The case was then argued before the jury by R. J. Wallace, Esq., for the Commonwealth, followed by H. B. Swoope and W. A. Wallace, Esquires, for the prisoner, and closed by J. B. M'Enally, Esq., for the Commonwealth—all the counsel acquitting themselves in a creditable manner, and faithfully performing their sworn duty.

Charge of his Honor, Judge Linn.

The Court after commenting upon the nature and importance of the case and the necessity for divesting their minds of all unfavorable impressions, or bias produced by rumor or otherwise, instructed the jury in substance as follows:

That they must first be satisfied that the deceased came to his death by a gun-shot wound inflicted by the prisoner.

If this fact be proven to your satisfaction then the killing is either justifiable, excusable, or felonious. There is nothing in the case to warrant you in saying that it is justifiable. Is it excusable? The prisoner's counsel contend that the act was done in self defence, and if so, excusable. To render the taking of life excusable, when alleged to have been done in defence of one's person, it must appear that the danger was imminent and immediate, and that there was no other way of escape. Nothing but dire necessity will excuse the act, and it lies upon the prisoner to show that such necessity existed at the time.

(The facts and circumstances attending the killing were then referred to, and an intimation given by the Court that there was no such necessity in the case as the law requires to render the act excusable, but the question was referred to the jury.)

But the prisoner's counsel contend that the act was excusable on another ground, and they accordingly request the Court to instruct you as follows:

1. If the Jury believe that the prisoner at the time of the killing, from the threats of Thompson then, from his advance towards him and his assault upon him—from his repeated previous assaults and threats since the trial of the indictment for riot—from the natural excitability and weakness of mind of the prisoner, with the superior bodily strength of Thompson to his own, or from any other physical causes; was in the delusive belief that great bodily injury was about to be committed upon him by Thompson, and the killing was the result of that belief, then the crime is neither murder nor manslaughter, but *se defendendo*, and the prisoner should be acquitted.

2. The Jury are to take into consideration the relative strength of the prisoner and the deceased—the conduct of the deceased toward the prisoner, since the trial of the prosecution for riot—the abuse of the prisoner by the deceased at the time of the killing—his threatening gestures and advance towards him then—the repeated previous abuse of the prisoner by the deceased—viewing the deceased as the man he was and the prisoner as he was, with the other evidence in the cause, and *if there was reasonable ground by the prisoner* to apprehend death or serious bodily injury at the hand of Thompson at the time, the killing is *se defendendo*, and the prisoner should be acquitted.

3. If the Jury believe that the prisoner at the time of the killing, under all the circumstances, had reasonable ground to fear great bodily injury from the deceased—and if they believe that his retreat into the door after the threats and abusive language of the deceased, was with a desire to avoid that danger, and there was no means of exit from the bar-room they entered, in time to escape such personal injury, the prisoner was not legally bound to stand and submit to the violence of the deceased, but was authorized to protect his person even to the killing of his assailant, the killing is then *se defendendo*, and the prisoner should be acquitted.

