

THE ROPE IN SIGHT.

Herman Umberger's Pocket-Book in Court.

FOUND IN THE HOUSE OF A. A. NICELY.

Identified by a Number of Witnesses.

THE TELL-TALE MARKS.

PERRY UMBERGER SWEARS THAT IT IS THE POCKETBOOK OF HIS MURDERED BROTHER.

CONSTABLE JOHN O. RAUCH ON THE STAND.

When Court commenced Monday morning the crowd in attendance was not so large as last week. During the afternoon session the court room was comfortably filled. Mrs. Joseph Nicely sat at the table of the defense between her husband and brother-in-law. She remained there till the close of the afternoon session. Edward McCracken, of Westmoreland county, was the first witness called.

Edward McCracken—Live in Fairfield township, Westmoreland county; on 27th of February last was going on the pike from Somerset county towards home; Lewis Beener was with me; struck the pike at Hain's Church and went from there west; on the other side of Burnt Cabin met a man and spoke to him; bid him time of day; he made no reply; did not recognize anyone near the road; came here after these men were arrested; came here on the 27th of March on subpoena of Mr. Nicely; went to see the prisoners; was not acquainted with him; David Nicely, as near as I can tell, is the man.

Cross-examination—Mr. McElvaine met us with a carriage between three and four miles at 1 o'clock on this side of Ligonier and took us part of the way home; met the man below where we were hauling logs from; met no man in a buggy; did not say in Mr. Coffroth's office that neither me nor Beener knew who the man was we passed on the mountain, but that he was a man about the size of Wm. McElvaine, and had a sandy moustache.

Re-direct—Mr. Nicely and Mr. McElvaine talked to me and offered me some whisky and asked me about meeting this man; I told them that I met a man; that I was not positive as to who he was; told Mr. Coffroth in his office that the man had a dark moustache or a kind of sandy one; then I went to the jail and as soon as I came back told him it was the same man; said this to Mr. Coffroth; his whole family was present; I went there to get my pay; Mr. Nicely paid me; was subpoenaed by John Rauch for this case; he came to where I was working on the farm a couple of weeks before court; met him here the day of the hearing; saw him once since the hearing.

SAW THEM GOING UP THE MOUNTAIN.

Charles Vance—Am 52 years old; live in Ligonier; know Dave and Joseph Nicely; on the 27 of February was working on the west side of Laurel Hill; was sawing timber; was at different distances from the pike during the day; went out in the evening; have known Joseph Nicely for twelve years; known David Nicely for seven or eight years; saw them pass up the pike between 4 and 5 o'clock; was in the neighborhood of 115 feet from them; measured it with a surveyors chain; my son Lewis was with me; there was nobody else; they were coming up the mountain going east; was down below the pike sawing logs; I was on my knees facing the pike; they were dressed the same way they usually were when they came to town; could not tell what kind of boots they had on; or what kind of pants; when I saw them about opposite to me I got up on my feet and was going to speak to them, but they hurried away and went up the mountain; one had on a brown hat and the other a cap; my son was about the same distance away; the ground I was working on was a little lower down than the pike.

Cross-examination—I was sawing a hemlock tree; was down on my knees facing the pike; my son Lewis had his back toward the pike; the log was lying up and down the hill; could not say whether Lewis was on his knees or not; 115 feet was the distance from where I was to 6 or 8 feet in the pike; that part of the pike is not lower than the edge; they were going very fast; should say a good fast walk; it was not a steep hill from where I saw them to the pike; saw them at this end of Sandy Flat; the Sandy Flat is level; when I first saw them they were about two-thirds across the flat; think I can recognize any body that I know 150 feet away. Left work about 6 o'clock and went up to house [at] top of [mountain]; had on gum boots; Lewis had on gum boots;

