

THE COLUMBIA DEMOCRAT.

"I have sworn upon the Altar of God, eternal hostility to every form of Tyranny over the Mind of Man."—Thomas Jefferson.

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Volume I.

BLOOMSBURG, COLUMBIA COUNTY, PA. SATURDAY, JANUARY 27, 1838.

Number 40.

TRIAL OF THOMAS T. POKE FOR THE MURDER OF JOHN DORNELL.

REPORTED FOR THE COLUMBIA DEMOCRAT.

In the Oyer and Terminer for Columbia county, held at Danville, January Term, 1838, before the Honorable ELLIS LEWIS, President, and the Hon. WILLIAM MONTGOMERY, and LEONARD RUPERT, Esquires, Associate Judges—**Thomas T. Poke** was charged with the murder of John Dornell; the Grand Jury returned 'A TRUE BILL' on the indictment; and the trial commenced on Monday, January 15th, 1838.

JOSHUA W. COMLY, Esq. Deputy Attorney General, and **GEORGE A. FRICK** and **H. W. THORNTON**, Esquires, appeared for the Commonwealth. **JOHN COOPER** and **JOHN G. MONTGOMERY**, Esquires, appeared for the Prisoner.

After the indictment had been read to the prisoner, and he had entered his plea of "not guilty," and that "he puts himself upon his country for trial," the Court informed him that those good men whom he should hear called; were to pass judgment between the commonwealth & him; upon his life, his death and his liberty; that he was entitled to twenty peremptory challenges without showing cause, and as many more as he could show sufficient cause for rejection; and that if he did challenge any he must do so before they were severally sworn or affirmed. The jury were then called, severally commanded to look upon the prisoner, and were either sworn and affirmed, or challenged as follows, viz:

JONATHAN PURSELL—affirmed.
Hiram Phillips: challenged peremptorily.
PETER APPELMAN—sworn.
AID HOLDEN—sworn.
WILLIAM GIRTON, Esq.—sworn.
John Ickel—challenged peremptorily.
Joseph Dill—having conscientious scruples against finding a verdict of guilty in a capital case, where the punishment would be death, was challenged by the commonwealth.

JOHN SHEARER—sworn.
Moses Hartman: challenged peremptorily.
Joseph Brown—having formed and expressed an opinion as to the guilt or innocence of the accused, was challenged for cause.
John Sharpless—having conscientious scruples, was challenged for cause by the commonwealth.

Abraham M. Robbins—challenged for same cause.
Henry Kitchen—having formed and expressed an opinion was challenged for cause.
JOHN McWILLIAMS—sworn.
JOHN McMAHAN—sworn.
Jacob Gensel: challenged peremptorily.
Groves Doan: having conscientious scruples, was challenged for cause.

JOHN OHL, Esq.—sworn.
Jacob Swivenheiser: challenged peremptorily.
John Johnson: having formed and expressed an opinion, was challenged for cause.

Frederick Swaby: challenged peremptorily.
Daniel Woodside: challenged peremptorily.

Jacob Sheep: having formed and expressed an opinion, was challenged for cause.
John R. Eves: challenged for same cause.

JOHN REMLY—sworn.
Daniel Peeler: having formed and expressed an opinion, was challenged for cause.

John Stucker: challenged peremptorily.
ALEXANDER COLLEY—sworn.
JOHN HERRING—affirmed.

Daniel Cromley: challenged peremptorily.
Jonathan Lodge: challenged peremptorily.

William S. Davis: challenged peremptorily.
Henry Crawford: having formed and expressed an opinion, was challenged for cause.

Jesse Funston: challenged for same cause.
JOHN WITMAN—sworn.

The Jury then empanelled consisted of the following persons, viz:

Jonathan Pursell, of Bloom.
Peter Appleman, of Hemlock,
Aid Holden, of Derry,
William Girton, Esq., of Hemlock,
John Shearer, of Limestone,
John McWilliams, of Liberty,
John McMahan, of Liberty,
John Ohl, Esq., of Hemlock,
John Remley, of Bloom,
Alexander Colley, of Sugar Loaf,
John Herring, of Bloom, and
John Wertman, of Bloom.