These points considered together assert that an apprehension, delusive or real, of an immediate and actual danger to life, if sincere, constitutes a defence to a charge of unlawful killing, and that the taking of life under such apprehension is excusable homicide and neither murder nor manslaughter. In order to render an act committed under such apprehension, excusable homicide; it must appear that there were such facts and circumstances existing at the time of the commission of the offence, as would lead to the reasonable belief by the prisoner that the design on the part of the deceased which he apprehended was about to be accomplished, and that he was in imminent danger of immediate death or great bodily harm. There must have been such acts and such an attempt or attack on the part of the deceased upon the prisoner as would lead him to believe that there was immediate danger of death or great bodily harm, from which he could not escape by retreat from the assailant, or otherwise than by taking the life of the party making the attack. The principle contended for in these points put by the prisoner's counsel must be limited in its application to cases where not only there is reasonable ground to believe that there is a design to destroy life, but where that reasonable belief is based not on surmises or inferences, however—but on an actual, immediate and physical attack from the assailant. An illustration of this principle of the law of self defence under such circumstances is given in the books thus:—"A. in the peaceable pursuit of his affairs, sees B. rushing rapidly towards him with an outstretched arm, a pistol in his hand, and using violent menaces against his life as he advances. Having approached near enough in the same attitude, A., who has a club in his hand, strikes B. over the head, before or at the instant the pistol is discharged, and of the wound B. dies. It turns out that the pistol was loaded with powder only, and that the real design of B. was only to terrify A. Will any reasonable man say A. is more criminal than he would have been if there bad been a bullet in the pistol? It will be noticed first, that B. employed a weapon likely to kill, and accompanied it with menaces of killing. Secondly, that the parties were in actual conflict at the time: and thirdly, that A. used a weapon not in itself mortal." A force which the defendant has a right to resist, must itself be within striking distance. It must be menacing, and apparently able to inflict bodily injury unless prevented by the force he opposes. The right of resorting to force upon the principle of self defence, does not arise while the apprehended mischief exists in machination only. The belief that a person designs to kill me, will not excuse me for killing him, unless he is making some attempt to execute the apprehended design, or at least is in an apparent situation to do so, and thereby induces me reasonably to think that he intends to do it immediately. If the circumstances transpiring at the time of the killing are such as, that after all reasonable caution, the party suspects that the act of violence which he reasonably apprehends is about to be immediately committed, he will be excused. The doctrine applicable to this branch of the defence is this as we hold, and instruct you, that an individual laboring under an apprehension either well grounded or delusive, that another person intends to take his life or to do him great bodily harm is not excusable for killing such other person, unless he is assailed under circumstances which lead to the reasonable belief, that the assailant is about to execute his murderous or violent design immediately, and in a way that precludes reasonable opportunity to retreat and render the taking of the life of his assailant necessary to the fence of his life or his person. Human life is too sacred to be trifled with, and he who ventures to take the law in his own hands, and to take the life of his fellow man must show that the act was clearly excusable. Nothing short of downright necessity, either existing in reality or reasonably apprehended from the nature of the attack, such as already explained, will excuse.

If the act is not excusable on the principle we have just stated to you, it is felonious and must be either murder or manslaughter.

The Court then proceeded to explain to the jury the nature of, and the distinction between, the several grades of felonious homicide, and concluded by instructing them:

1st. If you find from the evidence that the act was malicious, willful, deliberate and premeditated, then you will find the defendant guilty of murder in the first degree.

2d. If you find from the evidence that the act was committed willfully and maliciously, but not with deliberation and premeditation, then it will be your duty to find the prisoner guilty of murder in the second degree.

3d. If you can find from the evidence that the act was done suddenly, in a transport of passion, and with sufficient provocation, such as we have stated to you and read from the books, you will find him guilty of manslaughter only.

The prisoner is in your charge.

The jury retired at half past six o'clock and after remaining out till nine o'clock, at that hour returned to the Court room, and rendered a verdict of "*guilty of murder in the second degree,*" with a recommendation of mercy to the Court.

On Saturday afternoon, at a few minutes past 5 o'clock, Hockenbury was brought into Court again and sentenced as follows:

