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VOL. XXXVII. NO. 50. SOMERSET, PA., WEDNESDAY, JUNE 5, 1889. WHOLE NO. 1977.

CRIMINAL COURT.

TRIAL OF THE FAYETTE COUNTY BANDITS

For Robbing and Torturing Christian Yoder

Their Motion for a Severance and a Change of Venue Refused by the Court.

Full Report of the Evidence Produced and Portraits of The McClellandtown Gang.

HIER AND BRODERICK ACQUITTED ON A CHARGE OF STEALING PEANUTS AND CANDY.

The Town Crowded with Strangers and the Court Room Packed to Suffocation.

Full Details and Graphic Descriptions of Interesting Features of all Cases Tried.

"Christly" Yoder Takes The Stand.

[The HERALD of 29th inst., contained a full account of the proceedings of the criminal court now in session, up to Tuesday morning. The great interest taken by people from all sections in the important cases on trial leads us to devote a very large amount of space to the proceedings of the court.]

Ever since the story of the capture and imprisonment of the "McClellandtown gang" was so graphically told in the HERALD, we have been in almost daily receipt of requests from different parts of the county to "print the pictures of the gang." The prisoners were not anxious to be portrayed and refused all of our solicitation for their photographs. But the HERALD, always a firm believer in newspaper enterprise and solicitous that every reasonable request of its patrons should be gratified, has employed a special artist to visit the jail and make sketches of some of the more prominent prisoners. This portrait of

CHARLES J. LEWIS

THE CELEBRATED LEADER OF THE FAMOUS McCLELLANDTOWN GANG,

is so lifelike that any one who has ever seen the original will recognize it at a glance. Probably the most astonished man of all who will see this picture will be Lewis himself, and he will now understand what the neatly dressed and pleasant-spoken gentleman, who interviewed him a few days since, with a card in his hand, on which he seemed to occasionally drop the point of his lead pencil as if to give emphasis to some remark, was after.

Our artist caught the phiz of Tasker during the hearing in the *habeas corpus* and drew the Sullivans from hasty notes made while visiting the jail.

When the SOMERSET HERALD, way back when the century was young, the good year 1827, made its modest bow to the people of Somerset county its editors in their wildest dreams for the prosperity of the child of their brain probably never thought that the day would come when it would contain more matter in two columns than was then published in their entire paper. Imagine their surprise on being told that the news of the farthermost parts of the earth would be caught up each week and laid before the HERALD's readers. That the happenings in New York, Philadelphia, Pittsburgh and Washington on Tuesday would be spread before the readers of the HERALD on Wednesday morning. That happenings in Europe that they thought news if received within six months would now be considered stale, even in the mountains of Somerset, if printed six days after they transpired. If they ever dreamed of such a thing as a daily paper it was as of something as immeasurably distant as the milky way, as dim as a glimpse of the angel within the pearly gates. "Behold what a wonder God hath wrought." The lightnings have been chained and the daily events of one continent are flashed beneath the seas to the other. Farther India and the continent of the Pacific, figuratively, reach out their hands to grasp those of the giant liberty that has built himself an permanent abiding place on the shores first disclosed to Columbus of sturdy faith. The monster steam, controlled and regulated, rushes from ocean to ocean, distributing from palaces on wheels the missives of business and of pleasure that are sent on daily journeys that were once thought a life's pilgrimage. The printing presses now print as many hundred copies in a minute as they printed single copies then. The HERALD has kept pace with the progress of the times, with the achievements of the age. From a small sheet scarcely larger than the present sheet of foolscap and containing fewer words than are now to be found in one of its columns, it has gone on until it is now one of the largest, one of the best, one of the newsiest, neatest and most popular weeklies in the State. Rivals have risen and waxed and waned, but the HERALD ever mindful of the motto of its founders "Country before party and party before self" has steadily pursued its way, advocating the right, and denouncing the wrong. With what success let its subscription list, the largest ever enjoyed by any paper in the county, answer. This week it makes a new departure. Unwilling that the particulars of the important causes now on trial in our county courts should reach the people of the county by way of "Robin Hood's barn" it will issue a daily during the sitting of the court and hopes that the day will soon dawn when the improved mail facilities of the county will enable it to be as welcome a daily as it now is a weekly visitor to the homes of the people of Somerset county.

As all anticipated the multitudes are here—here from every section of the county—here from Cambria, from Westmoreland and Fayette counties—here even from border sections of both West Virginia and Maryland—here in such numbers as to fill houses, stores, shops, offices and streets. And, yet, vast as the crowd now is, it will be greatly enlarged when the great murder and robbery trials will take place. Our houses of public entertainment—the Somerset, West End and the Commercial hotels are taxed to their utmost capacity seemingly to accommodate their hundreds of guests; and yet their proprietors say they can still find room for more. Like omnibuses and street railway cars they are never too full not to take in a few more.

Thus far, up to Tuesday afternoon, court's time has been taken up by disposing of several minor cases—minor in point of comparison with the big ones in reserve. The most interesting one disposed of is that of the Commonwealth against Mr. Clark Benford, one of our popular druggists. On the side of the Commonwealth some dozen or fifteen men who were suspected of buying liquor at Mr. B's. store took the stand as witnesses.

Their examination, and the two speeches of opposing counsel took up nearly all of Monday's afternoon and Tuesday's forenoon session. The Judges charge was delivered immediately after court met on Tuesday, at 1:30.

Never in the annals of Somerset County court has greater interest been manifested than is now witnessed. Before the bell had ceased ringing every seat, not only in the body of the court-room, but all in the gallery were filled this (Wednesday) morning. And then aisles and doorways were packed by hundreds of interested spectators, who patiently stood through the three and a half hours of the tedious work of examining witnesses in the Yoder robbery case.