HIRAM DEER, and **JAMES EDGAR**, two constables in attendance, were appointed by the Court to attend the Jury, and severally sworn neither to speak to the Jury themselves, nor suffer any other person to speak to them, touching any matter relative to the trial; and lodgings and entertainment were ordered to be provided for them at the public house of Mr. William Henrie.

The indictment was then read to the Jury by Mr. COMLY, and the cause on the part of the commonwealth opened by **HIRAM A. THORNTON**, Esq., in a pertinent speech, in which he explained the nature and importance of the cause, and the kind of evidence which would be produced in the trial against the prisoner at the bar.

The Counsel for the Commonwealth then called the following witnesses, who severally testified as follows:

Stephen Sproul. This witness, a small boy about ten years of age was not permitted to testify, because he did not know the nature of an oath; and the counsel for the commonwealth placed him in proper hands to receive the necessary instruction.

Sarah Ann Sproul, sworn. Thomas Poke and Betty Poke were in the kitchen at Wm. Sproul's house in Madison township, Columbia County. Dornell came to the door, and wanted in, and after he opened the door and came in, he took hold of Poke and pulled him back. Poke struck him, and Dornell fell out on the porch. He struck him with an axe—only once. It was this winter, on a Saturday night. He hit him on the back. When Dornell was fetched into the house he dragged one leg, and after he was laid down he spoke, but with great difficulty. He died at Sproul's after a day and part of a night. No person else struck Dornell, nor did Dornell strike Poke. I was very much alarmed at the time. My father was not at home, and no person was there but Mr. Poke, his daughter Betsy, Margaret Welsh, and brother Stephen. Dornell was bleeding at his forehead when brought in.

Cross-examined by Counsel for prisoner. It was after dark when Poke came to father's house. He came into the kitchen, and his daughter with him. He asked for supper and for lodgings; and him and his daughter were sitting by the fire while we were preparing supper for them. Dornell was in the bar room making a great noise; and I fastened the door of the kitchen with a knife to keep him out. He swore and stormed a great deal, and when he pushed the door open the staple came out. When he came in Poke said "how do you do, John," in a friendly manner; and Dornell took hold of him by the hair of the head.—There was no candlelight in the kitchen when Dornell broke in, and not much light from the fire. After Dornell fell down Poke had a fit right away, which lasted perhaps half an hour; and when Poke recovered, him and his daughter lifted Dornell up, bro't him in, and put a pillow under his head. Poke and father were sitting by Dornell when I went to bed. Poke left our house next morning after sunrise. Poke and Betsy travelled in a wagon. The stroke was given before Dornell was in five minutes.

Re-examined by Commonwealth's Counsel. It was light enough in the kitchen to tell who came in. The blow was struck in the kitchen door while Dornell was going out, and when he fell his feet lay inside of the door. Dornell was an old man, but he was a larger man than Poke. Poke was

not in the bar-room before he came into the kitchen. He was at father's house the same day about noon. Dornell came to our house on Friday at noon, and was there until the time of his death. Dornell lived three quarters of a mile from father's.

Margaret Welsh, sworn. This witness was nearly blind, but said she saw Dornell break open the door, and take hold of Poke. She did not see Poke strike Dornell, nor did she see Dornell until after he was brought in, when he was a little bloody. Saw Poke in the fits. Sproul came home about two hours after Dornell was struck. Dornell died on a bed in the back room on Monday evening about 7 or 8 o'clock.

Cross-examined by prisoner's Counsel. The kitchen door was fastened when Dornell broke it open. I made supper for Poke.

William Sproul, sworn. It was Saturday night the 25th of November last, that I came into the house, and saw Dornell lay near the fire. Poke and his daughter were sitting with Dornell. I spoke to Dornell, but he made no answer. He died on the evening of the 27th of November last. Poke told me he had had fits.

Cross-examined by prisoner's Counsel.—Poke lives 9 miles from our house, and it is 3 miles to Jerseytown. It is ten feet from the chimney to the door, and two feet from the out-side of the hearth to the jam. Poke left my house after sun-rise next morning.