JAMES HOCKENBURY: You have been found guilty of a high crime, but the peculiar circumstances surrounding the case, have induced the Jury, in their verdict, to recommend you to the mercy of the Court, and we, in pronouncing the light sentence we are about to impose on you, are influenced to some extent by the same extenuating and mitigating circumstances. We would not be considered as in any way or manner excusing the act which you have committed. You have unwarrantably slain your fellow man, and were it not for the recommendation of the Jury and the peculiar circumstances of the case, we would not hesitate to exert the extent of our power in this case, and to pronounce upon you the extreme penalty of the law. We have taken into consideration the threats and abuse of the deceased toward you, your apparent alarm and your feeble condition, mentally and physically, as testified to by respectable witnesses, and as in some measure apparent to the Court from your personal appearance during the trial—these, with your advanced age and the present state of your bodily health, and the other mitigating circumstances surrounding your case, have determined us to pass upon you as light a sentence as a due regard to the demands of public justice will allow; and in this we are guided by the Act of Assembly, and take the minimum of penalty therein prescribed, as the measure of your punishment. We would have it distinctly understood that offences like this cannot be tolerated and shall and will be severely punished by the Court in ordinary cases; and that it is only out of regard to the recommendation of the very intelligent jurors by whom you were tried, and in view of the circumstances we have already mentioned, that we pronounce upon you this sentence, which is, that you, James Hockenbury, do pay the costs of prosecution and undergo a servitude in the Western Penitentiary of Pennsylvania for the term of four years, there to be kept, at hard labor, fed and clothed in the manner prescribed by law, and that you be in custody, &c.

Hockenbury is a man of about 56 years of age, over six feet in heighth, of slender proportions, and displayed much nervous excitement whilst receiving sentence.

TRIAL OF MRS. SARAH BRENNEMAN.

In the Court of Oyer and Terminer for Clearfield County, March Term, 1860.

On Saturday morning, June 23d, the trial of Mrs. Sarah Brenneman, charged with infanticide, was commenced—R. J. Wallace, District Attorney, and Israel Test, Esquires, for the Commonwealth; and Wm. A. Wallace, J. B. M'Enally and Walter Barrett, Esquires, for the Defendant. At 9½ o'clock the prisoner was arraigned in due form, and plead "not guilty" to the several counts in the indictment, which charged her with Infanticide, and concealing the death of a bastard child.

The Court then directed the panel to be called over by the Clerk, and eleven jurors were selected, when the clerk announced that the panel was exhausted. A special *tales* being ordered, the Court directed the doors to be closed, and the Sheriff selected the names of twelve persons from among the bystanders. These names were placed in the box, and Jacob Bilger chosen as the twelfth juror. The names of the jury are as follows, in the order in which they were selected:

D. L. Gearhart,	Joseph Ripley,
William Stall,	John Bell,
James W. Irvin,	John Mulkins,
John Hepburn,	Elijah Burns,
Thomas Myers,	Frederick Fraily,
Caleb Copenhaler,	Jacob Bilger,

The jury having been duly sworn, R. J. Wallace, Esq., District Attorney, opened the case on part of the Commonwealth, after which

William Morgan, jr. was called, sworn, and testified that on the morning of the 30th of March, 1860, was driving some cattle down the River. Walked up to where Robert Archy was digging sod on the bank of the River, a few rods below town—walked to the River's edge, and passing down a piece, discovered the child in the River. I turned to him and said it was a child. Left it then, came up street and told it in the Shoe shop; went across the street and told John Admas; told a couple other boys and then started down again. Whilst twelve men were being selected, I drove the cattle down. When I came back, saw them take the child out of the River. It was about four rods below the house of Wm. Powell, and nearly opposite the new house being built by Mr. Spackman. When I came back the child was still in the River, in the same place where I first saw it, about 12 feet from shore. Saw it then taken out.

X.—Water was middling low—had been higher—was falling—was not long after the "flood."