As on yesterday, when the eight implicated men were marched in by the sheriff and his deputies, everybody was anxious to see them. Yesterday's view of them, and to-day's several hours of observation of them in the court room did not satisfy the public curiosity, as upon adjournment hundreds rushed to the Court House yard and formed two solid columns from Court House door to the jail, through which the wretched "observed of all observers" had to pass. If, in addition to their other ways and methods of attracting public attention they aspire to additional notoriety, they surely ought to be more than satisfied with their marches to and from the old jail.

During the hearing of some dozen or so witnesses for the prosecution, seemingly the most unconcerned men in the Court Room were the eight men arraigned for committing the offense. Not once did one of them betray the slightest evidence of fear or apprehension. If, as some people used to believe, that guilt will show itself in the countenance when confronted with positive evidence, then the irresistible conclusion must be that those eight prisoners are as innocent as new-born babes, as no betrayal of guilt is perceptible in their looks or appearance.

Even under the harrowing details as sworn to by Mr. Stevanus, the man bound in ropes at the time of the robbery, and by Miss Anna Baker, the girl working at the time at Mr. Yoder's, they all looked and acted as though they were less interested in the case than any other person in the room. Nor did Christian Yoder's simple and straight-forward story of the terrible injuries inflicted upon him by men little less than demons, move them in the least degree. Though four of them were pointed out and referred to by name by several of the witnesses, not one of them manifested a particle of embarrassment.

Mr. Stevanus, the first witness, and who felt the effects of the ropes tied around and about him, is an average intelligent looking man, seemingly about 45 years old. He gave in his testimony in a clear and distinct manner, and suffered no confusion on cross examination.

Miss Anna Baker, another of the rope's victims, is a young lady, of more than ordinary strength of character, and knew what to say, how to say it, and when and where to say it. Her testimony was right to the point, with no break or semblance of rambling. In identifying her stockings that had been stolen she proved herself to be much more than a match for her cross-examiners. Withal she is a rather fine looking, modest lady whose appearance and demeanor on the stand made a favorable impression on the vast audience that gave her every answer marked attention.

The first case called Tuesday morning was that of the Commonwealth vs. Thomas Hier and Michael Broderick, the two boys charged with the larceny of a lot of candy and peanuts from a Baltimore & Ohio Railroad car, standing on the siding at Salisbury Junction.

Mr. Habel, the agent of the B. & O. R. R. at Salisbury Junction, was the first witness called and testified that he saw the defendants the morning of their arrest. The car was locked on the previous evening. In the morning the car was found to have been broken open. A pail of candy and a barrel of peanuts had been tampered with and some of their contents taken.

On cross-examination he said that the car was on a side track 90 feet from the station. Didn't know who took the candy or nuts.

F. U. Dougherty lives at Meyersdale and is Assistant Agent of the B. & O. R. R. at Salisbury Junction. He saw the car and locked it on the previous evening. Four or five pounds of candy and a quantity of peanuts were taken. Saw defendants after their arrest. Did not see boys take the stolen articles.

M. Costelo the next witness, lives at Meyersdale and is a brakeman. He saw the prisoners on the 15th of May; they came down the road on the same train with him; they had been switched off from the main track the previous night and had slept in a box car. Did not see the boys in the car or have candy and nuts.

Fred Mickey, the next witness, is a laborer in the employ of the B. & O. R. R. Company, and testified that he had seen the prisoners in the box car and had tried to catch them; that when he thought he had them, the little fellow jumped out of his coat and that he had got it. The coat was here shown and identified.

F. O. Dupont, the car inspector, testified that he had arrested the boys and that they had resisted.

The Commonwealth offered a motion to amend the indictment by striking out the B. & O. R. R. company as owners of the stolen property and insert the name of D. M. Dively & Co. Motion admitted and Commonwealth rested.

The defense made a motion for a non suit which was overruled, after which Thomas Hier, one of the prisoners, was put upon the witness stand and told the jury that he was 15 years old and lived in Pittsburgh. He got on the box car at Rockwood and went to sleep. A man saw them and he jumped out and ran. Did not break the car open and did not take anything. Intended to go to Cumberland. Has been in jail here two weeks. Went from Pittsburgh to Rockwood in a freight train because we had no money. Said before the Justice that we slept in a barn; said it because he was scared and admitted that he had lied to the Justice.

Michael Broderick, the other prisoner testified that he got into the box car at Rockwood, with two bums; is 17 years old, and lives in Pittsburgh; jumped in another car at Salisbury junction, but was not in ten minutes; don't know who took candy and nuts; was going to Cumberland to get a job; saw two men get out of car in which candy and nuts were; changed car, hoping to find a fire; didn't take any candy.

John G. Ogle, in his address, said there was a distinction between burglary and larceny; the prosecution has abandoned the burglary charge, and seek to convict on larceny. Witnesses for prosecution had failed to show anything connecting prisoners with the theft; not one of them said the boys took the articles; even if they, being hungry, did take a little candy and a few peanuts, who would say they should be put behind iron bars for months? He illustrated taking from necessity by reading the Scriptural incident of how the Saviour and Disciples ate corn when passing through a field, and only pharisees condemned them. There is that in man that will lead him to seek nourishment; it is so now, and always has been, and always will be; the idea of the B. & O. Railroad arresting two little boys and trying to send them to prison for five pounds of candy and a handful of peanuts was absurd.

The District Attorney said the B. & O. Railroad was as much entitled to protection as any other corporation or individual. The value of the goods taken has nothing to do with the offense alleged. Crimes are not usually measured by the amount taken. The question simply is, was it a theft, and were these prisoners the thieves? Remember, these tramps stealing rides on cars without any plausible reason are the most dangerous element of general society. The presumption is that these boys, being found in the broken open car, and jumping off and trying to escape when discovered, are the parties who did the stealing.