came down to work the next morning; did not meet anybody; remember John Koontz coming down when I was at work; think we went up to the mountains on Tuesday; generally go home over Sunday when we are working up there; John Koontz came between 11:30 and 12 o'clock; did not ask me if I saw men going up the mountain; told of the Umberger murder; that was the first I knew of it; know Alfred C. Breniser, of Ligonier; do not recollect seeing him on Sunday after the murder but probably did; never said to him or anyone else that I saw two men passing up the pike, and that I could only see a little more than their hands and they looked like the Utter boys; know John Asken; remember seeing him Sunday after murder; told him I saw a couple of parties going up the mountain; might have said that one favored Hoffman and one favored John Koontz; know Chas. C. Menoher; do not know whether I saw him on the day Hamilton was arrested and told him that I saw two men going up mountain between four and five o'clock; have no recollection of talking with him; know Chas. McCracken; he was my driver; was there that day hauling out logs; he started with a load about four o'clock or a quarter after; may have said to him that I saw two men going up the mountain but did not know who they were; went across to Jenner the morning after the murder; went to Umberger's house; saw Adam Friedline; a man by the name of Horner and Nannie Horner was there for dinner, Monday; know Watson Menoher; saw him that night at National Hotel, Ligonier, after I got back; I told him that Lewis and I had just come from Umberger's; did not say that I had given a description of Joe and Dave Nicely to the Umbergers; did not say it was through me that they were arrested; do not know that anything was said in the presence of John McCracken; I was only there for about five minutes.

Re-direct—It was about two miles from county line of Somerset county in Westmoreland county where I was at work; John Koontz came down between 11 and 12 o'clock; asked if I had seen any men go down ahead of him; said I had seen somebody about half an hour ahead of him; he then told me that old man Umberger had been murdered the night before and that he must go as he wanted to catch the man ahead of him before he got to the gate; went over to Umberger's Monday morning; the Nicely boys were arrested the afternoon of that day; they had them at Ligonier when I came back.

SAW THEM ON SANDY FLAT.
Lewis Vance—Live in Ligonier; am a son of the man who just left the stand; on the 27th of February was on the west side of the mountain sawing timber; it is just below what is called Sandy Flat; saw two men going towards Somerset county; they were walking; was about 35 yards or 114 feet from where they passed; McCracken had gone with a load; nobody was there except my father and myself; saw two men pass on the Sandy Flat pretty well to this end; am acquainted with the two Nicely boys; have known them six or eight years—maybe longer; recognized the men that passed as Dave and Joe Nicely; have known them long enough to know them at that distance, and was close enough to them to be positive; Joe had on a hat and Dave had on a cap when they passed us; could not describe the clothing they had on; saw them from about the waist up; my father was on his knees facing the pike and I was on my knees with my back to the pike; father rose up and I got up and turned around facing the pike and saw the men pass; did not speak to them; don't know whether they saw us or not; (Witness was shown hat and cap; said he could not say positively that they were the same as those worn by the two men, but they looked like them.)

Cross-examination—The hill up to the pike was a little steep; could ride a horse up it; did not ride a horse up it but have ridden horseback up other hills that were just as steep; was sawing a hemlock log; it was a cresscut saw; saw the men at this end of Sandy Flat; they were walking very fast up the mountain; saw them going along 400 or 500 yards; they were 6 or 8 feet from the side of the pike; they were going along the wagon track; would call it three-fourths of a mile from the Sandy Flat to top of mountain about two miles; from top of mountain to Jenner town would say about four miles; don't know who all I told that I had seen two men passing up the mountain; cannot tell who was the first man I told it was the Nicely boys; told it before the hearing before Judge Baer; did not say that I remember that I first told it on the day of the hearing; remember John Koontz coming to the place where we were working on the mountain the morning we saw the two men pass; he talked to my father; I was not close enough to hear what was said; did not tell me about the Umberger murder.

