

# The Ebensburg Alleghanian.

A. BARKER, Editor and Proprietor.  
TODD HUTCHINSON, Publisher.

I WOULD RATHER BE RIGHT THAN PRESIDENT.—HENRY CLAY.

TERMS: \$3.00 PER ANNUM.  
\$2.00 IN ADVANCE.

VOLUME 7.

EBENSBURG, PA., THURSDAY, DECEMBER 21, 1865.

NUMBER 10.

## THE PAUL-MUNDAY MURDER.

### Trial of Daniel Buser and John B. Howser for the Murder of Miss Polly Paul.

#### THE PRISONERS OF "MURDER IN THE FIRST DEGREE."

##### A FULL AND CORRECT REPORT.

The Court of Oyer and Terminer for Cambria County, December Term, 1865—Hon. George Taylor, President Judge; Geo. W. Eastey, Esq., J. C. Devane, Associate Judge.

The circumstances attending this most fatal double-murder must yet be fresh in the minds of our readers. It will be remembered that the two victims, Misses Paul and Cassie Munday, the one about 70 years and the other 17 years, lived together as the only inmates of a house situated in a retired locality in the township, Cambria county. On the evening of the 8th June last, their bodies were discovered by some neighbors, that of Miss Paul lying in the orchard on the premises, and that of Miss Munday in the house. The brains of each had been dashed out, and two carefully prepared clubs—the instruments with which the bloody deed had been committed—were found near the bodies. Miss Paul was reputed to possess a considerable sum of money, and it was to this, doubtless, that the murder was committed. Suspicion at once attached to two men named John Ream and Daniel Riddle as the perpetrators of the crime; they were accordingly arrested, and at the last session of our Court were tried on the charge and acquitted. A few days subsequent to the arrest of Ream and Riddle, some facts were developed which strongly implicated the two defendants on trial in the murder. They were accordingly arrested at their boarding-house in Allegheny City, on the 17th of July, and brought here and committed to prison for trial. What the facts spoken of were, and how a knowledge thereof was arrived at, will appear in the body of this testimony.

#### THE PRISONERS.

John B. Howser is a man some five feet tall or nine inches in height, and probably 35 years of age. His general appearance plainly indicates him to be a German either birth or extraction. His features are decidedly irregular; nose small and misshapen, forehead low and receding, and dark gray eyes. He wears a bushy, and his hair, which is very thick, is permitted to hang in tangled masses down over his ears and almost reaching his shoulders. There is nothing to distinguish him from the masses of mankind we meet in every-day life. Daniel Buser is about five feet four or five inches in height, probably 38 years of age, and with a more marked expression than his fellow-prisoner. His features are clear and well-defined, showing him to be a man of great decision of character. He is apparently quite intelligent, and pays close attention to the case in its present bearings, occasionally prompting counsel in the questioning of witnesses. Dark gray eyes, bearded chin, pale complexion, and with a quick and nervous action.

#### THE COUNSEL, &c.

A true bill having been found by the grand jury, the case was first called up Tuesday, 5th instant, when the prisoners appeared without counsel and without witnesses. The Court appointed Messrs. Stephen P. Linton and W. H. Rose as counsel in their behalf to try the cause, and awarded a process for witnesses in their favor, which was placed in the hands of Detective M'Kelvey, of Allegheny city, with instructions to serve the same. The witnesses returned to Court in a day or two, bringing with him a majority of the names for whom he had been sent, the names of whom resided in and about Pittsburgh. The Court thanked Mr. M'Kelvey for his prompt and efficient execution of his duty, and ordered the detention of the witnesses till the case should be called again. For the Commonwealth, District Attorney Barnes and Messrs. Linton, Otman and Reade appear.

#### AN IMPORTANT WITNESS.

William M'Creery, the chief witness in the prosecution, was pardoned out of the Western Penitentiary by Governor Cameron especially to enable him to give evidence in the case pending. He was pardoned from Washington county for a term of five years, and at the time of his release had served five years of a sentence of eight years in the penitentiary.

#### SATURDAY, DEC. 9—FIRST DAY.

Court met at 1 1/2 o'clock, p. m. The prisoners were brought in and arraigned on the first. The indictment is against Daniel Buser and John B. Howser for the murder of Miss Polly Paul. Indictment having been found against them for the murder of Miss Munday. They pleaded "Not guilty" to the indictment. The Court-room was crowded with spectators, who manifested the most intense curiosity to obtain a view of the men charged with the most brutal as

well as most mysterious murder ever committed in Cambria county.

#### THE JURY.

Of thirty-five jurors called, four were disqualified by reason of their entertaining conscientious scruples against capital punishment, eight were challenged for cause, eight were challenged by prisoners, three were challenged by the Commonwealth, and the following named twelve were sworn in to try the cause:

JAMES DAVIS,	WILLIAM KAYLOR,
GEORGE W. KERREY,	NEWCOMB HUNTLEY,
BERNARD M'COLGAN,	THOMP. R. KIMMEL,
HENRY F. WAGNER,	NICHOLAS SNYDER,
JOHN MYERS,	JOSEPH PARRISH,
JOHN BUCK,	JAMES N. EVANS.

