he Somerset Herald.

GEORGE R. SCULL, Editor.

DNESDAY, December 23, 1896.

A merry Christmas.

Jacob Stahler, of Stoystown, is critically ill.

Venerable Barnet Picking is seriously ill at his Union street home.

A number of small children in and about town are afflicted with chicken pox.

Editor Marshall, of the Berlin Record, was among the spectators at court Friday and Saturday.

Our young friend Jacob Hochstetler has recently purchased the Samuel Bowser farm, in Milford township.

The ground about Somerset was covered with snow Tuesday morning and snow continued to fall throughout the day.

A specially prepared Christmas program will be rendered by the children of the Methodist Sunday School next Sunday evening.

Mrs. J. B. Snyder slipped and fell in front yard of her Main Cross street home Sunday afternoon, breaking one of the bones in her right wrist.

Messrs. Ross R. Scull and George Knepper, who have been attending college at Lexington, Indiana, returned home Sunday evening, for the annual holiday vacation.

Mrs. Daniel Maust, of Somerset township, sustained a broken arm last Thursday morning, when she fell from the threshing floor to the stable in her husband's barn.

Mr. Willard E. Brant and Miss Cora Weicher, daughter of Mr. and Mrs. J. J. Weicher, of Stonycreek township, will be married in marriage at the home of the bride's parents on Christmas eve.

C. O. Kooser, Esq., and Dr. Ed. M. Kooser will leave for Irvington, Ind., Saturday, where they will remain for the wedding of Prof. Stewart Scheil, which is scheduled to take place during Holiday week.

Christmas services will be conducted in the Reformed Church, at Shanksville, on Saturday evening, 23d; at Somerset on the 25th, and at Lavansville, on the 26th. All of the services will be held in the evening.

Mrs. Charles Ross, aged about fifty years, died at the home of her father—Stephen Kimmell—in Stonycreek township, on Sunday last. Her husband is a well known planing mill man of Shanksville. Deceased had been sick for a long time.

Noah Miller, of the late Tobias Lehman, died on Tuesday evening, 15th inst., at the home of her son Valentine, in Jenner valley township, aged 85 years. She was a consistent member of the Lutheran church and enjoyed the esteem of her neighbors.

Mrs. Emeline Hay, aged 59 years, died at her home near Pine Hill, in Brothersvalley township, on Tuesday, Dec. 15th, as a result from nervous prostration. Her daughters, Mrs. Austin Bowman and Mrs. Freeman Walker survive her.

By reference to our advertising columns it will be seen that the Executor of the late Michael Sipe, will offer the building occupied as a storeroom by Henry Heffner, on the northwest corner of the public square, at public sale. This is one of the most desirable business blocks in Somerset.

We learn from the Berlin Record that petitions are being circulated for signatures throughout the county praying the next General Assembly to enact a law fixing the salaries of Associate Judges and County Commissioners in lieu of the present per diem allowed by law to the gentlemen named.

There was a commotion in court Friday afternoon when the 4-year-old daughter of one of the witnesses in the Berkey murder case was seized with a spasm. The child was in the ladies' waiting room, and the shrieks of her mother pierced the ears of all in the court room. The little sufferer was in a critical condition for a period of twenty minutes.

A double wedding took place at the residence of Mr. Francis Friedline, at Berlin, on Thursday last. The happy couples were Mr. John Friedline and Miss Emma Kuhs, and Mr. Harvey Weller and Miss Mollie Friedline. A large number of invited guests witnessed the ceremony, which was followed by a bountiful dinner.

Mr. James C. Begley, of Somerset township, and Miss Annie R. Ober, of Woodbury, Bedford county, were united in marriage on Tuesday, 15th inst., at the parsonage of the Fourth Lutheran church, in Altoona, by Rev. D. S. Lentz. The groom is teaching school in Ogle township, and the bride is an estimable young lady, well fitted to be the life companion of her husband.

Since the opening of the present school term we have received a large number of programs for teachers' joint institutes. The bare mention of the announced exercises is very dry reading, and would occupy valuable space. If our young friends will furnish us with brief reports of their meetings, giving prominence to such performances as will prove beneficial to teachers and pupils we will be glad to publish them.

The Banquet Committee of R. P. Cumberland Post G. A. R. have issued invitations to the New Year's feast of that organization, to be held in the Somerset County House. These annual re-unions are always attended by old soldiers from all parts of the county and are social occasions of genuine interest. The invitation concludes: "Let everyone be present that we may enjoy the opening of the New Year together."

Colonel-elect M. H. Hartzell, proprietor of the Somerset Mechanical Works, which have been idle for the past six or eight months, has leased the plant to Messrs. F. P. McCurdy, of Hyndman, and W. N. Barrett, of Lisbon, O. The named gentleman is a practical machinist. The Mechanical Works will resume operations about the first of January, when the plant will be thoroughly refitted and new machinery added. The new proprietors will find Somerset county a good market for their products.

