LOCAL AFFAIRS

Trial of James B. Kelly for the Murder of Henry Weissham.

Court of Oyer and Terminer.

Before Hon. W. B. McCurdy, President Judge, and Associate Judges John B. Parke, Esquires.

SECOND DAY.

WEDNESDAY, January 15, 1858.

Morning Session.—The Court convened at nine o'clock this morning, and Judge McCandless delivered an opinion, concerning the separate trial of the prisoners. We have not room for the opinion, but the learned Judge concluded by saying that the evidence in the case was so conflicting, and the defence of the different defendants was so entirely distinct that their interests and the interests of the Commonwealth would be promoted by a separate trial of each. Accordingly, the motion to sever separate trials would be granted.

District Attorney Collier then announced that as the matter was optional with himself, he would elect to try James M. Kelly first. The prisoner was brought into Court, and placed in the dock. The panel was called, and all but two men, the following jury was selected:

Thomas Barclay,	Andrew Hamilton,
Robert Monroe,	Samuel P. Neely,
James K. Scott,	Henry Chalfant,
William Gill,	Patterson Pierson,
Abraham Judah,	Alexander M'Donald,
John Scaddorth,	E. E. Cunningham.

The indictment was read to the prisoner, and after a plain statement of the case by Mr. Collier the examination of witnesses for the prosecution was commenced.

The first witness called was Dr. R. M. Tindle, who testified that he had been called by the Coroner to make an examination on the dead body of Henry Weissman. He found two wounds on the head—one on the left side of the head, three inches long, and one inch in depth, running transversely; the other was a mere gash, about two inches from the first mentioned wound. He could discover traces of the bone, two inches and a half square, broken out, found the sutures or union of the bones of the scull, entirely separated; he found a large quantity of blood within the scull; coagulated blood. The hands of the deceased were tightly clenched, as if grasping something. The wounds were inflicted by some instrument. [An iron bar was then shown, which the witness thought would inflict such wounds as he found.] The hand, apparently inflicted by the deceased attempting to ward off the blow. The witness saw a considerable amount of clotted blood in the hall and on the stair case. Two wounds would undoubtedly produce death. The primary cause of death was the fracture of the skull, and the secondary causes was the effusion of blood, and consequent pressure on the brain.

On the cross examination the Doctor stated that no person suppose the old man to have been eighty years of age. The bones of a man of that age become nearly similar to those of a man in the prime of life and are more easily fractured. A blow upon the head not causing much violence to that protected by dense hair, would be more likely to cause death than would be the case with a man of middle age. He would not say that a blow with a bar of iron would be fatal when the man is lying down.

Wilhelmina Weissman was next sworn. I live with my son-in-law Weissman in the Sixth district, which is in the precinct of Mr. Muller to the Court and jury. I, Mr. Weissman and the deceased lived together. On last Saturday night, about twelve o'clock, she heard a noise in the yard, and her father, Mr. Weissman, called out, "Who's there?" Her father said, "They are breaking open the door!" Her father and one of them upset a chair in the room. Witness said, "Oh my, they are arresting us in the room!" About the old man jumped hastily out and out of bed, and ran for his son. It may be necessary, to understand this testimony properly, to state that there being but one bed in the room, father and daughter slept together. He asked what they wanted there. Witness heard something said about drinking whisky, but did not know who it was. One of the party took the old man by the collar of the coat. When she saw this, she also ran out of bed, and took hold of a piece of the coat. She took hold of the person who had caught her father, by the leg, to ascertain whether or not he had pants on, and she found he had. She then gave him a shove, and the man flew after the other. Her father had two of the men in the entry. At once as I was dressed I had to quit the room. He had hold of my father and was trying to back him out of the room. I received another blow on the arm, when I was about to run into the next room, after Winesbidle. When I was dressed, I went to the door, trying to get out. I was stopped at the door, and my father came in now, and I thought the robber had gone out of the house. I went with my father into the sleeping room again, after my father said he had locked the door. We heard the footsteps in the room again. I do not know whether they entered it or not. The window of that room is rather the largest, and took the shoulder one myself; then I wants I to run to the other, and at the collar door one of the fellows took hold of my leg. I designed myself with the iron again; then I ran through the cellar to Mr. Winesbidle's; went to Mr. Winesbidle's window, and told him that the whole house full of thieves; the robbers. I came up