The Judge charged the jury that the question was simply guilty or not guilty, as to larceny; that as a jury they must weigh the testimony and ascertain, not who broke open the car, but who took the candy and peanuts? None of the goods were found on the boys—the mere fact that the boys were in the car is no proof that they took the goods. The Commonwealth must prove the boys took the goods. To convict you must be satisfied beyond a reasonable doubt that the boys stole the goods.

The jury having gone to their room for deliberation, the jury in the case of Commonwealth vs. C. H. Benford was called into the box. The testimony in this case was published in last week's HERALD. The argument which had been postponed was opened by the counsel for the defense, after submitting the following points to the court:

1. That there can be no conviction in this case for selling liquor without license, inasmuch as the act of May 1887, provides that druggists and apothecaries shall not be required to have licenses under the revision of this act; and the uncontradicted evidence shows that the defendant was a druggist having a certificate of competency from the State Pharmaceutical Examining Board, the verdict must be not guilty.

2. That as there is no count in the indictment charging the defendant as a druggist with any violation of the statute, the verdict must be not guilty.

The court refused to affirm the points and said: "The two points raise a question whether on this indictment the defendant could be convicted. The points are refused, and the question of law will be duly considered on a future motion if necessary."

Mr. Koontz addressed the jury at length saying that under existing laws certain persons are allowed to sell spirituous and vinous liquors under certain restrictions and qualifications. He then took up the evidence of several witnesses claiming that not one of them sustained the charges of the Commonwealth. He was particularly severe in his criticism on the attempt to convict on such testimony as was offered. He held that Holbert's evidence amounted to nothing in view, 1st, of his own admitted condition for the three months specified; 2d. Because of his connection with Mr. Benford as his counsel; 3rd. Because of the personal difficulty now between them involving a suit in court.

Val. Hay commented at large on the evidence, ridiculing the idea that the admixtures were bought as medicine—and especially in such quantities as ½ pint, 1 pint, etc. Said "Doctors' prescriptions" was simply a dodge to get whisky. In commenting on Holbert's evidence which was so severely criticised by opposing counsel, said he was now a reformed man and his evidence was entitled to full credence, and though not on friendly terms with Benford at present it does not follow that he would perjure himself in this or any other case, being an honorable member of this bar.

The jury in the Hier and Broderick cases returned a verdict of not guilty. The Court gave the boys some sound advice in regard to stealing railroad rides; told them to try and get honest work and discharged them.

Adjourned to 1:30 p. m.

AFTERNOON SESSION.

Judges charge in Benford case:

The indictment contains five counts. The act of 1887, 16th section, provides that druggists are not required to procure licenses, but shall not sell liquor except for medicinal or mechanical purposes, and that it shall only be sold for medicine on a physician's prescription and not more than once on the same prescription. If he sold only on such prescription he could not be convicted. If he sold whiskey with medicine, and sold as medicine, he could not be convicted. Second count was thrown out. 3d. Selling to one visibly effected by liquor. If there was any evidence of such sales he could be convicted. 4th. Selling on Sunday: You must determine from all the evidence. 5th count: Prosecuted as a druggist. Thrown out.

The defendant is entitled to the benefit of a reasonable doubt. As to the question of costs, if you acquit the defendant then you must decide who shall pay the costs, the county or the defendant.

A true bill having been found against James M. Boyer for F. & B., on information of Lizzie Kennel, he plead guilty and was sentenced to pay a fine of $25.00, costs of prosecution, $15 for lying in expenses, and $9.75 per quarter for a period of three years; and be required to enter into approved bonds. Both these parties hail from Southampton township.

At the close of the Boyer case it was decided to continue the entire civil list down for trial next week.

LEWIS'S RIGHT-HAND MAN.

JACKSON P. SULLIVAN.

Long before the bell rang for Court to assemble this (Wednesday) morning, our streets were crowded with pedestrians wending their way toward the Court House, so that when the doors were opened they might be sure of gaining admittance ere it became an impossibility, owing to the crowd being too great for the room. Scarcely five minutes elapsed after the doors were thrown open until every seat, as well as every available standing space was occupied, the anxiety being to hear the trial of the McClellandtown gang for the Yoder robbery. As soon as court was convened the prisoners were brought in and seated around the table of their counsel, and in front of the judges' stand. In appearance they all looked neat and trim, apparently content. Lewis being the leader, was frequently consulted by the attorneys for the defense in their cross-examination of the Commonwealth's witnesses.

Seated at the table of the counsel for the prosecution was old man Yoder whom base, heartless and cruel wretches so cruelly tortured and robbed on the 13th of April last. All eyes seemed to be turned toward the old man whose long, snow-white hair and beard, and mild blue eye and pleasing face render his appearance venerable, and would impress one with the truthfulness of the oft repeated assertion that Mr. Yoder "Is at peace with all the world." He is sixty-five years of age and when he was asked to take his place in the witness' stand he was sworn for the first time in his life in a court of justice, and told in a clear and concise manner of the horrible torture he underwent on that memorable occasion, after he had peaceably given up all the money he had in his possession.

THE "McCLELLANDTOWN GANG" IN COURT.

TRIAL OF THE VILLAINS WHO ROBBED AND TORTURED "CHRISTLY" YODER.

The Court asked the District Attorney what case he elected to try next, and that officer asked to have the case of Commonwealth vs. Lewis et. al., taken up. The Sheriff was notified and promptly brought into Court Charles J. Lewis, Jackson P. Sullivan, Marshall Sullivan, Decatur Tasker, Grant Dean, Wm. Hill, Jerrymanus Thomas, Clarence Andrews. The prisoners were shaved, washed, decently dressed, and presented a passably respectable appearance, without the least evidence of embarrassment, notwithstanding they were the focus of so many hundreds of eyes.