The jury who have the fate of the Roddy brothers in their hands are lodged at the Somerset House. Two special court officers watch over them while they are in the court room. The jury selected to try Richard Jackson is quartered at the Hotel Vantwar, and it is also guarded by special court officers. The members of the latter jury are not permitted to enter the court room or to listen to conversation concerning the case on trial or read papers containing accounts of the progress of it.

The Somerset School Board find that in order to accommodate all the children at next winter's term of school it will be necessary for them to erect an addition to the High School building. It is unfortunate that the borough can not dispose of one of the two school sites and consolidate the schools in one building, but it appears that the sites were presented to the borough and in case either of them is used for other than school purposes the land reverts to the estate of the grantor. Notwithstanding the large sums of money that have been expended in repairs to the Union School building during the past twenty years, it is totally unfit for the purpose to which it is put.

A STRONG CASE

Made Out by the Commonwealth Against the Roddy Boys, Charged With the Murder of David Berkey.

Ante-Mortem Statement of the Murdered Man.

The Widow of the Venerable Victim Tells the Story of the Robbery and Torturing of Her Husband.

Defendants Traced From Their Homes to the Berkey Farmhouse and Back Again by a Long Array of Witnesses.

DEFENSE AN ALIBI.

A VERDICT OF NOT GUILTY LOOKED FOR.

The case of the Commonwealth vs. James Roddy, John Roddy and Richard Jackson, charged with the murder of David Berkey, was taken up by the court at 11:30 o'clock Friday morning.

Messrs Koontz, Kooser, and L. C. Colborn appeared with District Attorney Colborn for the Commonwealth, and Messrs. Coffroth & Ruppel and Charles F. Uhl, Jr., appeared for the defendants.

The prisoners were brought into court by Sheriff Hoover and Deputy-Sheriffs Baker and Postlethwaite and were given seats at the counsels table. Counsel for defendants asked for attachments for several witnesses and demanded separate trials for their clients.

The District Attorney elected to try James Roddy first, when the Court directed the prisoner to stand up to be arraigned. The prisoner is a smooth-faced young man, about 24 years of age and of stalwart build. His complexion is blanched from long confinement in the county jail and his small grey eyes were cast searchingly about the court room, as though anxiously looking for an encouraging smile or nod.

When the defendant arose he thrust his left hand into his pantaloons pocket and supported himself with his right hand on the counsel table. His thumb twitched nervously for a minute or two, when he placed both hands on the table in front of him. His body swayed forward several times, clearly showing the high tension he was under. Prothonotary Saylor read the long bill of indictment in a monotonous tone and when he said: "James Roddy, what say you, guilty or not guilty?" the prisoner replied in a firm voice "Not guilty." The ordeal was a most painful one. The great crowd of spectators was breathlessly silent, and the members of the bench and attorneys employed in the case sat with their eyes cast down.

It was now only a few minutes of 12 o'clock and Judge Longenecker adjourned the court until 1:15 o'clock P. M.

SELECTING THE JURY.

As soon as court convened the tedious work of selecting a jury was entered upon. John Wagaman, of Northampton township, the first juror called, said that he had heard of the case and read something concerning it. He had also heard the case spoken of since he came to Somerset, but notwithstanding all he had heard and read he thought he could go into the jury box and render a verdict according to the law and the evidence. He was subjected to a vigorous cross-examination by General Coffroth, but was finally accepted and ordered to take his seat in the jury box.

W. S. Bennet, of Stonycreek township, was the next juror called. Mr. Bennet said that he had heard some conversation in regard to the case, but had paid no attention to it. Said that he was not opposed to capital punishment. He was also accepted.

The next two jurors called were unsatisfactory to the defendant and were challenged; Ephriam Speicher, of Lincoln township was accepted after a rigid examination.

The fifth juror examined said that he was opposed to capital punishment and would be unable to render a verdict of murder in the first degree. The sixth juror also had conscientious scruples against capital punishment and both were excused by the Court.

William G. Knepper, of Lincoln township, was directed to take a seat in the jury box after he had satisfactorily answered the questions propounded to him by counsel. Harrison Brougher, of Upper Turkeyfoot township, was also accepted.

The next juror called was challenged by the defendant and the next was stood aside by the Commonwealth. Oliver Meyers, of Allegheny township, who gave his occupation as mail carrier and undertaker, was accepted. The next juror examined was excused on account of conscientious scruples, and the one following—Josiah Silbaugh, of Addison township, was accepted. Henry Coleman, a Somerset township farmer, also answered the questions asked him and was told to take a seat in the jury box.

The next three jurors examined were challenged by defendant and the fourth, who said that he was not opposed to capital punishment, but on the contrary believe that "whatsoever a man soweth that shall he also reap," was stood aside by the Commonwealth. Counsel on opposite sides alternated in challenging jurors during the following hour, until both sides agreed upon G. G. Glessner, of Allegheny township. The Commonwealth exercised its privilege of standing aside the next juror called, and the defendant challenged the following juror. After this a juror was examined at length only to be excused by the Court on account of conscientious scruples. The next juror called was excused on account of sickness, the next was stood aside and the next challenged. Smith B. King, a Middlecreek township, farmer, proved satisfactory to both sides, and was accepted as the twelfth juror at 4:19.