Cross-examination—Know William Thomas of Ligonier; didn't say to him that my father and I saw two men going up the pike, but could not recognize them as we could only see part of them; may possibly have said it; know Jack Hamilton; said to him the day after his brother was arrested that father and I were sawing wood in the mountain and

saw a man go up that way, but he was so far away that we could not see who he was; said it was too far for his brother Collins; know James Richards; may have told him that my father and I had seen two men pass up the mountain on that day and that we could only see them from their waists up; did not say that we could only see their heads; know Charles McCracken; don't recollect telling him that we had seen two men passing but they were too far to tell who they were; went up the mountain after we quit work; they call it about four miles from there to Jenner and four and a-half or five miles to Umberger's; went down next morning about 6:30 or 7 o'clock; walked down; lived in Somerset county seven or eight years ago in the house on the top of the mountain where we stayed that night; my aunt was keeping house for us.

Re-direct—We used the house on the mountain as a temporary home while we were up there working; was too far away from my father when he was talking to Mr. Koontz to hear their conversation.
SAW THEM GOING DOWN THE MOUNTAIN.
Mrs. Mary Walker—Live in Jenner township, two and a half miles west of Jenner town; about 60 rods from Haine's Church; on the 27th of February was at home; about 5 or 6 o'clock in the evening saw two men walking down the pike towards the east; was about three rods away from them; they were strangers to me; saw them walking four or five rods; they were walking close together; saw the men afterwards at Mr. Rauch's and again last Saturday walking from the jail to court. (Witness here pointed out Joe and Dave Nicely in the court room as the two men she had seen passing on the road); could not say what kind of clothing they had on; one man was taller than the other and had a moustache; the tall man was the nearest to me; was coming up out of the cellar; never saw the two men before; the house stands about two rods from the road; they were right above the gate when I saw them at Squire Rauch's; I did not recognize them at first but as soon as they got up and walked into the other room I did; I saw them walking again from the jail to the court house.

John Friedline—Live in Jenner township, three miles from Umberger's, about one-fourth of a mile from the pike; was at home on the 27th of February; live east of bend in the pike; saw two men on that evening pass through the fields going east; there was a road from my house to the pike; they were on the east side of the road; did not see them before; they got to the road; did not look after them long; cannot describe the men; cannot identify them; one was taller than the other; there were two men; they had no overcoats; was about 100 yards from them; it was between 5:30 and 6 o'clock in the evening.
Cross-examination—Live three-fourths of a mile from Mrs. Walker's. (The Commonwealth here submitted plan of property between Umberger's and Westmoreland county, showing roads, streams, etc., which was objected to by the defense as being incorrect but was overruled by the Court on the ground that the jury would decide as to its correctness.)
Mrs. Susan Ream—Live in Jenner town; know Joseph Nicely; have known him for six years; I saw him in Jenner town, going through toward Johnstown; I knew him at the time; could not say whether it was last fall or this winter; my husband's name is Joseph Ream; we live a mile and a half or two miles from Umberger's; I remember the night of the murder.
"Was your husband at home that night," asked Mr. Cessa.
(Question objected to by defense and objection sustained.)
Cross-examination—Joseph Nicely came there in a buggy; can't tell where the horse and buggy was put; think I saw him after the time he was there; he was there in August, saw him go through Jenner after August, but can't tell when; he was in a buggy the last time.
Re-direct—I was midlin close to him the last time I saw him; can't say when it was, whether it was in the winter or fall; Joe Nicely was in the buggy when it went down the Johnstown pike; can't say who else was in the buggy; I was sitting at the window and saw the buggy turn the corner as it went down the pike.
Frank Heiple—Was at Herman Umberger's house on evening of February 27th last; two girls came from there and told me to come over and bring fire arms that Umberger was murdered; stayed there all night; early next morning looked for tracks; found tracks of two persons running towards Jenner; one track made by a man with gum boots on and the other leather shoes; Mr. Horner and I followed the tracks to a point this side of Jenner town; I traced them to the road this side of my house.
Cross-examination—It may be a little over a mile from Umberger's to the road near my house; the tracks went on towards Jenner town; it is a short half-mile from this road to Jenner town; this road leads back to the other township road that leads up past Picking's and comes out on the pike near the Haine's school house; I went to Gillian Friedline's and then three of us went over to Umberger's; there were a good many people there; I laid the man out and washed him; there was a good many people there from Jenner town; I saw Squire Rauch and John Rauch there; I heard the bell ring; it was just a little after dusk.
THE POCKET-BOOK.
William Thomas—On the 5th of last March I was in Ligonier and drove a two horse carriage over to Squire Rauch's; David Nicely, Rufus Shaffer and Hammer Cauffield were in the carriage with me; passed through