Mr. Holbert objected to this case being taken up at this time on account of the absence of material witnesses and asked for an attachment for witnesses and a continuance of the case. Attachment awarded for Henry Apel and Nettie Sullivan, and continuance of trial refused.

Messrs. Uhl and Holbert of counsel for defense then filed the following motion for a change of venue.

Commonwealth of Pa., vs. Chas. J. Lewis, et. al. } No. 5, May T., 1889, O. & T. Burglary.

To the Honorable the Judges of the Court of Oyer and Terminer and General Jail Delivery, for the county of Somerset, State of Pennsylvania.

The defendants in the above case by their attorneys, John H. Uhl and A. C. Holbert, come into court, this the —— day of May, A. D., 1889, and pray the Court that a *change of venue*, may be granted in said case for the following reasons:

1st. In the county where the crime was committed for which the defendants stand indicted, to wit: The county of Somerset aforesaid, undue excitement prevails against the said defendants; and in consequence of such prevailing excitement, the defendants aforesaid will be unable to secure a fair and impartial trial.

2nd. In the county of Somerset aforesaid, to wit: The county in which the offense for which the defendants stand indicted, as aforesaid, was committed, there exists so great a prejudice against the defendants aforesaid, that they cannot obtain a fair trial.

3. In the county in which the offense for which defendants stand indicted was committed, as aforesaid, there exists a combination against said defendants, instigated by influential persons, by reason of which combination the defendants aforesaid cannot obtain a fair trial. They therefore pray that the case may be removed to another county in which such prejudice, etc., do not exist, and they will ever pray, &c.

C. J. LEWIS,
J. P. SULLIVAN,
MARSHAL SULLIVAN,
his
DECATUR X TASKER
mark
GRANT DEAN,
WM. HILL,
his
JERRYMANUS X THOMAS,
mark
CLARENCE B. ANDERSON.

Sworn and subscribed before me, this the 23d day of May, A. D. 1889.
D. J. HORNER, Proth'y.

ORDER OF THE COURT.

The application to change venue is refused; the Court is not satisfied from anything appearing that undue excitement exists against the prisoners and that no fair trial can be had in the county.
28 May, 1889. PER CURIAM.

MOTION FOR A SEVERANCE FILED.

Counsel for the defense then filed the following motion, asking that the prisoners be tried separately:

Commonwealth of Pa., vs. C. J. Lewis and others. } No. 5, May T., 1889, O. & T. Burglary.

To the Honorable, the Judges of the Court of Oyer and Terminer for Somerset County, Pa.

And now to-wit the — day of May, A. D. 1889. The above named defendants by their attorneys, John H. Uhl and A. C. Holbert, come, and each, for himself, pray the Court that he may be severed from the other defendants named, and that a separate trial may be awarded for the following reasons:

1st. The defense of the defendant's respectively, rests upon different grounds, to be made out by different witnesses and no one of them can be tried jointly with another or with the rest without working great damage and injury to him so joined.

2nd. Every man is presumed innocent until he is proved guilty, and to try any one of your petitioners jointly with another, or with the other Defts. will be to strengthen in the eyes of the jury, the case of the Commonwealth, and in a still greater degree to weaken the force of the defense of any defendant so joined.

3rd. The Commonwealth must make out her case beyond a reasonable doubt, and a joint trial of any one defendant with another, or with the others, will strengthen the hands of the Commonwealth upon whom is placed the burden of proof, and who, in a case of such gravity as this, fraught with such importance to the defendants should be able to make out a case of guilt without the aid of a factions strength lent her by a joinder of defendants or any of them.

4th. There are many witnesses testifying to a contrariety of circumstances; these on behalf of one defendant those in favor of another. In case of a joinder of one defendant with another, or with all the others, great harm, injury, hurt and prejudice must be wrought to the defendants. They therefore pray for severance, and would ever pray &c.

C. J. Lewis,
J. P. Sullivan,
Marshall Sullivan,
his
Decatur X Tasker,
mark
Grant Dean,
his
Jerrymanus X Thomas,
mark
Clarence B. Anderson,
Wm. Hill.

Sworn and subscribed before me this the 23rd, day of May, A. D., 1889.
D. J. HORNER, Prothonotary.

We the subscribers, the counsel for the defendants named in the within petition, do hereby certify and declare upon our honor as attorneys that in our opinions, after careful examination of the cases of the respective defendants, the justice of the above case requires that the defendants should be tried separately for the reasons that have been put forth, as well as for the additional reason that the defenses clash and if there should be a joinder of defendants, or any of them, there must be matter brought in behalf of one that will be to the prejudice of the others.
A. C. HOLBERT,
John H. UHL,
May 23, 1889. Attorneys for Defendants.

ORDER OF THE COURT.

May 28th, 1889.

Messrs. Holbert and Uhl appear for all the defendants. The motion to sever is refused. Per Curiam
W. J. BAER, P. J.

The counsel for the Nicely brothers filed a motion asking that the case against the Nicely's be taken up before the case of Lewis, et al. The Commonwealth opposing this motion was overruled and the Yoder case ordered for trial.

SELECTING A JURY.

The Prosecuting Attorney then read the indictment to the prisoners who separately and jointly plead "not guilty."

The Clerk was instructed to call a jury. As each juror's name was called he was sworn or affirmed and interrogated as to his eligibility to serve in the case before the court. The following gentlemen were called:

Nelson Baker.—Read the HERALD and from what it said had partially made up his mind but thought he could go into the box and decide the case according to the evidence. Challenged by the defense.

Jere S. Miller.—Read about the case but formed no opinion of the guilt or innocence of the prisoners. Read the HERALD. Received no letters in regard to the case and am not related to Mr. Yoder or U. M. Miller. Challenged by defense.

