

Clerk—"God give you a safe deliverance."
The prisoner was then remanded to the custody of the Sheriff, and after some little further business the Court adjourned.

SATURDAY MORNING, March 9.

John B. Adlington, the prisoner was brought into Court by the Sheriff.
The Clerk called over the panel of Jurors, when all but four answered to their names.

The Court then ordered the Clerk to make proclamation, and to proceed to empanel a Jury to try the Defendant. The following are the names of the jurors empanelled:

- John S. Douthett, Adams township;
- Theodore J. Craig, Bor. of Millersburg;
- Philip Burtner, Bor. of Saxenburg;
- John H. Christley, Shipperook tp.;
- Thomas Vandye, Marion township;
- Peter Fennel, Jr., Bearfield tp.;
- Robert Trimble, Middlesex township;
- John Heitler, Centre township;
- William M. Elvaine, Penn township;
- Henry H. Bear, Jefferson township;
- Jacob Crump, Butler township;
- John Q. A. Kennedy, Penn township.

The whole time of the Court up to 12 1/2 p. m. was occupied in empaneling nine Jurors, when the Clerk announced the panel exhausted, and the Court said they would issue a precept for calling *tamen* in the afternoon.

The jurors empanelled were given in charge of Constables Muckey and Lytle, and directed not to converse with any person—not even the Constables—on the subject of the present trial. Rooms were provided for them at Jack's Hotel. The Court also directed that the jury should not read the public papers.

The prisoner was remanded to the custody of the Sheriff, and the Court adjourned to meet at 2 p. m.

AFTERNOON SESSION.

Court met pursuant to adjournment. John B. Adlington was brought into Court by the Sheriff. He is usually attended by his wife, children, and a lady relative.

The jury—the nine selected—were brought in by the Constables; and after being seated the Clerk called over their names; and the Court proceeded to issue a precept of *tamen* to fill up the jury. The doors of the Court room were closed and guarded. The Sheriff commenced speaking his selections; but, it was ten minutes to five o'clock p. m., before the jury was complete and sworn.

The Clerk of the Court then stepped forward toward the jury empanelled and said:

Clerk—Gentlemen of the Jury, are you all sworn?

Jurors—Yes.
Clerk—Stand together and hear the evidence. You that are sworn look upon the prisoner and hearken to his case. You must know that he stands indicted by the name of John B. Adlington: For

1st—

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring in and for the county of Butler upon their oaths and affirmations respectively, do present: That John B. Adlington, late of said county, yeoman, on the 24th day of December, in the year of our Lord one thousand eight hundred and sixty-six, at the borough of Portersville, in the county of Butler, aforesaid, and within the jurisdiction of this Court, with force and arms, in and upon one Sidney B. Cunningham, in the peace of God and of the State aforesaid, then and there being; feloniously, wilfully, and of his own malice aforethought, did make an assault; and that the said John B. Adlington, with a certain knife of the value of seven-fifty cents, which he—the said J. B. Adlington—in his right hand then and there held—the said Sidney B. Cunningham, in and upon the left side of the body of him the said Sidney B. Cunningham, then and there feloniously, wilfully, and of his own malice aforethought, did kill and murder; contrary to the form of the Act of Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Inquest aforesaid, upon their oaths and affirmations aforesaid, do say: That the said John B. Adlington, in manner and form aforesaid, feloniously, wilfully, and of his own malice aforethought, did kill and murder; contrary to the form of the Act of Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

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his funeral; he was buried at the village of Pampkin town, at the Campbellite church, in Lawrence county.

The defense had no questions.

Dr. Wm. R. Cowden examined.—I am a physician and surgeon; live in Portersville; I was called on the 24th of December, about midnight, by Sidney Oliver; said he wished me to come over there that he had had a fuss, and that John Oliver, I understood, was hurt and some of them nearly killed. I opened the door and told him to come in; I dressed myself and went over and found the man that has been identified as Sidney B. Cunningham, sitting on the floor in the hall at the right side of the door; felt his pulse and found him dangerously injured in some way, passed on into the parlor, found another man on the left of the door in the parlor, on the floor nearly in the state of insensibility. He has been since identified as J. H. Teeple. Some one invited me up stairs to see John Oliver; can't state who invited me up; found him in the room above the parlor; there were two or three persons washing the blood off his head and face. Mrs. Adlington was one of them; think Mrs. Oliver. John said he thought he was not much hurt; wished me to go down and attend to the other; thought them much worse hurt than he was. I went down and had them bring Mr. Cunningham into the parlor and lay him on the carpet; think it was John L. Jones and John B. Adlington, the defendant, brought him in. They removed his clothes sufficiently to find where the wounds were; found one on the left side of the body; just inside anterior superior, *spinous process of the illium*; the bowels proceeded from the wound about as large as my fist; the wound was about one and a-half inch broad; the bowel was not cut; I replaced the bowel; found another cut higher up on the same side; about same width, and apparently made by the same knife; between the 7th and 8th ribs, counting from above; it corresponded with other wound in size—it was 4 inches upward and inward direction, penetrating the left lung; the man was in a dying condition with occult hemorrhage in the chest. I asked him if he was aware that he was dying; he assented by a nod; he did not speak; asked him if he knew who stabbed him, or injured him; he shook his head, meaning that he did not. He died in about thirty minutes, about forty-five minutes from the time I first saw him. I believe that the cause of his death was hemorrhage from the lung from the upper wound; there was no hemorrhage from the lower wound. The upper wound by its character would necessarily be fatal; the knife went through the coat, vest and shirt; black broadcloth coat, silk velvet vest; think knif flannel shirt on. The wounds were exactly alike in their extremities and would indicate that the knife had been double edged; it appeared as if the knife had been plunged in and drawn out again; the lower wound could not have been probed very readily. When I first saw Cunningham, he was in a dying condition. He sat leaning against the wall with his head bent forward; he could not support himself. Think it not quite an hour from the time I was first called upon, until Cunningham was dead. Think he did not speak, did not hear him speak.