Laughlins town; Cauffield and I got out and went into the store and warmed; then I came out and Shaffer went in to warm; when they were in David Nicely and I were alone in the carriage; Nicely gave me a pocket-book which he said had some money and papers in and that I should take it back with me and give it to Watson Menoher; I put the pocket book in my inside vest pocket; I was at the hearing at Rauch's; David Nicely was there; I had the pocket-book in my pocket at the time; Shaffer went back with me to Ligonier; on the way back we met George Nicely and Watson Menoher on the mountain; they were in a buggy and we stopped; I gave the pocket-book that was given me by Dave Nicely to Watson Menoher; I did not examine the pocket-book as to what was in it.

SAW THE MONEY TO A. A. NICELY.

Watson Menoher—I am related to David Nicely; am married to David and Joe's sister; know William Thomas; came across the mountain on the 5th of March with George Nicely; met William Thomas on the mountain; he gave me a pocket-book; there was \$100 in the pocket-book; I took it to Ligonier and put it in the safe; afterwards took it up to my father-in-law's and gave it to my wife; in about two days afterwards I took the money up and gave it to Mr. A. A. Nicely; there was one twenty and one ten dollar bill among the money that I am sure of; I gave the pocket-book to Mrs. Menoher; her mother and sister were present when I gave it to him.

Cross-examination by General Coffroth—Geo. Nicely was in the buggy when Thomas handed me the pocket-book; Thomas said I was to take it over and give it to Dave Nicely's wife; that there was a little money in it; I never saw the pocket-book before that day; my wife was living at my father-in-law's; we hadn't gone to housekeeping yet.

Re-direct—I gave the same pocket-book to my wife that Thomas gave to me; I gave it to her at my father-in-law's house, in the presence of her father and her mother.

CONSTABLE JOHN O. RAUCH.

The next witness called was Constable John O. Rauch, who made the arrests, and from the time of the murder down to the present time has been putting forth every possible effort to detect the criminals and bring them to justice.

When he was called became forward with two satchels and a large bundle which were the hat, cap, overalls, overcoat, handkerchiefs, boots, etc., that had been found on the person and in the houses of the prisoners at the time he arrested them. He said: I live in Jenner town; Henry Rauch is my father; he is justice of the peace and I am constable of Jenner town borough; I am 32 years old; I arrested the prisoners in March last at their homes in Westmoreland county; they live in the Ligonier Valley, about two and a half or three miles from the town of Ligonier; their houses are only a short distance apart; Rufus Shaffer, Hammer Cauffield and Martin O'Connor were with me when I arrested them; I arrested Dave Nicely first; the first thing that I found that was identified was a pair of brown overalls; (Here the witness took the satchels and bundles and as he spoke of each article found produced it;) these are the overalls; I found them in Dave Nicely's house; the second thing I found at Dave Nicely's house was a pair of leather boots; here they are; I marked them at the time; the next thing I found was two red handkerchiefs with white spots; here they are; I know they are the ones I found as I have had them in my possession ever since; the next thing that I got hold of was this gray overcoat; found it in David Nicely's house; it is the lighter of the two overcoats; this overcoat is just as it was when I got it; David Nicely wore it when we brought him over the mountain to the hearing at Jenner; it was cold and we put it on him; after the hearing I brought him to Somerset; he wore the coat to Somerset where I took it and gave it into the hands of the Sheriff; I never saw it again till I got it from the Sheriff on Friday, the day this trial was begun; here is a brown cap that was found at David Nicely's; (Counsel for defense objected to cap being shown as it was not found by witness. Court sustains objection.)