Fred. F. Walker.—Have read and heard about the case but have not made up or expressed an opinion in regard to the guilt or innocence of the prisoners. Challenged by the defense.

Jerome Dickey.—Have read and heard a good bit in regard to this case, and have made up my mind as to the guilt or innocence of the prisoners, but notwithstanding this could go into the jury box and decide the case according to the evidence. Challenged by the defense.

A. Chamberlain called, but did not answer.

Wilson Hawn.—Heard and read about the case, but have not formed or expressed an opinion. Live about three miles from Mr. Yoder's. There was a good deal of excitement in our neighborhood about the matter. Challenged by the defense.

W. H. Walter.—Live at Centreville; have read about the case and heard a good deal, but could render a verdict in accordance with the evidence; am not related to Yoder. Accepted.

Joseph C. Hoffman.—Opinion formed that could not be shaken.

Francis May.—Have read all about the case, but could go into the jury box and render a verdict in accordance with the evidence. Accepted.

Jonathan Snyder.—Stood aside by the Commonwealth.

Moses Barron.—Have read a good deal about this case but could go into the box and render a verdict in accordance with the evidence in the case. Accepted.

Henry W. Saylor.—Have read and heard very much about this case. Challenged by the defense.

Ephraim D. Miller.—Have heard and read all about the case but could render a verdict according to the evidence. Am related to Mr. Miller. Not accepted.

John Fisher.—Have not read a great deal about the case; have heard a little about it. Could render a verdict in accordance with the evidence. Challenged by defense.

John Shane.—Read a good deal about the case, but have not made up my mind as to the guilt or innocence of the parties. Stood aside by the Commonwealth.

Wm. Ferner.—Have read and heard all about the case; could form a judgment on the evidence. Challenged by defense.

Cyrus W. File.—Have read about the case but have not made up my mind as to the guilt or innocence of the parties. Challenged by defense.

John Marteeny.—Have read a good bit about this case and have talked a good deal about it, but have not particularly made up my mind. I don't think I could go into the jury box and render an impartial verdict. Challenged for cause.

Jeremiah J. Livengood.—Have heard a good deal of talk about this case, but notwithstanding this I think I could go into the jury box and render an impartial verdict according to the evidence. No one has written me or visited me in regard to this cause since I have been summoned as a juror. Challenged by the defense.

George Cramer—Have heard considerable about this case, but don't know that I have expressed an opinion. Stood aside by Commonwealth.

J. H. Lowry—Read what was published in Meyersdale *Commercial* and have heard some talk about this case. Could go into the jury box and render an impartial verdict. Stood aside by the Commonwealth.

Henry C. Shaffer.—I have heard about this case, but have not made up or expressed an opinion. I read the news papers. I think I could go into the jury box and render a verdict according to the evidence. Accepted and sworn.

John Geisel—I have heard some of this case, but have not formed an opinion. I stopped my newspaper before this occurred. Accepted and affirmed.

Philip Weisel.—Read nothing, and heard nothing about the case. Stood aside by the Commonwealth.

Luther Dull.—Have read about the case, but have not made up any particular opinion. I think, after hearing the testimony in the case, I could render an impartial verdict. Challenged for cause.

Frederick R. Shaffer.—Have read nothing, but have heard a little about this case. Stood aside by the Commonwealth.

David J. Wolfersberger.—Haven't read very much but have heard a good bit about this case. Have partly made up my mind but could render an impartial verdict. Am a carpenter and live in Rockwood. Challenged by defense.

E. J. Augustine.—Have heard and read a great deal about the case but think I could render an impartial verdict after hearing the evidence. Challenged by defense.

J. J. Shaffer.—Had not made up his mind or expressed an opinion. Accepted.

J. F. Kautz.—Have expressed an opinion in regard to the guilt or innocence of the prisoners, but think I could render an impartial verdict after hearing the evidence. Accepted.

John Endsley.—Have heard a good bit, and have made up my mind; could not go into the jury box and render an impartial verdict. Challenged for cause.

Chas. W. Weigle.—Had heard of the case, but had expressed no opinion. Accepted and affirmed.

H. S. Walter.—Have heard and read about the case, but have not made up my mind as to the guilt or innocence of the prisoners. Challenged by defense.

Henry Bockes.—Have not made up my mind in regard to this case. Am a farmer and live four or five miles from Mr. Yoder. Read the accounts in the newspapers of the *habeas corpus* hearing. Challenged by defense.

Frank Granger.—Have read about this case, and to some extent, have formed an opinion. Think I could render an impartial verdict, notwithstanding. Challenged by defense.

John R. Turner.—Haven't made or expressed an opinion as to the guilt or innocence of the defendants. Accepted and affirmed the as ninth juror.

John G. Bryer.—Have heard and read a good deal about this case, but have not formed any particular opinion. I guess I could render an impartial verdict. Challenged by the defense.

A. J. Boose.—Had read different accounts in different papers, but thought he would be governed by the evidence; was at Meyersdale at the time "those gentlemen" were in the lockup. Challenged by the defense.

John Frease.—Read the HERALD and Pittsburgh *Times*; have not made up or expressed an opinion. Accepted and affirmed as the tenth juror.

G. W. Baush, Jr.—Have read about the case, but have not made up an opinion; there is a good bit of talk in regard to the case in our section of the county. Accepted.

Jeremiah Henry.—Heard nothing of the case. Stood aside by the Commonwealth.

L. D. Sine.—Have not made up or expressed an opinion; do not know any of the defendants; have lived in Shade township for about 14 years; am in the lumber business. Challenged by the defense.

Benjamin Blough.—Have read a little about the case but have not made up my mind as to the guilt or innocence of the prisoners. Accepted and sworn as the twelfth juror.