By Mr. M. Junkin.—The Commonwealth proposes to ask the witness questions relative to the Teeple's homicide which occurred at same time and place, and was part of the *res gestae* of the transaction.

Objected to by Mr. Thompson, for defense, in the ground that the defendant was not on trial for a specific offense; and that questions as to another charge for which an indictment was pending were inadmissible.

Court overruled the objections and noted an exception.

Dr. Cowden resumed.—I examined J. H. Teeple; found him lying on the left side of the door of the parlor as you enter; removed his coat and vest and found he had received a wound in the left side of the chest; about an inch and a half long, transversely across the chest, apparently between the sixth and seventh ribs, counting from above; I could not find the knife; the knife had entered the chest; I introduced my finger, but could not find where the knife had gone; he had the same symptoms that Mr. Cunningham died of; I did not ascertain where the knife entered till after his death; I told him I thought he was in a dangerous condition; the wound indicated that it had been made with a sharp instrument. I made an examination just a week after the wound was made—a *post mortem* examination.

Mr. Thompson objected to this evidence.

By the Court—Did you attend upon this man?

Witness—I attended upon him while he lived.

By Mr. Thompson.—It was the day before New Year's, about 2 P. M., that I made a *post mortem* examination.

Mr. Thompson objected that this was incompetent for any purpose—having occurred more than a week after the transaction of which the Court was inquiring, and was part of the *res gestae*.

Court overruled the objection. It was part of the *res gestae*, to give a description of the wound spoken of.

Witness resumed.—After dissecting the muscles it was sometime before I could find where the knife had entered; but found eventually that the knife penetrated the outer edge of the sixth rib touching it; the *pericardium* was not wounded; it penetrated the left lung; the left pleural cavity being full of blood, the lung collapsed; the pressure of the blood drove the air from the lung—no air could get in; he lung was surrounded by blood the wound was six and a half inches deep; it appeared as if the knife had a sweep upward and downward; I think the wound was made much broader internally by the knife making a different angle in withdrawing the knife; the moving of the body of the wounded man might produce the same effect; the wound was probably three inches broad internally. It appears to me that the instrument used was double edged; the wound in the rib also indicate this; it was thin on both sides. If it had been otherwise

it would have split the rib; I have the rib with me in Court. It was taken out at the *post mortem* examination.

Mr. Thompson objected—to the question whether this wound produced death as incompetent, irrelevant, and no part of the *res gestae*.

Court overruled the objection, and noted an exception.

Witness resumed.—I think the wound described appears mortal; he died of hemorrhage of that wound; the bleeding was internal, there were some wounds on the head of Mr. Teeple—cuts and bruises; they were above the forehead; on the crown of the head and on the forehead—his head was cut and bruised a good deal; they were not serious; no breaking of the skull; the patient did not complain of them; he only complained of those on the left side of the chest. He died the day before New Year's; 31st of December was the date. Mr. Adlington assisted in bringing Mr. Cunningham into the room; also Teeple; helped to take off his coat and vest; there was nothing particular in his conduct; there was nothing strange, I inquired of Cunningham and Teeple how they came to be hurt; they did not know how or who hurt them; Cunningham shook his head. Teeple said he did not know who stabbed him.

Objected to by Mr. Thompson.

Mr. M. Junkin proposed to ask the witness what Teeple said in relation to the injured man—this being part of the *res gestae* at the time of the fact. He was directed to put this proposition in writing, and do so.

Mr. Thompson objected in writing; by declarations that they are *exparte*, and not dying declarations, and no part of the *res gestae*; and could only be legal in the trial of the other indictment.

Objections overruled and exception noted.

By the Court.—The inquiry was made in the room spoken of—Cunningham was lying on the floor, and Teeple was on the settee where I made the inquiry; the defendant was present.

Witness resumed in answer to Prosecutor's Attorney—Mr. Teeple said he did not know how nor from whom he received the wound; after having been first struck he was so stunned that he knew very little what occurred after that. He could not tell whether he struck first or not, but thought he was struck first, but was not sure of it; he said that before the fight began he and Cunningham were sitting together before the fire; Cunningham on the right next the door of the north room, some sandy complexioned man said something in which the word New Castle occurred,—that then, immediately the fight began; Cunningham jumped up and said something about his being supposed to represent New Castle; that if he wanted anything with New Castle to show his hand; he was about ten feet off him, I told him Cunningham was dying; he asked if that was so, and exhibited a good deal of feeling; before I told him Cunningham was dying, before he made this statement to me.—This was the substance of the conversation.

By the Court.—I think I had not told Teeple yet of his danger; he was reviving, at this time.

Direct.—I told Teeple about 8 o'clock that day that he was in a dangerous condition; I made a *post mortem* examination of