Surprise was expressed in some quarters that a jury to try a capital offense could be selected in so short a time.

As soon as the panel was completed counsel for the defendant asked Judge Longenecker to adjourn the court until Saturday morning, until something definite was learned in response to the attachments issued for witnesses at the morning session. Judge Longenecker refused to entertain the motion, but ordered a recess until 7 P. M.

JOHN RODDY AND RICHARD JACKSON ARRAIGNED.

When court convened Friday evening ten Jurors were selected to try Richard Jackson, Court and counsel agreeing that this was necessary in order to expedite the business before the court. When the prisoners were brought into court John Roddy's face was flushed, and a pleasant smile lingered on his lips. He took a seat by the side of his brother James, while Jackson, who is his brother-in-law, found a seat on the opposite side of the table. When the two prisoners stood up to be arraigned, John Roddy folded his hands behind his back and riveted his eyes on the Clerk of the Courts. He did not show the slightest indication of feeling until the Clerk came to the point where he said "and did murder David Berkey." Then his bosom swelled with heavy breath, but in an instant he had regained his composure. John is a more genteel-looking man than his brother and wears the innocent expression of a school-boy. Jackson wore a dark brown fall overcoat and did not remove it during the session of court. Jackson is a sickly looking fellow, about thirty-five years of age. His face is thin and wears an expression of distress. He appeared to be uninterested in the selection of a jury to try him for his life, and never volunteered a remark to his counsel. John Roddy tilted his chair and looked about with a happy smile. During the selection of the jury James Roddy's nose commenced bleeding and he was escorted from the room by Sheriff Hoover.

The selection of jurors to try Jackson occupied about an hour and a half, when ten jurors had been accepted; the panel being then exhausted court adjourned until 8:30 o'clock Saturday morning.

Nearly all of the jurors called had been examined during the afternoon, when a jury was selected to try James Roddy. The District Attorney did not repeat the interrogatories, contenting himself with asking each juror called if he would make the same answer to interrogatories that he had made in the afternoon. Upon receiving an affirmative reply he announced that the Commonwealth was content with the juror. Counsel for the defendant exercised their right of challenge in every case, with a single exception, where a juror had been challenged in the afternoon.

The jury as selected is as follows:

Francis Suhrie, of Allegheny township; F. M. Fryburg, Quemahoning township; M. M. Knepper, Jefferson township; J. G. Gnagey, Somerset township; Josiah Bridigum, Fairhope township; James K. Hileman, Addison township; Charles Baldwin, Summit township; Josiah Coughenour, Middlecreek township; F. W. Dull, Ursina Borough; Geo. L. Dobson, Quemahoning township.

SATURDAY MORNING SESSION.

The two jurors who failed to respond when their names were called Friday evening were in attendance Saturday morning. One was stood aside and the other was challenged by the defense. This exhausted the venire and Judge Longenecker at once issued a praecipe for a new venire directing the Sheriff to summon twelve additional talesmen. Before the Sheriff had completed his task counsel for defendants filed a motion electing to try John and James Roddy with the first jury empaneled and Richard Jackson with the jury then being empaneled.

Jonas L. Baer and Solomon Shoemaker, both of Somerset borough, were accepted by counsel on both sides and completed the jury to sit in the case of Richard Jackson.

WIFE OF THE MURDERED MAN TESTIFIES.—POSITIVELY IDENTIFIES JAMES RODDY AS ONE OF THE ROBBERS.

Mrs. Caroline Berkey, the aged wife of the murdered man, was the first witness called. Mrs. Berkey is a modest looking woman, a little under medium height and of solid physique. She was unable to testify in English and Valentine Hay, Esq., was sworn as interpreter. Mr. Hay propounded the interrogatories of counsel and received the answers of witness in Pennsylvania Dutch, which he translated into English for the benefit of the Court and jury. The witness told the story of the robbery minutely and without hesitation, and when she pointed towards James Roddy, and said that he was one of the men that tortured her husband, the defendant's hands and lips moved convulsively. The scene in court was one never to be forgotten. The large crowd of spectators was apparently breathless throughout the time Mrs. Berkey was on the stand, and when she leaned forward in the witness' chair and peered around the corner of the Judge's bench to where James Roddy was sitting, and solemnly nodding her head at the defendant said: "He is the man who lost the handkerchief from his face," every person who heard the evidence looked unconsciously into his neighbor's face as if to see what impression the testimony had made on him.

Examination conducted by F. J. Kooser, Esq.