THE JURY

as finally selected consisted of Wm. H. Walter, Francis May, Moses Barron, Henry C. Shaffer, John Geisel, J. J. Shaffer, J. F. Kautz, C. W. Weigle, John R. Turner, John Frease, Geo. W. Baush, jr., and Benjamin Blough. There were forty-three jurors called and examined before the twelve to try the case were agreed upon.

MR. KOOSER OPENS THE CASE.

The case was opened by F. J. Kooser who said the Commonwealth would ask upon undoubted evidence a conviction of the prisoners for one of the most brutal robberies ever perpetrated within the bounds of Western Pennsylvania. The cruel assault upon Mr. Yoder and upon his aged wife and upon the young lady, a member of the family, were portrayed. He pointed out Lewis, Tasker and the Sullivan's as the criminals who would be clearly identified. He said they would prove that Lewis and Tasker took supper at Yoder's a few days before to acquaint themselves with the house. Will prove when they came to the county, and when and where they left; also, will prove when arrested near Confluence they were in possession of various articles taken from Mr. Yoder. When arrested in Fayette county they were associated with the other prisoners now before the court under indictment.

Counsel for the defense asked that the jury be not allowed to separate and officers Theodore Kimmel and W. P. Huston were ordered to take charge of them until 8:30 o'clock Wednesday morning.

WEDNESDAY MORNING SESSION.

Immediately after the opening of the court the jury in the case of C. H. Benford, who was charged with violation of the liquor laws, returned a verdict of "Guilty in manner and form as indicted." The jury was polled, and all answered in the affirmative.

A motion for new trial was made, and postponed for further consideration.

THE YODER ROBBERY CASE.

Samuel Stevanus, the hired man who was bound and gagged at the time of the outrage on Christian Yoder was perpetrated, was the first witness called on behalf of the Commonwealth. We give below the substance of his testimony:

Live in Elklick township, and was staying with Christian Yoder on the 13th of April last; took supper there on that date; it was after dark; other persons were present—Ellen Baker, Fanny Wilhelm, Christian Yoder and wife. Mr. Yoder was sitting in the house with the doors closed when four men dropped in; two came in at the front door, and two at the back door; three of them were armed with revolvers; they first tied me, then tied Yoder; said they were after money and swore they would get it; Mr. Yoder told them the money was in a desk; they first went up stairs and commenced a search of the house; after this they went into the cellar and ate supper; one of the robbers then took Mr. Yoder into another room, afterwards took him to the barn; when they brought him back they asked him for an order for $400. Mr. Yoder answered in a voice very weak, from their having put a rope around his neck and drawn him up, that he could not write. One of them pulled out a revolver and said to me "keep silent, or we'll kill you." They then took Yoder out saying "lets take him out and kill the son of a bitch." When they brought him back Yoder was all bloody. They wanted me to tie the ladies. I refused. They then tied the women and said they would come back in about one half-hour and loosen us, but they didn't do so; they took hams, stockings; my boys untied me about 12 o'clock. Have seen the four men who were at Yoder's house on that night twice since and could identify them.

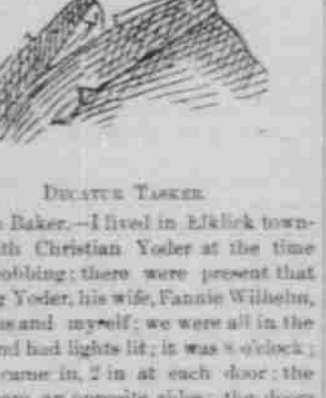
The witness being asked if he could identify the men now, walked up to the prisoners and pointed out Lewis, Tasker and the two Sullivans as the men who robbed Yoder.

I saw them when they were taken to Meyersdale for a hearing before the 'Squire. Lewis tied me; one of the Sullivans staid in the room when the others went out of the house.

The stolen articles were here shown to the witness and he said that the blocks of maple sugar were like some that Mr. Yoder had; he had made sugar of that kind himself for Yoder.

On cross-examination he said that he saw them first at Yoder's and next at Meyersdale; didn't say to Marshall Sullivan I don't recognize you; knew them all when I first saw them; wasn't so much scared as not to remember them; recognize Marshall Sullivan because he was in the house all the time; he had a mask on but I am able to recognize him from his general appearance and from his talk, from the way he sat in a stooping position; had hat on; I did not say to Marshall Sullivan I don't know you but said I never saw you before; I recognize Tasker from his general appearance, size, weight, etc.; saw the whole of Lewis' face, it was close to mine when he tied me; recognize Jackson Sullivan; would swear to him with or without moustache; was close to him; they all stood around me; didn't see the prisoners take the articles, but know they were taken that night, also that two horses were taken; saw money, over four hundred dollars, taken.

On re-direct examination he testified that Lewis had nothing on his face; Lewis was the leader.



DECATUR TASKER.

Ellen Baker.—I lived in Elklick township with Christian Yoder at the time of the robbing; there were present that evening Yoder, his wife, Fannie Wilhelm, Stevanus and myself; we were all in the room and had lights lit; it was 8 o'clock; 4 men came in, 2 in at each door; the doors were on opposite sides; the doors were closed, but not locked; three had revolvers and one had a club; they tied Stevanus and Yoder with their hands on their back; they said they wanted money; had cord in their pocket; they asked Yoder where the money was; he said it was in the desk drawer; they went there and got silver and greenbacks; I don't know how much; they went through the whole house; they took something belonging to me; four pairs of my stockings, two handkerchiefs and some jewelry they took; then they took Yoder out; three of them went out and the other one sat on the wood box, with a club, guarding us; when Yoder came in he didn't say what they done to him; afterwards they took him out again; when they brought him in he had marks on his neck where they hung him up and he spit blood; they got something to eat; three went to cellar and one guarded us with club; after they came back the other one went to the kitchen and got something to eat; they wanted Yoder to sign an order for $500 more; he said he would not, they had used him too rough; after that they tied me and Fannie Wilhelm; then they left at 12 o'clock and left us all tied in the room; I can identify my stockings; those stockings were there in the evening and next morning they were gone; I knit them and know them; I recognize Charles Lewis and Jack Sullivan; I don't identify any of the others; two of them had been there on Friday evening a week before at supper; Charles Lewis and Tasker were the ones that were there; they had no masks on then; they said they wanted to stay all night; Yoder would not keep them; they went away then.