Stephen Sproul. This boy was again called, and after some examination with respect to his competency on the ground before stated, was admitted to testify—the Court leaving his credibility to be judged by the jury.

Stephen Sproul, sworn. Dornell was in the bar-room before Poke came. Poke sat down by the fire, and was warming himself, when Dornell came in and caught Poke by the hair and pulled him over. Betsy Poke then struck Dornell with a stick of wood, and Poke got the axe and struck Dornell with it three times, and the last stroke he hit him upon the head, and Dornell fell down on the porch—his head out and his feet pretty near out. Then Poke fell down on the floor and had fits, tumbling over and over, and Betsy Poke had to keep him out of the fire. Dornell's face was towards the door when he first struck; the second time he was a step further, and the third time he was by the door. Poke drew up hard, and struck him between the shoulders. Betsy Poke tried to catch the axe. Poke's fits lasted half an hour, and Dornell laid at the door till Poke recovered, when he and Betsy brought Dornell in and laid him on a pillow. When Dornell fell he said Poke you've killed me.

Cross-examined by prisoner's Counsel.—When Dornell came into the kitchen, Poke reached out his hand and said "how do you do, John?" and Dornell caught him by the hair and pulled him over. I brought the axe in. It was lying in the chimney corner. He struck with the side of the axe. Poke was at our house on Saturday at noon, and John Dornell, Jesse Robbins, and others, were there. Dornell and Poke spoke together and shook hands. Poke took a drink and offered Dornell a drink, but he refused; and Poke then went to Jerseytown. It was night when he came back. His daughter was with him, and he had a grist and other things in his wagon. They came first into the kitchen; Dornell was in the bar-room making a great noise. The kitchen door was fastened, and Dornell swore and made a great noise at the window, and afterwards broke open the door. There was no candle-light in the kitchen. I don't know how many days are in a year, nor in a month. I can count six.

Dr. Russel Parke, sworn. When I went into Sproul's I saw Dornell lying on a bed in a back room. I took a cloth off from his forehead, and discovered a wound probably three-fourths of an inch in length, which was down to the skull-bone, but no fracture could be found. Dornell made no

answer to any questions, except inarticulate sounds. I could see nothing in his eyes; his pulse was regular but slow; and bleeding made no change. I could discover no swelling in his back; and while examining that part of his body, Dornell said his back did not hurt him, but his head did. I could again find no fracture, and really supposed it more the effects of liquor than any violence done him. I did not afterwards see him while alive. I was at the inquest on Monday night; we stripped the body, but could find no marks on the back; his scalp was discoloured, but I could find no fracture, but under the scalp we found extravasated blood; we then took the scalp off, but yet could find no crack or fissure; I was at the post mortem examination on Thursday evening after; we took all the scalp off of the top of the head, and discovered a crack on the right side of the head on the temporal bone, which extended round the occipital to the left side of the head, and a transverse fracture also extended from the occipital bone about three-fourths of an inch in length; we took off the top of the skull, and found extravasated blood under the temporal bone, on the right side of the head, which was an inch in thickness and three inches in diameter; on examining the brain we found the right side softer than the left; the chest and contents of the abdomen appeared perfectly natural, and in the whole length of the spine we found nothing wrong. This examination was on the body of John Dornell, and I was assisted by Dr. Murray and Dr. McMahan; I supposed his death occasioned by the coagulum of blood in the skull, but the blood pressing upon the brain induced his death. I think the effusion of blood was occasioned by violence. Before death I discovered no symptoms of pressure upon the brain, but I now think his death was occasioned by the effusion of blood. I heard the testimony to-day respecting Poke's fits, and I never saw any body labouring under the fits that acted as described by the witnesses. A person having epileptic fits will not turn over and over; and I have no knowledge of other fits that will produce such an effect, unless intoxication.