The witness said: I am the wife of David Berkey and on the 2d of June last was at home with my husband and daughter Lucy; nobody else was in the house when we retired about 9 P. M.; it was Tuesday night, between the hours of 12 and 1, when two men broke into the house through the front door. I heard a match crack and then saw a light. My husband and I occupied separate beds and the robbers came into the room in which we were sleeping; both men had revolvers in their hands. The old man sat up and asked them what they wanted; they answered, "Money, by G—d; and we're going to get it." Berkey didn't say where the money was or how much; they bound him with straps. He told them his money was in his vest; they got the money and put it into their pockets, and then carried him into the sitting room and bound him fast in a rocking chair. Returning to the bedroom they found some more money in the bed-tick and began to swear; coming to my bed they tied my hands and feet and carried me to my husband's bed; they tore up a sheet and bound me with the strips and then secured me to the bed-post with a lounge spread, which they had torn up. I could see where my husband was sitting; the robbers burned the soles of his feet with a candle and with pieces of paper and with an oil lamp; then they choked him and tied his mouth shut; I called to them not to kill him, but they struck him on the mouth until the blood came and dislodged one of his teeth. I told them that my daughter had a little money up stairs and the old man told them that he thought they would not find any more money about the house; they found some money, however, in a hat box, and coming down stairs they shook it at him and said, "You lied." Then they burned the old man's feet until they never healed, and tried to make him give up more money and government bonds; they took the chimney from the lamp and put the flame to the old man's feet. After they had searched all over the house they left us tied. The men wore handkerchiefs over their faces from the nose down. One of the men lost his mask and I saw that he was a man I had seen before. He did not replace the mask, and I afterwards picked it up. I had seen the man about noon a few days before. He came to our house and asked for something to eat. I was sick at the time and did not give him anything. They burned the old man at intervals and when they were through asked for sweet oil, saying that they wanted to doctor his feet. After they had left the house I told my husband to try and get his knife from his pocket; he released one of his hands and got the knife and cut the straps that bound him and afterwards released me. I can't say how much money they got, but there were more than 10 pieces of silver and several bills. Witness identified handkerchief, brown slouch hat, straps and a piece of wood, which had been used as a gag.

Court adjourned until 7:15 P. M.

(Defense objected to testimony relative to the daughter. Objection sustained.)

The door was locked; heard it crash when broken; the keeper of the bolt was broken, the screws being forced out. That is one of the men, pointing out James Roddy.

Cross-Examination, conducted by Gen. Coffroth.

It was a dirty wet handkerchief, had a knot tied in it, which I untied. Two men were at our house on May 28th; witness fixed the day because it was her birthday. Had never seen the men before; there were only two men in the house; saw one's face, it being uncovered.

Re-Direct Ex.—The other man did not have his mask off; he was a little taller and heavier than the other.

Re-Cross Ex.—Witness pointed towards James Roddy as the man she had seen on May 28th and again on the night of the robbery.

Dr. F. J. Livingston, Affirmed.

Live at Salix, Cambria county; am a graduate of a Cincinnati Medical school; was called to the home of David Berkey on the morning of June 3d. Found David Berkey's feet had been burned; the left foot was burned on top and at the ankle; had a bruise on the right cheek, lips were swollen; soles of feet were burned from toes to heels, only a narrow strip about the width of a finger remaining unburned on one foot; both feet were badly blistered and burn at ankle was very deep; visited patient every day with one exception until June 13th; burns failed to yield to treatment; after a few days flesh began to slough off and bones to protrude; in my opinion wounds were serious; patient appeared to suffer from nervous prostration, the symptoms being more pronounced each day; wounds were caused by a blaze; the tissues appeared to be roasted; in my judgment a burn is much slower to heal than a cut; there is always more of a shock following a burn than a cut.

Cross-Ex.—Was never called back after June 13th.

Dr. J. S. Taylor, Affirmed.

Live in Johnstown; have practiced medicine since 1881; was called to see David Berkey on Sept. 28th; found the patient suffering from intermittent fever and wounds on feet; wounds were small, about the size of a silver dollar; one on left foot was most severe; appeared to have been caused by burning; bones of left heel were exposed; there is more nervous depression from a burn than a cut; patient's condition was bad, resulting from nervous depression; injuries described by Dr. Livingston could cause nervous depression; patient told me that he expected to die; told him that his condition was not favorable.

Cross-Ex.—Patient's condition might have been assisted by other causes.

Jackson Ripple, Affirmed.

Witness was a smiling lad about 12 years of age. Live in Paint township; saw James Roddy (pointing towards defendant) and Richard Jackson at my father's water trough, on 27th or 28th of May, about sunset; was watering a horse when they passed along the road; Jim Roddy stopped and asked me where Mr. Berkey lived, how his house was painted and on which side of the road it stood; Jackson did not stop; were traveling towards Berkey's; Roddy wore a brown slouch hat like this one (hat shown witness for identification). Witness testified that he picked James Roddy and Jackson from among ten or twelve men in the county jail.

Cross-Ex.—Never saw either of the men before I met them at the water trough.

Samuel Knavel, Affirmed.

Live in Paint township; saw James Roddy (points towards defendant) and Richard Jackson, on May 28th; they passed father's barn on their way to the school house; was close to them; Roddy wore a slouch hat like the one shown for identification; they were 50 or 60 rods from Berkey's when I saw them and were going towards Berkey's; saw them between 12 and 1 o'clock; they returned about 1:30 P. M.; never saw either of the men before that day; David Berkey was my grand-father. It is 1 mile from our house to Rippie's; live between Berkey's and Rippie's.