THE WITNESS RESUMES.

Here are some papers I got there that day; that is all I found at David Nicely's the day of the arrest; we next went to Joe's house; I left Hammer Cauffield handcuffed to Dave when I went down to Joe's; old man Nicely went with me; we went to the house and Joe's wife told us he was down at the blacksmith shop; on the way to the shop we met him and I placed him under arrest; we went back to the house and I kept Joe in one room while the others searched the house; the first thing found there was this brown hat; I found it on Joe's head when I arrested him; this pocket-book was found there; these 32 calibre fire cartridges were found in Joe's house; there are nine of them; they were found up stairs; I only searched his person to find if he had a revolver or knife; found none; found these

on him when I arrested him; here are the pants he had on the day we arrested him; here is an overcoat that was found there; we also found a 32-calibre, rim-fire revolver at Joe Nicely's; it was rusty, not in trim for shooting; here it is.
At this point stipulates Snyder and Scott were called and sworn to take charge of the jury, and court adjourned until 1:30 o'clock p. m.

AFTERNOON SESSION.

John O. Rauch—Went back to Dave Nicely's, but did not find anything more; bro't them over to Ligonier that evening and kept them at National Hotel all night of March 4th, and brought them to Jenner town on Tuesday; brought them to my father's office; found a handkerchief on David Nicely; he had it in his right hip pocket; made

search after the examination was over; there was no conversation had seen Jim and Ella Stearns until the handkerchief was found; had the other handkerchiefs that were produced at the hearing; the hearing had closed when I found the handkerchief; just as I pulled it out Ella Stearns says, "that's the handkerchief;" and Dave Nicely reached for it and attempted to grab it back; found \$2 in his pocket; a two-dollar bill and ten cents in silver; the handkerchief has been in my possession ever since; it was the one exhibited to Ella Stearns and Nannie Horner in the court room; left the gray overcoat in the possession of the Sheriff on the night of the 4th of March; went back to old Mr. Nicely's a week or so later to look for the pocket-book; was there when it was found; (Pocket-book was shown witness and he identified it by a number of marks that were shown to the jury); we got the pocket-book on March 21st; the sale at Umberger's was on March 20th; the hearing at Judge Baer's was on the 25th of March; did not notice patch on the overcoat; the coat was in the same condition when I gave it to the Sheriff as it is now; it was in the same condition when I gave it to him as when I got it. (Witness exhibited some papers which were identified by him as being found in the pocket-book taken out of the bookcase at Joe Nicely's.)