Dr. J. G. Hartswick, af'd.—Found the body in the River 6 feet from the edge of the water, which was about 14 inches in depth; height of the bank from the waters edge, 8 feet; child lay with its head up stream; the afterbirth and membranes, still connected with the child, about 18 inches below; the cord was a little twisted; the right foot was partly beneath a stick of about an inch in diameter; the umbilical chord was beneath the right foot and over the stick; the child was upon its right side; the body of the child was covered with sediment, except portions of the lift arm, hip and knee. The child was taken from the water by Dr. Wilson, and carried to the town Hall. There measured it and found it 21 inches in length; the umbilicus was about half an inch below the centre of the body; found three white marks about one inch below the ear and right side of the neck; three white marks and one scratch. Dr. Wilson then washed the child. Whilst he was doing this, I noticed a discharge from the moeconium; found the after-birth entire and in a good state of preservation; the vessels in it were filled with blood; the body of the child was well developed; the chest arched in front; hair and nails perfect, ears standing out from the head and well developed; testicals in the scrotum. About one inch below the left ears, on the neck, saw a white mark. I also saw what I supposed to be a finger nail mark on the chest. Found the child to weigh 8¼ lbs. Dr. Wilson then opend the chest, and found the thymus gland well developed, occupying its proper place. Examined the lungs, found them prominent and projecting forward, the right lung extending a little over the median line, and covered a portion of the pericardium or membrane surrounding the heart. The lungs presented a light red, rather bright color, and had a marble appearance, particularly on the lower side. The lower part of both lungs slightly mottled—still darker. Removed the lungs and heart and placed them in a bucket of water and they floated, in consequence of having been filled with air. This is the hydrostatic test. Then examined the brain, and found it fully developed. Bones of the head were partly ossified. The vessels of the brain were stained with dark colored blood. After that, looking over it, I saw three marks on the body. When the body was lifted from the water in the River and let go, it immediately sunk again. I thought the body was lying near where it was first thrown in, from the fact that the current was not strong, and that when the body was lifted it immediately sunk again. Had the body been thrown in above the bridge, it would likely have been found further out, perhaps on the opposite side of the River. It was a fully developed child. I think it was born alive. There are two tests—the hydrostatic and static. The hydrostatic test was employed. I believe the child had breathed. It is said a child can breathe before absolute birth. It is my opinion, from examination, that the child did not die a natural death—that it died by violence. The distending of the blood vessels of the head and of the upper portion of the body, would lead me to suppose that it died by suffocation—which is the immediate cause of death by drowning.

X.—The hydrostatic test I might consider infallible, but is not by all—there is a difference of opinion in regard to it. Before the child is born, I suppose in one-third of the cases, the child cries. The lungs could become inflated after the lungs and head had passed. There are other causes which would inflate the lungs and cause them to float—artificial inflation, putrefaction, and emphysema or rupture of the air vessels and passage of the air into the lungs. Can't say whether there was entire extra-uterine life—my opinion inclines that way. If the putrefying gases were to pass into the lungs, they would float.

In answer to Comth.—I would think that a fully developed child, such as this was, must have had an independent circulation from its mother. Noticed no evidences of putrefaction, artificial inflation, or internal disease.

Adjourned at 12 to meet at 1½ o'clock.

Court met at 1½ o'clock, P. M.

Dr. R. V. Wilson, sw.—A child was found in the river, which I was called to assist in examining at the Town Hall. Saw the child before it was removed from the water. I lifted it out. Assisted at the post mortem examination. It had all the marks of a perfectly matured and well developed child. The afterbirth was attached. The brain was healthy and well developed, somewhat congested and filled with dark blood. Its lungs were well developed, fully expanded and of healthy color, such as we would expect to find in a child after birth. We employed the hydrostatic test. Also examined the heart and lungs in my office after the inquest. So far as our examination extended and anatomical tests were applied, there was nothing to contradict the opinion that the child had been born alive. There was strong presumptive evidence that death had been caused by strangulation—suffocation rather than strangulation. Of this, however, I entertained some doubts. Its lungs were filled with frothy mucous, which is, according to the books, one of the evidences of suffication by drowning. No evidences of putrefaction in the child—none of artificial inflation. There were evident signs of life. Found several marks on one side of the neck, just below the ear. The hydrostatic test is not, in itself, considered conclusive, but associated with other circumstances pertaining to the condition of the child, it becomes conclusive as to the fact of respiration. The circumstances inducing belief that the child had respired were, the condition in which it was found—its perfect developement rendering it evidently capable of sustaining an independent existence—the complete expansion of the lungs themselves—their healthy color, and the absence of any putrefactive changes. The condition of the anatomical and foetal parts, should also be taken into account. From its density, I wouldn't suppose the body of the child had floated far. I have no doubts about this child having lived after birth.