No cross examination.

Mrs. Lavina Knavel, Affirmed.

Am a daughter of David Berkey; live 40 to 50 rods from father; saw "Jim" Roddy (identifies him) and Richard Jackson between 9 and 10 o'clock on the morning of May 28th, at our wagon shed; they were traveling towards Johnstown; between 12 and 1 they returned traveling towards Berkey's; saw them again a few days after they were arrested and brought to father's; first time I saw them Roddy wore a brown slouch hat and Jackson a black Derby hat; was called to father's between 2 and 3 o'clock on the morning of June 3d; mother called me; father was on the porch waiting for help; the door had been broken open. Witness identifies handkerchief, piece of wood and straps. Father's feet were burned to a blister and his face was bruised and swollen; everything in the house had been torn up and the floor was littered with charred paper; lamp was burning.

Cross-Ex.—Had never seen defendants before the time mentioned.

Lewis Warick, Affirmed.

Saw "Jim" Roddy sitting by the side of the public road on May 28th; he wore a reddish slouch hat; asked me where David Berkey lived.

Cross-Ex.—Never saw Roddy before

Israel Seese, Affirmed.

Saw "Jim" Roddy and Jackson near Rummel, about 11 A. M. on May 28th; met them about 4 miles from Berkey's; were traveling towards Scalp Level.

Cross-Ex.—Never saw Jackson or Roddy before.

Samuel Whittaker, Affirmed.

Carry mail from Felix to Scalp Level; road leads past Berkey's; on May 28th saw James Roddy and Jackson at Ashtola, about ¼ mile from Berkey's; it was about 10 A. M.; Roddy spoke to me; saw them again on May 28, about 10:30 A. M., at Jacob Knavel's wagon shed; Roddy bid me the time; he had a brown slouch hat on; (hat shown witness) this resembles the hat very much; when I returned from Scalp Level same day saw them at David Seese's traveling towards Scalp; Roddy again bid me the time.

Cross-Ex.—Never met Roddy or Jackson before May 28th.

Mrs. Lottie Adams, Affirmed.

Live in Johnstown and have known James and John Roddy for 2 years; met them on June 2d outside of Geistown; I was in a double seated surrey; said "hello," to Jim; he said "What in the hell are you doing out here? got out of the carriage and walked back to where they were standing and asked him where to turn off the road to go to Elton; he said if any person asked whether I had seen him I should say "No"; it is 3 miles from Johnstown to Geistown; a third man was with them, but did not see his face; John wore a black Derby and James a black soft hat; the man with them was tall and slim.

Cross-Ex.—Am a married woman. (Defense asked witness if she was not at Ebensburg court at the time mentioned. Objected to and objection sustained.) Witness said she fixed the time because she had been subpoenaed to go to Ebensburg.

Mrs. Emma Wingard, Affirmed.

Live 5 miles from Johnstown; saw defendants between 5 and 6 o'clock on the evening of June 2d; one of them came to my house for milk; the others waited at the barn; he wore dark clothes and a dark Derby hat; they went in the direction of Berkey's; 15 minutes later "Jim" Roddy returned towards Geistown.

Cross-Ex.—Never saw Roddy again until to-day.

Lizzie Harshbarger, Affirmed.

Was at Mrs. Wingard's on the afternoon of June 2d, and saw James Roddy and the other men. Never saw them before; heard of the Berkey robbery about 8 o'clock next morning.

Dr. Geo. Conrad, Affirmed.

Live in Johnstown; have practiced medicine for 18 years; was called to see David Berkey on June 19th; visited him again on June 21st and 25th, and on September 23d and 28th; on first visit found that his lips were swollen two or three times their natural size; face was bruised and affected with erysipelas; right foot was badly burned on sole, heel and ankle; wounds were in bad condition; heart was in bad condition, but there was no organic trouble or enlargement; heel bones protruded; depression caused by a burn is more severe than can be produced by any other wound; think Mr. Berkey's death was accelerated by reason of the burns; there were no indications of other troubles developing his condition; found no other cause for death; told him he would die on my third visit; his mental condition was good at that time; he expressed a conviction that he would die; (paper shown witness and marked "Ex. A.") this is my signature.

Cross-Ex.—This statement was written by 'Squire Murphy; patient could not have been saved from death; no other conclusion was admissible from the condition of the patient; he continued to grow worse until June 28th; he had skillful attention; do not think there were other causes which produced death; Dr. Taylor and I visited patient on September 28th; after consultation told him we believed death was imminent and remained until after he had made a statement; he lived longer than I expected.

Re-Direct Ex.—The difference between a shock caused by a gradual process of burning and that caused by an instantaneous wound is very marked; the shock would undoubtedly be greater under the former circumstances.

Mrs. Mattie Studenour, Affirmed.