Cross-examination—I arrested Joe and Dave Nicely on the 4th of March; helped work up the case; think there is something like \$200 reward offered for the arrest of the persons and the recovery of any of the money; did not get anybody to help me work up the case; sent Shaffer and Cauffield to Ligonier; made three searches at Joe Nicely's house and made two searches at Dave Nicely's house; there was a man along from Pittsburgh by the name of Gilkinson; also, a Mr. Howard and Cauffield, Shaffer and O'Connor helped to make the search and make the arrest; Cauffield and O'Connor were at Joe's; did not search the prisoner carefully; did not get \$23 from me out of the pass book; did not see any money at Joe Nicely's house; did not find anything more than I described; got the revolver the first time; went back the third time to look for money; looked under the corn crib and out buildings; was at Dave Nicely's twice; the second time we searched the out-buildings and stables; made a thorough search but did not find anything; went into the Dickard Church, tore up the floor there and searched but did not find anything; did not leave anything there; did not leave a bottle along at that time; the church is about one-fourth mile from Joe Nicely's and about fifty rods from Dave Nicely's and about one-fourth mile from old man Nicely's; went back to old man Nicely's house and got the pocket-book; got it from Mrs. Nicely; it had some receipts in it; tax receipts for David Nicely; I got it from Mrs. Nicely and then handed it to Howard; after we got the pocket-book we left; Howard did not say that he would bring the pocket-book back again; nor did I did not say I would show it to Thomas and send it back with Menoher; Ambrose was not along; Howard was down in our county a couple of weeks; traveled with him over the Ligonier valley up to Somerset and Johnstown at the time I brought the Nicely's over; I had Joe Nicely in the carriage with me; I think Shaffer, Cauffield and O'Connor were in the carriage with Dave; saw Dave at my father's; the gray overalls was at my father's; the dark overalls was not at the hearing; kept them the night of the court at Ligonier; went back to Joe Nicely's house that night; was with them from 11:30 o'clock that night; think Rufus went out once with Dave; Joe did not go until morning; would call the hat exhibited in court a brown derby hat; have had it in my possession since the day of the arrest; do not know that a piece was torn out of it after the time of the arrest; had it locked up in my trunk; have shown it pretty often in the last couple days; never had it down to the Somerset House; had it in Mr. Koser's office; had the coat in the court-room; did not show it to anybody on Friday night; did not show it to Ella Stearns or Nannie Horner; did not open the trunk that evening at all; showed the pocket book to Mr. Cessa that week; could not say what day he looked over its pages; was not at Mr. Koser's office on Friday night of last week; went up there and looked his office closed; did not see Ella Stearns or Nannie Horner there; never exhibited the coat to Ella Stearns or Nannie Horner; never knew there was a patch on it until I heard Nannie Horner say so on the witness stand; did not get \$25 from Joe Nicely's pocket-book; the mark was in the hat when I took it off of Dave Nicely's head; never pointed out to Nannie Horner the torn button holes in the overcoat; let the trunk in Mr. Koser's office and carried the key myself; on the 9th of April got commission from the court to act as detective to work up the case; did not claim any reward; for working up the case from the time of the murder until April 9, citizens told me that they would not let me suffer; saw a reward was offered in the papers; was at Jenner town the night of the murder; went to bed at 8 or 8:30 o'clock; did not hear the bells ring; was asleep when they called my house and wakened up; was at Griffith's store in Jenner town.

Cross-examination—Left Joe Ream in the store; went right home and went to bed; left the store about a quarter after 7 or a quarter to 8; could not say exactly, and could not say how long it was before I went to sleep.

Rufus Shaffer re-called—Found the parties at their houses; found pair leather boots and overalls. (Overalls shown and said they looked like the ones.) Saw the cap shown there also the handkerchiefs; the boots I recognized; didn't see any shooting scars; from David's house went to Joseph's; found hat of the color of this; didn't notice any mark about it; next day with Gilbert went back and found overcoat; identified it. (Pants shown and recognized as the ones he had on when arrested.) A revolver was found there, but it wasn't in shooting order; some cartridges were found there; the revolver was rim-fire, but cartridges were center-

fire shaped; saw Raugh take a handkerchief out of Dave Nicely's pocket; on the 21st went over in Westmoreland to get a pocket-book at Andrew Nicely's. (Pocket-book shown and identified.) I handed to Raugh and Howard, but can't say which one kept it.

Cross-examination—Pocket-book around among us; never saw it again in court.