X.—I don't believe that as perfect respiration could have taken place until after partial birth. It has happened in my own practice a number of times that the umbilical chord was around the neck of the child—I have found it around once, twice, and once so tight that I had to sever it. The average time that will be required for a body to rise in the water is stated by New-York coronors to be from 4 to 6 days. The child might have breathed and not have had complete extra-uterine life—the limbs might not have been free. The lungs are the last parts of the body that are subjected to a change in water. I had no doubts in my own mind that the child breathed after it was born.

Robert Archy, sw.—Was working on the river bank on the morning the child was found. Was cutting sod for Mr. Crans. Went to the bank with Wm. Morgan, Jr., to see whether I couldn't get better. Went to spring at the water's edge to get a drink. Went to where I was digging, when he said, Bob what is that, there. I looked at it, and said why it's a child. Came up to Morrow's and told Dave Halsey. Morrow, Halsey and myself went down then.

M. A. Frank, sworn.—Am a Justice of the Peace, held the inquest, there being no Coroner. The body was found in the river in the Borough of Clearfield. The physicians were called in by my direction.

Maria Shugarts, sw.—I saw Mrs. Brenneman three times during the past six months. Took her to be in a delicate situation.

Frederick Conklin, sw.—Knew nothing.

Frank Short, sw.—Saw Mrs. Breneman frequently within the past six months. From appearances, I supposed her to be pregnant—a few days before the coroner's inquest I thought there was a change—she didn't appear as she did before.

H. B. Swoope, Esq.—The Commonwealth offers to prove voluntary confessions made before this witness, by the prisoner.

The counsel for Defendant object, alleging that they were made under great fear—the Defendant having remained in the woods during the greater part of a night—was hunted down by armed men with pistols—taken out of bed in an enfeebled, starved and frightened condition, late in the night, by the officers of the law—brought before the committing officer, and subjected to an inquisitorial examination.

Testimony was taken to show under what circumstances the confessions were made, and whether the proof is admissible or inadmissable, but before the examination was concluded, at 20 minutes past 5 o'clock the Court odjourned until 8 o'clock on Monday morning.

Monday's Proceedings.

Court met at 8 o'clock, and after hearing further testimony, His Honor decided that, as no influence had been exerted either one way or the other to extort the confessions of defendant, the evidence, containing her confessions, was admissible, subject to the charge of the Court.

The counsel for Defendant objected on the ground that, taking all the facts and circumstances together, the confessions were not made in that voluntary manner, and in that state of mind in which they should be made to render them admissible. The Court overruled the objection, and a Bill of Exceptions was sealed.

H. B. Swoope, called.—When Mrs. Brenneman was brought into the office, I asked her to sit down, and I think made the remark that it was a serious or unfortunate affair. As she sat down on the end of the settee, she said, "I am guilty." I then said to her, this is a very serious charge; you ought not to say anything that would prejudice your defence, if you have one to make; that if she desired it, I would commit her to jail until Monday, when she could have a hearing before the justice; that she was entitled to a full investigation and counsel. She replied that she would rather go to jail and stay there till Court. I then said, if you intend simply to plead guilty, you can do so, and I'll commit you to jail till Court. She then stated, that she was the mother of the child that had been found. All that pertains to the facts were taken down in writing in my docket as Burgess.

Prisoner's counsel objecting to the confessions being proved by parol evidence, and requiring that the confessions in writing should be produced, because the writing is the best evidence, the witness brought in his docket; when prisoner's counsel objected to the docket being given in evidence, on the ground that it is a minute made by an officer assuming authority that he did not possess; that the Burgess has no power as a committing magistrate in cases of this kind; that the condition of mind of the prisoner, under the false assertion of authority, renders the confession one that is not voluntary, and hence inadmissible; and that the prisoner's fear of the public gaze induced her assent and answers to the questions.