Cross-examined by prisoner's Counsel.—From the examination of John Dornell I think he did not receive more than one stroke. I saw but one place where a blow could have been given; and I found no mark except on the side of the head. There was no depression of bone where the effusion was; and the blow must have been given with the side of the axe. I never knew that fear or anger would produce fits: they might produce a total prostration of the system, having more the appearance of a corpse than any thing else, and stimulents would be a proper application for relief. I consider "Rush on the mind" good authority. The clenching of the fists and frothing at the mouth are evidences of an epileptic fit; the contraction of the muscles keeps the body in motion, and rolling over is neither an impossible nor improbable concomitant. At the inquisition before 'Squire Thomas, Stephen Sproul was examined, but not under oath. He was objected to because he did not understand the nature of an oath. He said Poke had struck Dornell three times once about the middle of the back, and between that and the shoulders, and the third time below the neck. He never said he was struck upon the head.

Dr. John C. Murray, sworn. I was at the post mortem examination of John Dornell's body at Millville, on the 30th of November, 1837, which was an inquest held by the Coroner. After the body was disinterred it was carried to the school-house, near the grave-yard, in a coffin, where it was taken out and laid upon two benches for examination. We examined the body externally, but found no marks of violence except upon the head, which appeared to be contused, and a small wound above the left eye. An incision was then made from ear to ear across the top of the head. Dr. Parke and myself dissected, and Dr. McMahan took the notes of examination. The anterior portion of the scalp was dissected forward, and the posterior portion backwards; and we found a large collection of extravasated blood between the scalp and the bone, extending over the parietal bone of the right side, and the occipital bone. The occipito frontalis and temporal muscles, and the facia and pterocranium being removed, we discovered a fissure nine and a half inches in length, in the cranium, covering about the middle of the right temporal bone, and passing across the posterior-inferior angle of the parietal bone, across the upper portion of the occipital bone, and terminating in the lamdoidal suture on the left side. We also discovered a transverse fracture three-fourths of an inch in length, commencing in the main fissure, and running up to the sagittal suture, one inch from the sagittal suture, on the left side. [Here the Court suggested the necessity of using language which would let those understand the meaning who were not acquainted with the technicalities of anatomy.] We then removed the top of the cranium and found a large collection of extravasated blood between the bone and dura-mater, about 3 or 4 inches in diameter and about an inch in depth. We then removed the dura-mater, and found the brain confused and disorganized, especially under the coagulated blood. There was considerable extravasated blood in the substance of the brain. We opened the chest, but found no morbid appearance, except an adhesion of the plura-castalis and plura-pulmonaris, produced from previous inflammation. The cavity of the abdomen was natural; and from the occipital bone down the whole length of the spine were found no marks of external violence. The pressure on the brain from extravasated blood, between the bone and dura-mater, occasioned his death—was caused by external violence of some kind. I hardly think that a person in fits would turn over and over.

Cross-examined by prisoner's Counsel.—I can't say from examination whether there was more than one stroke or not.—We discovered but one spot, and the blows might have been repeated on the same place. The pterocranium was separated from the bone on the right side of the head. I have attended patients with epileptic fits, but not while a fit was on them; one patient was sitting up, and his lower jaw dislocated by the spasmodic contraction of the muscles. Anger and fear combined might produce a fit of apoplexy. I discovered neither external nor internal marks of violence on any other part of the body. After fits, the patient would be apt to be prostrated and sore.

Dr. McMahan, sworn. I was present at the post mortem examination. I think the collection of extravasated and coagulated blood between the bone and dura-mater caused Dornell's death, which must have been occasioned by external violence. I could not say whether there was one or more blows on the head. I never saw a person with fits rolling about; after fits they are generally more or less prostrate.

Cross-examined by prisoner's Counsel.—There were no external evidences of violence on the back. If there were two strokes on the head they must have been given on the same place; and the stroke was given with the side of the axe.
John Kissner, sworn. On the evening that Poke came to 'Squire Thomas's, he got into conversation about Dornell. I asked him whether he was angry when he struck him, and he replied that he was in as good a humor as he ever was. I told him I was sorry to hear him say so. He stated no reason for striking Dornell: 'Squire Thomas and family, Mrs. Poke and her daughter, and others, were present.

Cross-examined by Prisoner's Counsel.—I cannot say positively that Poke understood my question; but the words were used in English and German. Poke and myself have had some differences, but they were soon over.
Caleb Thomas, Esq. affirmed. I heard a conversation between Poke and John