Martin O'Connor—Helped to make a search first to David Nicely's; found boots, overalls, handkerchiefs and overalls; then went on to Joseph's and this overcoat; couldn't swear I saw it there, but saw it when Raugh took it out of an hotel in Ligonier that night; Joe Nicely when arrested and he and Dave Nicely; he had a hat on, but can't say this is the hat found a 32-calibre revolver and some 32-calibre, extra long tridges; saw this cap at Dave Nicely's.
Cross-examination—The revolver was about; no mark on the overcoat; I know this is the coat.
Hammer Cauffield—I was along with parties were arrested; I can identify leather boots and overcoat, handkerchiefs and overalls, at least they look like them; didn't find any shooting scars; didn't go to Joe's; was at the hearing; Raugh pulled handkerchief out of Nicely's pocket. (Handkerchief shown and identified.) It was folded.
Cross-examination—Dave had a pair of gum boots on, a little worn; I don't know what was done then; watched that day at Ligonier Hotel; he was in the water closet and remained there three to five minutes; he had dark pants and a coat; changed gum boots and a pair of leather shoes; became nervous; were too warm; Rauch and O'Connor were along when we put the handkerchief on there one hour and a half; don't remember that I told Dave I was a good shot; I can make any resistance when he was arrested.
Re-direct—Boots were dry, but looked white.

Joseph Ambrose—Live in Ligonier; constable February last; assisted in seeing the houses of David and Joseph Nicely by authority of search warrant; found lantern; (which he showed); but cannot recollect anything else being found at Joe's; found this 32 calibre revolver; still loaded; it is a rim fire one; the sights were black as though recently fired; the ferri; one strikes rim; the other under the ridge; cartridges were taken out—four together; three fresh ones put in; it was handed to the stenographer; found the revolver up stairs in Joe's stand; was at the house of Squire Rauch; handkerchief taken out of Dave's pocket; heard conversation between Dave and Stearns; did handkerchief around him and asked if this is the handkerchief she said it was, but that another one around was not.

Cross-examination—Can't say how long new loads had been in revolver; the ones had the appearance of being there long time; found the lantern in a box at Joseph Nicely's; I never saw paper that kind of a lantern for fishing; on when I found it; have not been near through the country with John Rauch; going to hunt witnesses; had a search warrant when we found the lantern at Joe's. (Revolvers and cartridges offered as admitted.)

SAW THEM BUY TWO REVOLVERS.

Sylvester Ferry—Live in Ligonier; Westmoreland county; know David Nicely; saw him have a centre fire revolver last fall; can't tell exact date; (evidence objected to by counsel for defendants. Admitted.)
I saw him buy two revolvers from Ward Beck in Greensburg last fall; saw a jeweler; can't tell the name of the jeweler; they were five shots, centre fire. I was in the Greensburg fair, on Thursday, I saw one of the pistols in his possession; fall when I helped him butcher; this was the one you have there; this was two months after the fair.
Cross-examination—I got with Joe on the road to the fair; I don't remember what month the fair was held; it was the 4th of July; when he bought the pistols he said one was for himself and the other for his father; he gave him a box of cartridges with each pistol; was on box that the centre fire; I didn't examine the pistols; he shot three times, but didn't hit; he told me he was the owner of the pistols.

John Shredon—Live in Westmoreland county; know defendants; am a brother-in-law to Joe; on 27th of last February saw David's house; got there about 1 o'clock the day; he was in at home; my wife took the property in which Dave lives; there about two hours; didn't see him while I was there. Q. What did you go there for? A. (Objected to by counsel for defense. Reduced to writing and jury sent out on the argument on motion made. Objection sustained and jury brought back to stand.) Cross-examination—I was in the kitchen in no other part of the house that day. Re-direct—I made no efforts, only inquired to find him. Milton McMillen—I had the custody of this coat; am deputy sheriff; got the coat in my possession the evening the Nicelys were brought to jail; it has been in my possession, up until Friday evening when I brought it to Constable Rauch; while in my possession I showed it to no one but Sheriff's family.

THE DETECTIVE.

C. Howard Camp—Live in Pittsburgh; am connected with the Gilkinson Agency; was at Umberger's attending to the 29th of March; that evening went to Ligonier; on April 21st I went to see Rufus Shaffer; got this pocket-book from Mrs. Nicely brought it down to my father's pocket-book; I have had it in my possession since; it has several marks which I asked for the money from Mr. Nicely.



Constable John O. Rauch.