The week preceding the robbery I saw James and John Roddy near Scalp Level traveling towards Rummel; it was about sunset; never saw them before; on June 3d about 6 P. M., saw James above the toll-gate at Scalp traveling toward Berkey's; think John Roddy was with him. Witness described hats; heard of robbery next morning; never saw either of them before.

Ananias Orris, Affirmed.

About 7 o'clock on the evening of June 2d saw a man (identifies James Roddy) with darkish clothes and brown slouch hat, pass through Scalp Level; heard of robbery next afternoon.

The Commonwealth next called Gillian Seese, Mr. Sarah Statler, Lillie Riddle, Garrett Ream, Mary Small, Samuel Allison, John H. Shaffer and George Hays, in order named. All of these witnesses testified that they live at various points between Scalp Level and David Berkey's and that they had seen James Roddy and a companion, sometimes his brother John and at other times Richard Jackson traveling in the direction of David Berkey's on the night preceding the burglary. Some of the witnesses identified John Roddy by his red complexion and light colored hair, and all agreed as to the hats they wore. Two or three of the witnesses, also, testified to having seen the defendants passing along the road a week before the robbery.

Jane Lohr, Affirmed.

Live in Jenner township; have known John Roddy since he was a small boy. Had a conversation with him about 12th or 13th of June last about the Berkey robbery, when he told me that his brother Jim had been arrested and was in jail and that he understood a warrant was out for his arrest. He said the horses were fed before this was done.

Jacob Knavel, Affirmed.

Am a son-in-law of David Berkey; live about 50 rods from his home; got to the house between 2 and 3 o'clock on the morning of the robbery. After daylight I found that horses had been tied about 15 rods from the house on the public road; oats on the ground indicated that the horses had been fed; the ground was tramped up. It was on the public road.

Followed the tracks made by the horses to a point 2 miles below Scalp Level and about 7 miles from Berkey's, where we lost the trail.

Wm. J. Horner, Affirmed.

Was a tenant on the David Berkey farm in May and June last; when I went to my stable about six o'clock on the morning of the third, found the door open and the leather fly-nets lying under the overshoot; two straps had been removed from one of the fly nets; two bay horses, one saddle and a blanket had been stolen; one of the horses had a 'club foot" and it was easy to track them down to Berkey's where the ground indicated they had been tied; later tracked them to a point beyond Scalp Level; about 200 or 300 steps from the road at this point found saddle, bridles and blanket in an open field; this was near Baumgardner's; the horses had been turned into an open field on the opposite side of the road; it is 5 miles from Baumgardner's to Johnstown by the public road, and about 3 miles to Osborne station, on the B. & O. R. R.; saw the straps which had been taken from the fly-net the same afternoon at Berkey's; took them home with me; afterwards gave them to Ed. Levergood.

No cross-examination.

Robert Herdman, sworn.

Live in Dale borough, Cambria county; am a chipper in Johnson & Co's Steel Works, at Moxham; it is about 1½ miles from my home to the works by way of the B. & O. R. R.; on the morning of June 3d left home about 10 minutes after 6; got on the track and walked to Osborne station; the Gautier whistle blowed for half-past 6 here; saw the Roddy boys and Richard Jackson on the river bank at the end of Osborne cut; have known the Roddy boys for 5 or 6 years and Jackson for 18 years; bid them the time; their clothes looked dusty.

Cross-Ex.—Did not notice their clothing particularly; had not seen the defendants for several years before.

Edward Horner, sworn.

Witness said that he saw two men on the morning of June 3d standing on the bank of Osborn cut; thought they resembled John Roddy and Richard Jackson; described the clothing they wore.

At 9:15 Saturday night court adjourned to meet at 8:30 o'clock on Monday morning.

MONDAY MORNING SESSION.

E. W. Horner was re-called by the Commonwealth at the opening of court Monday morning and testified in regard to the character of the ground at Osborn Station, which he said was thickly studded with willow underbrush.

Lewis Shaffer testified that he had seen James Roddy about 7 o'clock on the evening of May 27th, a short distance east of Scalp Level. Witness identified brown slouch hat shown as the one worn by defendant. Never saw defendant before.

Wm. M. Schrock, of Somerset was the next witness called. Witness had made a survey of the road between Geistown and Scalp Level and of the road from Berkey's to Osborn Station. He presented a map of the country mentioned, which was admitted in evidence. The theory of the Commonwealth is that the defendants followed the public road from Geistown to Berkey's on the night of June 2nd; that they stole two horses from the barn of William Horner before visiting the Berkey home and after the commission of the crime rode to Baumgardner's, near Scalp Level, where they abandoned the horses and took a short cut across the country to Osborn Station. The ground between Scalp Level and Osborn is all open and by traveling that way the distance from Scalp Level to Geistown is shortened by about five miles. Witness also produced map of the Berkey and Horner properties, and sketches of the Berkey house and floor plan, and photographs of the exterior of the house, all of which were admitted in evidence.

Jacob Wingard, Affirmed.