Cross examined—Two of them had masks on when they entered; I can't pick those two out; the other two I know; I wasn't at Meyersdale and didn't see them there; Jack Sullivan had a handkerchief tied over his mouth and part of his nose; I recognize him by his eyes and the upper part of his face; I saw the money taken that was in the desk; I didn't see the stockings or other articles taken, except I saw one of them have a coverlet under his arm; I didn't recognize Tasker that evening, but he was there that evening; Marshall Sullivan was masked and I could not recognize him; I never saw Lewis and Jack Sullivan except the time of the robbery till yesterday; I am certain Lewis and Tasker were at the house before; they eat supper there; it was candle light when they eat supper; I was not there when they came in, they left by the back door; I was there when they left; they sat down to the table and eat; they offered to pay but Yoder would not take pay; I examined that bundle of stockings; four pairs of them are mine; I knit them myself of my own yarn and I recognize the yarn; it's home-made yarn that I got at home; the yarn of this one pair was white when I got it and I colored it red; I know the stripes I put in; that pair I just finished a few days before and they had never been washed; I know my knitting and my stripes; I am not mistaken; I know my own stockings; you can't find another pair exactly like these; these mittens are not mine; they were in this bundle also.

Re-direct—$80 of my money was taken from my trunk up stairs; it was in gold, greenbacks, and silver; I didn't see it taken, but saw it in the evening, and next morning it was gone.

"CHRISTLY" YODER TAKES THE STAND AND TELLS A HEART RENDING STORY OF THE DIABOLICAL TORTURE THE ROBBERS SUBJECTED HIM TO.

Christian Yoder, affirmed—I live in Elklick township; was home the evening of the 13th of April last; Stevanus, Miss Baker, Miss Wilhelm and my wife and myself were together in one room; the doors were shut but not locked; some men came in at the back door and some in front; I didn't see anything in their hands; they tied Stevanus and me; they had the cords in their pockets; I can't recollect what they said; they asked where my money was; they said, "Show me where you have your money;" I showed them; I saw them take it out; I can't tell how much it was; there was no gold in that drawer, but some gold was missing; they searched the house; I think I had $330 in twenty dollar gold pieces, and some other gold pieces, and that was gone next morning; after searching the house they took me to another room, laid me on the bed, and then applied something to me and to my throat to make me tell whether I had any more money; they then burned my thumbs with a candle; then they took me to the barn, into the feed room, and they hung me up; they didn't say anything; they hanged me with a rope up to a beam; they hanged me first by putting the rope in my mouth; (witness shows the jury) they pulled me up about a foot; after they left me down they took me to the house first and then took me out and hung me again; (shows by putting rope around his neck) they pulled me up about a foot; I didn't know anything about it while I was up; before they hung me up the last time, I said, "Let me alone; I never done anything against you;" then one said, "I think it's the best plan to burn the barn and all, so nobody else would find out what became of him;" they let me down then and I laid down and knew nothing of what took place for a good while; I think they set the hay on fire; it looked so to me; then they took me to the house again; I didn't know anything at all for a good while after they hanged me; then they took me in the house and asked me to sign an order for $400, and I told them I could not, I was too weak; I think they tied the women.

Two men lead me out to the barn by each arm; I was born in 1823, on the 20th of August; they wanted me to give the order to any man that had money; any man from whom they could get it; next morning I missed bacon, four hams, one pillow case, and it looked as if some sugar was taken, and a demijohn was missing; (shows moulds) these are my sugar moulds; this sugar looks like mine; there were chestnuts in the sack and next morning the sack and chestnuts were gone; a pillow slip of that size, in the room where the sugar was, was gone next morning; I had a demijohn like that; the two gray horses were gone next morning; they left between 12 and 1 o'clock; we were all tied when they left.

When they had me in the room on the bed, they said "We will put a bullet through your head and cut your throat, if you don't tell us where there is more money."

Cross examination.—The sugar moulds were not taken; the sugar looks like mine; I have a demijohn like that; I can't say positively the demijohn is mine; the chestnuts were gone after the parties went away, we had a pillow-slip like that; I can't say positively that is the one; I can't say exactly how much money was missing.

Fannie Wilhelm sworn—Was at Christian Yoder's the evening of the robbery; the robbers came in at the doors, two at each door; three had revolvers and the fourth a club; they tied Yoder's and Stevanus' hands behind their backs before they asked for money; Yoder told them where it was and they went and got it; then they searched the house; all ate something; three at first, then the other one; took Yoder into a room and in a few minutes afterwards took him out of doors; took him out a second time; his face was disfigured when I saw him again.

Annie Engle, sworn—Live in Elklick, about one mile from Yoder's; saw Lewis and Tasker on April 2nd at our house; sold them a dime's worth of apples; they laid down above our garden; went away and came back afterwards; saw Marshall Sullivan the afternoon of the robbery; he came to our house about 4 o'clock and wanted to buy bread and butter. We live on road leading to Yoder's.

Cross examination—I am positive as to the time and parties; people don't often come to buy of us; both Lewis and Sullivan came back, got dinner and paid 25 cents for it; know them as I would know you to-morrow.

TOO FLIP FOR HIM.