The Court expressed the opinion that the Burgess had no power to commit the prisoner officially, but permitted him to use the book to refresh his memory; the writing being ruled out at the instance of the prisoner's counsel.

H. B. Swoope then testified.—She said the child was born on Monday night the 19th of March—that she destroyed it with her own hands—that George Newson was its father. I then asked her if she desired to have George Newson arrested. She said she did. I told her it would be necessary for her to make an information; that I would have to ask her enough questions to draw the information. I then asked her when the child was begotten. She answered that. I then asked her where it was born. This question she hesitated to answer for a considerable length of time. Says she, must I answer that. I replied, that I couldn't write the information without knowing where it was born. She said in the backhouse on her mother's lot, and added to that, that she had carried it to the river and threw it in, and that nobody else knew anything about it. I think it proper to state that I had not told her what charge would be preferred against her—whether infanticide or concealing the death of the child. She didn't know from me the nature of the charge against her. She made oath to the information and signed it.

X.—I didn't believe all of this confession. In the first place I had been informed of what had occurred in the house prior to the arrest; that after she entered the house, when she came home, her mother and sisters had a long conversation with her in the dark; also about the time the officers made the arrest, one of the sisters went into the room and said, Sarah, we didn't know anything about this, did we? I didn't believe it further, because when she hesitated to answer the question she seemed to be hunting for a reply to make so as not to implicate anybody else; and for the further reason that I knew, having studied medicine, that a woman in her condition could not have given birth to so large and fully developed a child, with the placenta and membranes attached, in any posture in which she could have placed herself in the privy, without assistance; and that she could not, having given birth to such a child, immediately carry it to the river where it was found, and project it 6 or 8 feet from the shore. Those were the reasons that induced me to believe that the information was not correct. I had other reasons; because there was circumstantial evidence before the inquest that induced me to believe that the child was killed by another party, who was ordered to be arrested, but fled. I believed that the confession was not totally untrue—that it was partially correct—that it was made to screen other persons. I deem it proper to say that, having been for a day and a night without food, and being in the condition she was, mentally and physically, that she was hardly competent to do anything, or know what she did.

Joshua S. Johnson, sw.—I arrested Mrs. Brenneman. I am constable of this Borough. Sheriff Miller was in company with me when she was arrested. We went into the room where she was and spoke to her. The Sheriff said to her that he supposed she knew what we came after. She said she did, that she was here and that she was guilty. Her sister then came into the room and said, Sarah, we didn't know anything about this, did we? Mrs. Brenneman then said, No—no one knew anything about it but myself. She then got ready and went with us to Mr. Swoope's office.

X.—No one went into the room but Mr. Miller and myself—the room was up stairs. She was in bed. I think she was not dressed. Stoughton was down stairs—her sisters were in a room adjoining the one she was in. Entered the house about half an hour after she came in, and arrested her. Was about 3 or 4 o'clock on Sunday morning. Was watching for her return from about dark. Was on the the opposite side of the street. Robert Mitchell, jr., was the only one that I know of, who was assisting to watch. She had been gone from some time on Friday evening. Four others had gone out of town to look for her. They were, Joseph Burchfield, Henry Evans, Blake Walters and John Huidekoper. When arrested, she was crying, nervous and excited—very much agitated. She was weeping when she went to Mr. Swoope's office. She signed the paper with a steady hand.

F. G. Miller, aff'd.—Was present at the arrest of Mrs. Brenneman. Swoope called me in the morning, before day awhile. I then went to the house—met Constable Johnston and Mr. Thorn. I rapped at the door and Mr. Stoughton opened it. I inquired of him whether Mrs. Brenneman was in the house. He said she was up stairs. He said she was there and intended giving herself up. Went up stairs with Johnson into the room where the mother and sisters were—passed through that to get to the room where she was. They were much excited about the matter. When I went into her room, I told her I supposed she knew what we were after. She said she did—that she was guilty—but didn't say what she was guilty of. I asked her whether she would go along then, or wait till morning—that she could have her choice. She said she would go immediately—if she waited till daylight there would be such a large crowd, as she would not like to see. Took her before Swoope, where she confessed. I left the office then. No admissions made to me since—never asked her any questions about the matter.