Witness corroborated the evidence of his wife and Miss Hershberger in regard to James Roddy carrying a crock of milk from his house to the barn, where two other men were waiting for him, on the evening of June 2nd. On cross-examination witness was quite positive that the slouch hat in evidence was the one worn by John Roddy.

Jacob Knavel, Affirmed.

Witness said David Berkey was 67 years of age; had frequently assisted him to count his money; about two weeks preceding the robbery Berkey had given him $1200 in currency and bank certificates, from $160 to $180 were in currency, there was a Confederate $10 bill in good condition in Berkey's pocket book; he had it for more than 20 years; it was in good condition, green on one side and yellow on the other.

On cross examination witness said that he knew it was a Confederate bill, but was unable to say what was printed on it.

Samuel A. Weaver, Affirmed.

Am a son-in-law of David Berkey's; saw the contents of Berkey's pocket book about two weeks before the robbery when he gave Knavel $1200; witness corroborated the testimony of Knavel, and on cross-examination was unable to tell what was printed on the Confederate $10 note. Andrew Shaffer testified that he had seen Richard Jackson and another man pass his barn after sun down on the evening of June 2nd traveling towards Berkey's; never saw Jackson before.

Adjourned until 1:15 P. M.

MONDAY AFTERNOON SESSION.

Frederick Naugle, Sworn.

Have known James and John Roddy ever since they were little boys; live in Morrellville; the Roddys live on the outskirts of town, in Lower Yoder township, Cambria county; saw Jim Roddy on Decoration Day; he came to my place to borrow some cartridges; saw him again on the 3d day of June, when he came to my place between the hours of 12 and 1 o'clock; he was muddy up to the knees; said he had walked about 40 miles and was nearly played out; he laid down on the grass in my yard; my wife and brother-in-law, William Crimey, were present; I sat down beside him when he pulled out a paper which looked like a Confederate $10 bill or advertisement; he said: "I'd better get rid of this or I might be arrested for carrying counterfeit money"; he then tore the bill up; it was green on one side and yellow on the other; looked like the money we use now; he left about 3 o'clock; it is about 3 miles from Osborne to Morrellville across the country, and at least 4 miles by way of town; the former route is wooded and up a steep hill from Morrellville, after you get on top the hill it is down grade to Osborne.

Cross-examination.—Am sure it was Wednesday, June 3d, when Roddy came to my place from the direction of his own house; noted the date in my day book in which I keep my work; I was arrested for the Berkey burglary the week after it happened.

Edward E. Levergood, Sworn.

Live in Johnstown and am engaged in the real estate business; went to Berkey's on the 8th day of June where I got a description of the robbers; on June 10th arrested James Roddy; went to the house with John T. Harris and others; house is located in a little ravine; after repeated raps the back door was opened by James Roddy; had a gun in his hand; we went into the house. (Testimony in regard to handkerchief found ruled out.) Witness identifies brown slouch hat found at the Roddy house. Continuing witness said, old man Roddy claimed this hat; don't know how much reward has been offered for the conviction of the robbers; the Berkeys didn't offer a reward but said they would pay something; suppose Harris will claim the reward if there is any; searched the Roddy house; thought may be John was there.

Mrs. Jennie Naugle was the next witness called. She corroborated the evidence of her husband in regard to Jim Roddy's visit to their house and destroying a note that resembled a Confederate $10 bill.

John T. Harris, Sworn. (Witness is the head of the Detective Agency which worked up the case against the defendants on behalf of the Commonwealth.)

Was present when the Roddy boys were arrested; found this hat (hat shown witness) the night John Roddy was arrested and have had it in my safe ever since—except when it was in court.

Cross-Ex.—Old man Roddy claimed the hat as his; have been offered no reward in case defendants are convicted. (Witness denied emphatically that he had attempted to manufacture evidence against defendants or to intimidate witnesses in their behalf.) Expect to claim the reward offered by the county of Somerset.

H. F. Sharp, Sworn.

Arrested James Roddy. (The Court sustained objection to witness' repeating any admissions of an incriminating character made to him by defendants.)

Edward Levergood, Recalled:—Was present at Berkey's when James and John Roddy were taken there.

Cross-Ex.—We made John put on a mask for the purpose of identification; am not sure that we put a mask on Jim; don't believe we did; showed the prisoners to Caroline Berkey, David Berkey and others.

Daisey Johns, a little girl of 12 years of age, was sworn and testified that she had seen both John and Jim Roddy wear a brown slouch like the one in evidence. On cross-examination witness said: "If this isn't the hat it is one pretty much like it."

Scott Murphy, Affirmed.

Am a Justice of the Peace; (Paper shown witness.) this is my signature and the other is David Berkey's. (Witness also identified David Berkey's signature to another paper shown him.) Paper marked "Ex. A." was written by me; the statements were made by old man Berkey and I wrote them down as best I could; he appeared all right mentally at the time.

By the Court—Q. Did you read this paper to the old man?