Re-direct examination—Saw Dean after the robbery; he said he was not with them, as they were too "flip" for him.

Re-cross-examination—He said he wanted to go with the robbers but that they were too "flip" for him; Grant Dean lived in Elklick for about three years.

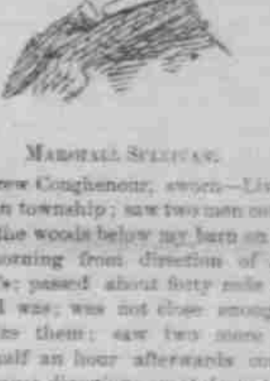
A. S. Maust.—Live in Elklick township; recognized two of the defendants—Lewis and Tasker; saw them on the 5th of April last; came to my house for supper; did not say they wanted to stay all night; took supper at the same table; have known Grant Dean for nearly two years; live in the same township.

Geo. Rubright.—Live at Summit Mills; about one mile from Yoder's; saw Lewis and Tasker on the 6th of April, between Summit Mills and Meyersdale going towards Meyersdale; also saw them afternoon of same day in Meyersdale; they were traveling on foot.

Wm. Brown.—Am 15 years old; live with W. P. Meyers, in Elklick township. Saw two men in the haymow, whom he identified as Lewis and Tasker, on one morning about a week before the robbery; could not say what day of the month; the little fellow asked me if there were any rich people living around here; the big fellow asked me how many hands my boss had working for him; I told him two; asked if he was rich; told him that he had a lot of cattle and sheep; they asked the road to Salisbury; said they wanted to get some work at Salisbury; did not say what they were doing in that part of the country.

Thos. B. Dean.—Live in Fayette co., S. E. corner, about 5 or 6 miles from Somerset county line; know Marshall Sullivan; he lives in part of the same house with me; he was living there on the 12th of last April; he was absent from home from Thursday until Monday, April 11th to 15th; came home Monday and went away again Monday or Tuesday night, about midnight, in a buggy; could not say who was with him; know Wm. Hill; saw Lewis and Tasker there two or three times; saw Jack Sullivan there once; told Hill he had better not have them around as he might get himself into trouble; Hill seemed to be afraid of them; did not see Thomas at Hill's.

John J. Davis—Living on the 12th of April at John Hanna's; saw two of the defendants—recognized as Lewis and Tasker—coming down the Somerfield road; they went up the hill, left the road and struck into the woods towards Walker's Mills; saw two other men follow them, but was not close enough to identify them; saw Lewis and Tasker again on Monday coming up the Confluence road; they were going in direction of Somerfield; each one of them had a sack over his shoulder; could not say what was in sacks, but looked as though it might be chestnuts or hickory nuts; was not along when they were arrested; did not know of the arrest until told by the women at the house; first heard of the robbery on Sunday.



MARSHALL SULLIVAN.

Andrew Coughenour, sworn—Live in Addison township; saw two men coming out of the woods below my barn on Friday morning from direction of John Hanna's; passed about forty rods from where I was; was not close enough to recognize them; saw two more men about half an hour afterwards coming from same direction; went down to the bridge to see them pass and recognize them as Lewis and Tasker; heard of the robbery the following Sunday.

C. C. Tissue, sworn—Live at Walker's Mills; saw four strangers come along on April 12th; two together and the other two following about half an hour afterwards; all were going in the direction of Harnedsville; could not recognize any of them.

Howard Wright, sworn—Live in Addison; on the 12th of April saw five men coming towards Harnedsville from Walker's Mills; thought I recognized one of them as Marshall Sullivan; am not personally acquainted with Sullivan, but have known him by sight for fifteen years; could not identify other parties; heard of the robbery Sunday; all were travelling on foot; saw Lewis and Tasker coming back Monday, April 15th; both had sacks on their backs.

Court adjourned to meet at 1:30 p. m.

AFTERNOON SESSION.

The Court met at 1:30 and the case was proceeded with.

Wm. H. Zufall, sworn—On the 12th of April last I was at Harnedsville; I saw some strangers coming into Harnedsville about 9 o'clock; they were separate—two at a time—coming from Walker's mill; I didn't know them; I recognize one of them, Marsh Sullivan; this was on the 12th of April last, about 9 o'clock; I don't positively recognize any of the others; the two first ones were going towards Confluence; the other two towards Ursina. Cross-examined—I had never known Marsh Sullivan; Howard Wright was working where I was and he said, "Here goes Marsh Sullivan; if it aint him it's somebody very much like him;" the Confluence road comes straight from Walker's mill through Confluence; the Ursina road turns to the right at the store; the men taking the Confluence road would be going pretty near at right angles to the direction of the others; Marsh Sullivan went with the party that went towards Confluence.

Theodore Engle affirmed—I live in Elklick township, about a mile from Yoder's; have seen Marshall Sullivan before; he was at my place 13 April last in the evening between 4 and 5 o'clock; he asked me for a loaf of bread, some meat and butter; he went south from my place, by the road leading to Yoder's; that's the only public road that leads to Yoder's.

Cross-examination—He wouldn't need to turn off the main road to go to Yoder's; he would take every left hand road to get to Yoder's; this is the direct road from my place to Salisbury.

James Bonnell sworn—I live in Elklick township, about 4 miles from the Forge road; on Sunday 14th April I was upon a farm three-fourth mile from Forge road; the road leads from Forge bridge over to Elklick and Yoder's; I saw a man about 4 miles from that road in the woods perhaps 2 miles from Forge bridge; I can't positively recognize that man here; he was not carrying anything.

Mrs. James Bonnell—Am the wife of the witness previously sworn; met three men on the road leading to Fort Hill; they wanted to know the road to Fort Hill; they were coming from Elklick; two of them had sacks on their backs; they asked me how far it was to the