail; conversed with him in Detroit; he said we had got the right man, that he believed in destiny and he was destined to take the money, or to this way. In Pittsburgh he again spoke and produced a picture of a child and said the child was the cause of it all, that he had taken the money on account of the child; he spoke of Tryon and the others and said he did not know why they should act in this way.

Cross examined—I hold out no inducement to him to confess; I did not want to hear him, myself, although I was desirous to have him confess; I thought he was insane; he told me he produced the picture; the jailor also said he acted as though he was insane; it was the incoherent and wild manner of his conversation that led me to believe him insane.

Mr. Payne recalled—This $50 bill on the Mahawie Bank is a genuine note, worth its face at par. The Court here adjourned.

Morning.—Our readers will remember that Cummings was tried at the May Term on an indictment founded upon the other $50 bill alleged to have been stolen by him. He was found guilty, with a recommendation to the clemency of the Court. Col. Black made a motion in arrest of judgment on the ground that the indictment did not set forth that the note contained in the letter was of any value. The motion was not argued or acted on by the Court, as there was another indictment against Cummings in which the value of the note was set forth, and upon this indictment the present trial is based. The case has excited considerable interest, and has cost the United States a round sum of several thousand dollars. Witnesses are present from Wisconsin, Michigan, New York, Massachusetts and Pennsylvania.

Supreme Court.

Before Chief Justice Lewis &c.

WEDNESDAY, Oct. 17, 1855.—Judge Woodward arrived and took his seat after the argument of Commonwealth vs. Delaney.

The Hon. Gayford Church called the attention of the Court to the fact, that in the case of Masters vs. Blair, the specification of errors could not be found. Mr. Derickson replied that he believed, it was not could since the Star was accessible to all employed in the office after 1 o'clock. I searched the notes along with a number of other papers in the drawer, it was two or three hours before I got looked at it during this time the drawer was accessible to others. I marked on the notes in the Court Room after Cummings was arrested. I put my initials on the note in order to identify it here.

C. W. Sprague testified—I reside in Detroit; am a regular citizen. I arrested Cummings, in the afternoon and took him to jail; next morning took him out for examination, brought him to this city and lodged him in jail; conversed with him in Detroit; he said we had got the right man, that he believed in destiny and he was destined to take the money, or to this way. In Pittsburgh he again spoke and produced a picture of a child and said the child was the cause of it all, that he had taken the money on account of the child; he spoke of Tryon and the others and said he did not know why they should act in this way.

Cross examined—I held out no inducement to him to confess; I did not want to hear him, myself, although I was desirous to have him confess; I thought he was insane; he told me he produced the picture; the jailor also said he acted as though he was insane; it was the incoherent and wild manner of his conversation that led me to believe him insane.

Mr. Payne recalled—This $50 bill on the Mahawie Bank is a genuine note, worth its face at par. The Court here adjourned.

Morning.—Our readers will remember that Cummings was tried at the May Term on an indictment founded upon the other $50 bill alleged to have been stolen by him. He was found guilty, with a recommendation to the clemency of the Court. Col. Black made a motion in arrest of judgment on the ground that the indictment did not set forth that the note contained in the letter was of any value. The motion was not argued or acted on by the Court, as there was another indictment against Cummings in which the value of the note was set forth, and upon this indictment the present trial is based. The case has excited considerable interest, and has cost the United States a round sum of several thousand dollars. Witnesses are present from Wisconsin, Michigan, New York, Massachusetts and Pennsylvania.

Supreme Court.

Before Judges Lewis, Adams and Rogers.

WEDNESDAY, Oct. 17, 1855.

Commonwealth vs. Patrick, Michael and John Wyles, indicted for the larceny of a pocket book, the property of Edward M'Tiernan. The pocket book was said to have contained over $500 in money and checks. The defendants were acquitted.

Commonwealth vs. Hyram Stevenson indicted for obtaining goods under false pretences, on oath of Francis Cooley. Verdict not guilty.

Commonwealth vs. Samuel Iggleson, William M'Coy and Alexander Kidd, indictment riot and assault and battery on oath of Robson Lyle. The prosecutrix testified that she lives about seven miles from the city, on the Braddock's Field Plankroad; Mr. Iggleson, that the defendants came to her house on the night of the 12th of April, and abused her and upset everything in the house, doing considerable damage to the building. Kidd was not on trial, having forfeited his recognances. The parties were tried at the June Term, on the same charge; on oath of Mr. Thompson; was present at the door to Mrs. Lytle, who, suffered at the hands of the defendants; Iggleson was convicted at that time of riot and assault and battery with intent to kill, but the other parties were not then arrested, but M'Coy was now in custody, and the jury convicted him of riot and Iggleson of assault and battery. The Court then remanded the prisoners.

Mr. Reed for Iggleson, said that the people of the community were very excited was not safe so long as they were at large. Iggleson was sentenced to two years imprisonment in the Western Penitentiary, on the indictment at June term, and M'Coy was also sentenced to the Penitentiary for the same length of time. The Court added that they might both better leave the country for their own interests as soon as the terms of their imprisonment had expired, as they were dangerous men, and if the judge was living at the time, Iggleson would inquirely be sentenced on the conviction this day for assault and battery.

Commonwealth vs. Mary Kelly, indictment for keeping a bawdy house, on oath of William Hukeeping a bawdy house, on oath of William Hukeeping a bawdy house, on oath of William Huke