X.—I think Stoughton said that the family had said it would be better for her to give herself up. The mother and sisters said they were innocent. Stoughton is married to one of the sisters and lives in the house. The mother, Stoughton and his wife, and an unmarried sister, constitute the family. She as well as the whole family were much excited. It was said Mrs. B. had been out the two nights previous—nights cold. It wasn't quite daylight when I put her in jail.

Dr. M. Woods, sw.—I was called on to assist at the post mortem examination of the child found in the River in March; saw it in the River; it was removed to the town Hall. Its general appearance was natural and well developed. The lungs, with the heart, were removed by dissection. They were placed in water and floated. This is said to be, by medical jurists, a sign or test that the child had breathed. This test is called the hydrostatic test, and of itself is not conclusive evidence, but taking into consideration other circumstances pertaining to the condition of the child, is positive evidence of the child having breathed. We may have this positive evidence of the child having breathed, and yet it is not evidence of the child having been born alive. There were no generated gases in the lungs, which had a healthy appearance, and filled the cavity of the chest. My opinion is that the child breathed; but that it was born alive, I cannot say.

X.—The probability is that the breathing had been tolerably perfect. There was nothing that indicated to a certainty the manner of its death. The test of drowing is water in the stomach and mucus in the trachea. There were marks on the right side; other marks on the same same side of the body. My impression is that they were not the marks of finger nails. The three marks on the neck were included in a space of about ¾ of an inch, on an eliptic line, and could scarcely have been made by fingers. A woman may be in such a state of mental excitement in delivery that she may take the life of a child and be unconscious of what she has done. Accidents, resulting in the death of the child may occur when properly attended—more frequent when not properly attended. Cold might be one cause of death. Compression of the umbilical chord, causing death, produces congestion in the blood vessels of the brain. It may be strangulated by compression of the chord itself. I suppose the marks on this child were produced by coming in contact with something in the River—they all being on the right side, on which it lay. A child might be suffocated in the pool of the natural discharges. There are instances in which women, immediately after labor, have walked about and performed work; but usually women are so much debilitated as to confine them to bed.

Adjourned at 12 till 1½ o'clock.

1 o'clock.—Several witnesses were called to show Mrs. B's condition before the finding of the child. Mr. Johnson testified that Mrs. B. told him, whilst she was in jail, that she had thrown the child into the river. She said the child was born dead.

Defence re-called Dr. Wilson.—In my testimony on Saturday I said something about mucus being found in the lungs and trachea. I spoke of it as being an inference of the child being drowned. I do not wish to be understood as saying that the circumstance, standing by itself, should be considered as conclusive that the child had been drowned.

John Guelich, sw.—Was at the inquest; saw the marks on the child. They were on the side on which the child was lying in the river, and thought they were produced by coming into contact with something.

Testimony closed.