A. Oh, my, yes.

L. C. Colborn, Esq., sworn.

Was at David Berkey's on the 19th of June; he was in bed suffering from burnt feet; tried to cheer him up; he said he would not get well; he told me the story of the robbery and torture and said that he expected to meet the men at the bar of heaven. (Paper marked "Ex. G." shown witness.) I wrote this statement.

The two papers referred to above were the dying declarations of the murdered man, the first one written by Mr. Colborn on June 19th, and the other by Esquire Murphy on September 28th. A long legal battle followed as to the admission of the declarations. The Court ruled out the declaration made to Mr. Colborn and admitted the one written by Esquire Murphy. Mr. Kooser read the declaration to the jury, as follows:

SOMERSET COUNTY,
STATE OF PENNSYLVANIA,

Personally appeared before me a Justice of the Peace in and for the aforesaid county David Berkey, who being duly affirmed according to law, deposes and says in regard to being robbed: The door of my dwelling house was burst open on the night of June the 2d, 1896, and two men came into my bedroom. I asked them what they wanted in there. One of them said "Money, by G—d; and we will have it." Both men had revolvers, and said to me "do you see these?" I said, "yes." They told me if I had any prayers to say I was to say them; that they would shoot me. I told them to shoot, but they did not. Then they tied me, both hands and feet, and carried me out of bed into a rocking chair and tied me on the chair, and hit me on the mouth knocking a tooth loose; then they ransacked my safe. I told them my money was in my vest; they got it; it was about one hundred and twenty-five dollars in paper and silver; they burnt my feet some before they had my money; they continued to burn my feet demanding more money or Government bonds. They first burnt my feet with paper, afterwards with oil lamp and tallow candle; they ransacked the house from cellar to attic. Then they went to the cellar; brought up pies and cakes and milk, and eat and drank; then they left my house and I am satisfied that the two Roddy boys brought to my house by the officers are the same men that robbed and tortured me.

Affirmed and subscribed }
before me this 28 day of } DAVID BERKEY.
September, A. D. 1896. }
Scott Murphy, J. P.

Witnesses:
G. E. Conrad,
J. Swan Taylor.

George Fyock, Affirmed.

Live about four miles from Berkey's; bought a horse on June 2nd; 3 o'clock that night my wife awoke me and said: "there's your horse going"; I replied "it's going too fast for my horse;" two horses were going rapidly down the road in the direction of Geistown. On cross-examination witness said he knew the direction the horses were going from the sound.

At 4:40 Commonwealth rests. Court adjourned to meet at 8:30 a. m., Tuesday morning.

THE DEFENSE OPENS.

When the court convened at 8:30 Tuesday morning, Chas. F. Uhl, Esq., opened the case to the defense. He clearly outlined the testimony that would be offered in behalf of his clients and promised that a conclusive alibi would be established.

James Roddy was the first witness called. He raised his hand and was qualified by Clerk Saylor before he took the stand. Witness said that he was 25 years of age, and was at his home near Morrellville, on the morning of June 2d; about 1 o'clock in the afternoon he and John went to Williams' cigar store, in Johnstown, where they played several games of euchre with friends; later went to another cigar store and were there for about an hour and between three and four o'clock started to walk home; at the stone bridge they met George Carpenter, who was riding in a buggy; stopped at Andy Leonard's saloon and several other drinking places in Morrellville; met Richard Jackson, Benny Leonard, John Felix and Harvey Bagley; the two last named walked home with us; reached home between 6 and 6:30 P. M.; after supper John and I went to Charley Arnold's, who is a brother-in-law; Henry Fite, Charley Arnold, father and my sister were there; saw Mrs. Green, Mrs. Dickson and Mrs. Overdorf on their porches; I stopped at Wm. Cooper's on the way down, he had promised to get me work; went home about 10:30; breakfasted about 4 o'clock next morning and went to Cooper's; went to the mill with him and stayed until about 9 A. M.; in the afternoon went to Naugle's (witness admitted tearing up a note in the presence of Mr. and Mrs. Naugle, said it was an advertisement of Wolf, the clothing dealer, being unable to read could not tell what was printed on the note; was feeling when he said he might be arrested for carrying counterfeit money) never wore a brown hat in my life; had a red handkerchief in my pocket when I was arrested; Ike Harris took it and have not seen it since; never owned a revolver; when the officers took me to Berkey's they masked me with a red handkerchief and put Harris' hat on on me; handkerchief was like the one shown in court.

On cross examination witness denied that he had ever been in Paint township; on the 26th, 27th and 28th of May was at home sick, was not confined to the house but was not able to work; was at the Rescue Mission, in Morrellville on the evening of the 28th; never saw any of the witnesses who testified that they had seen me on the road between Geistown and Berkey's; never knew Robt. Herdman, the witness who claimed to have known me for 18 years; heard of the Berkey robbery on Thursday; had nothing at all to do with it. The witness was on the stand for an hour and counsel for the Commonwealth tangled him up once or twice, on unimportant matters, but were unable to secure any damaging admissions from him.

John Roddy was the next witness sworn, and like all of the witnesses who followed him at this session qualified by raising his hand. Witness said the first time he was ever in Paint township was when the officers took him