The Court, in charging the Jury, said the prisoner was charged with three distinct counts in the indictment—1st, with strangling the child; 2d, drowning it in the River; and 3d, with concealing its death. Conviction under the two first counts must be for murder in the first degree—the child being incapable of resistance, or of giving any provocation, there could be no circumstances surrounding the case which could reduce the grade of the crime to a lower degree. To convict her on either count, the Commonwealth must prove that the child was hers—that if born it would have been illegitimate—that it was fully born alive—that it came to its death by violence, and that she was the agent of that violence. The Jury must be satisfied beyond a reasonable doubt that this was the cause—the facts must be established to a reasonable certainty. His Honor then referred to the fact of the finding of the child—the public excitement—the flight of the prisoner to the woods—her return, her excited state of mind, the manner of her arrest, and her admissions. She said she was guilty. Guilty of what? Was it that she was guilty of concealing the death of the child? Is it probable if she had known she was charged with murder, that she would have confessed? When taken before the committing magistrate, she confessed what? That she destroyed the child and threw it into the River. How did she destroy it? When confessions are relied upon which are capable of two constructions, the confession must not be strained, but that most favorable to the prisoner must be adopted in capital crimes, unless the facts proven warrant the other construction; and when assertions exculpating are made at the same time, they should have their weight. If the Commonwealth takes her declaration one way, she must take them the other. She said she threw the child into the River, *but it was born dead!* Did she mean more by her confession than that she destroyed it accidentally in giving it birth? The commonwealth must make out a clear case and that the child was intentionally, and not accidentally destroyed. The Court then referred to the third count in the indictment. The Act of 1784, made it a penal offence to conceal the death of a bastard child. It is not absolutely necessary that it should be born alive—if it is still-born and the fact concealed, the party is guilty. Was this child thrown into the River to conceal its death? Was this the object of throwing it there? And did she put it there, or procure it to be done, with that object in view? If so she is guilty on the 3d count. After calling attention to this point, the Court gave directions about the manner in which to render their verdict, and submitted the case to them at 6¼ o'clock. After remaining out about three-quarters of an hour, the jury returned to the Court room, and rendered a general verdict of "NOT GUILTY."

QUARTER SESSIONS.

Com. vs. Joseph L. Owens.—Fornication and Bastardy. Usual sentence. R. J. Wallace for Com.

Com. vs. E. H. Baker, Robt. M. Reed and Wm. Reed.—Charged with robbing a colored man named Jones, on the highway near Lumber City in March last. The prosecutor not appearing, the prisoners were discharged.

Com. vs. John Montgomery.—Indictment for burglary and larceny—robbing store of Geddes, Marsh & Co., in Bell township, on the 27th March, 1860. Court assign, L. J. Crans, Esq., as counsel for Defendant, who is a lad of about 16 years of age. The District Attorney having entered a *nolle prosequi* to the count of burglary, because the store room was not connected with a dwelling house or in such a building as burglary could be committed in, the Defendant pleads guilty to larceny, and the Court sentenced him to pay a fine of $1 and costs of prosecution, restore the goods, and undergo an imprisonment of six months in the county jail.

Com. vs. Wm. Selfridge.—Assault upon an officer, John King, Constable of Burnside tp. Fined $10 and costs. R. J. Wallace for Com. T. J. M'Cullough for Defendant.

Com. vs. Wm. Ten Eyck.—Forcible entry and Detainer. Verdict not guilty. A. M. Montellus and Defendant each to pay one-half of the costs. R. J. and W. A. Wallace for Com.; M'Enally and Swoope for Def't.

Com. vs. Parley Muhew, et al.—Larceny of timber. Austin Cline, Prosecutor. After evidence closed for the Commonwealth, District Attorney abandoned the prosecution. R. J. Wallace and H. B. Swoope for Com.; W. A. Wallace for Def't.

Com. vs. Joseph Fiscus.—Malicious mischief, in cutting loose a raft of Austin Cline, prosecutor. Verdict, not guilty, but that Defendant and prosecutor each pay one-half of the costs. R. J. Wallace and H. B. Swoope for Com.; W. A. Wallace for Defendant.

Com. vs. Joseph L. Curby.—Selling liquor to minors. Jury being unable to agree, were discharged by the Court. R. J. Wallace and Swoope for Com.; W. A. Wallace for Def't.

Com'th. vs. Branson Davis.—Same offence. Verdict, guilty. R. J. Wallace and Swoope for Com.; W. A. Wallace for Def't.

Com. vs. John McNaughton.—Surety of the Peace. Court ordered him to give bail in $300 for good behavior and pay costs of prosecution. R. J. Wallace for Commonwealth; W. A. Wallace for defendant.