#### SECOND DAY—MONDAY, DEC. 11.

Court met at 10 o'clock, a. m., and occupied the time till noon in disposing of business in the Common Pleas. Met again at 2 o'clock, with jury in the box and prisoners in the dock.

#### THE OPENING.

for the Commonwealth was made by Geo. W. Otman, Esq., in a speech of about 30 minutes length, in which he detailed the circumstances of the killing as far as they are known, together with a summary of the facts relied upon by the Commonwealth to secure conviction.

#### TESTIMONY FOR THE COMMONWEALTH.

Martha Morgan, called: Live in Summerhill township; was at the house of Polly Paul on Wednesday, 7th day of June last; she and Cassie Munday were there; I left only those two there, at about five o'clock in the evening; this in Cambria county.

Cross-examined: Was examined on trial of Ream and Riddle; was not then asked anything about this; live about one-fourth of a mile from where Miss Paul lived; live on the road leading from Summerhill to Miss Paul's; when I left, the old woman was just going into the house, and the girl was up stairs wearing; know I started from home at half-past four o'clock, and the clock struck five just as I was leaving; it was an Ember day; did not meet any strangers on my way there or back.

In chief: Live not exactly on the road; there are paths leading to Summerhill also.

Mrs. Jane Fulgart, called: Lived with Miss Paul before I was married; my husband is in the penitentiary; Miss Paul's residence is about a mile and a-half from Summerhill, not in the same direction she lived.

#### DISCOVERY OF THE BODIES.

Michael Stibolisky, called: Live about one-fourth of a mile from the residence of Miss Paul; was there on the 8th of June last; found Miss Paul in stable, dead; Jacob Schmitt and Jacob Weinsickle were along; she was lying on her back; a little blood on her nose and mouth; about 2 o'clock in the afternoon, we found her; when we came to the house, we saw the beds all off the headsteads; pushed a bed over and found a club under it; we hunted the whole house and found nobody; went to the spring-house, and found nobody; went to the barn, and as soon as Weinsickle opened the door, he said, "here is Polly Paul, dead;" as soon as we came out, Isaac Paul came up and asked what we would do; told him we'd have to go to the Squire's; he got me a horse, and I went to Squire Myers, at Summerhill; Paul told me afterwards that Cassie Munday was dead too; said she was lying in the orchard; went up and found her dead body, with a club at her feet; she was lying on her face, with her hands under her face; saw a big lump on right side of her head, and blood on her head, as though she had received a stroke on it; (draft of locality shown to witness, who said it was very near correct; the road from Ebensburg to Summerhill passes within a quarter of a mile of house; there is a by-road leading from main road to her house, which goes through woods most of the way; (draft above referred to shown to jury and explained by witness.)

Cross-examined: My girl saw two persons running through orchard of deceased on the evening of murder; next day she went over by house of deceased and came back and said there was something wrong there; then my wife went over, and came back, and also said something was wrong; I then got some neighbors, and went over to the house; (further cross-examination elicited nothing of importance.)

In chief: (two clubs shown; each about two feet four inches long, and one and a half thick at the larger end, and tapering to three-quarters of an inch at the smaller end, with a knot cut on smaller end, to prevent them from slipping from the hand when being used; they bore evidence of having been prepared with great care;) saw these clubs when we found bodies, one under the bed, the other lying by Cassie Munday's body; this all in Cambria county.

Re-cross-examination: Know these to be the same sticks; there is no wood like it where I live; never saw any like it any place.

Question—How could you tell this from another stick exactly like it?  
Answer—Show me one exactly like it,

and I will tell you how I can tell them apart!

Isaac Paul called: Am a brother of Miss Paul; live about three-quarters of a mile from where she did; was at her place on the 8th of June last; got there between 2 and 3 o'clock, p. m.; my sister's body was lying in the stable; had been found before I got there; she was lying on her back; only went to the door; then went to hunt for the girl; when we got to the house, found the beds on the floor, the top off the bureau, and the drawers out of it; went up to the orchard and found her; she was lying on her left side and face; didn't see her injuries till after the squire had come; a club was lying two steps from her; saw another club in house; my sister never told me she had any money; she never showed me any;

MISS PAUL HAD MONEY.  
she received about \$40.00 from me and \$100.00 from my son within the last two years; she had lived on the same place and followed weaving for the last twenty-five years; she raised cattle, and made a good deal of butter every year; she sold a good deal of timber off her land; she was saving of her means; don't know that she had any money out at interest; there was some money found in one of her frock pockets, some in the bureau, one gold dollar and some small pieces on the floor—in all, thirty or forty dollars.

Cross-examined: It was about fifty yards from house to where we found body of Cassie Munday; from the position in which body was found, she was evidently running in the direction of her father's house, four or five miles distant; she had no fence to cross to get to the place where she was found; nothing was disturbed up stairs in house; was in the room where the loom was, and it appeared as if somebody had been weaving there lately.

In chief: My sister was seventy years old last March; (draft of location shown to witness); is greatly correct.

#### POST-MORTEM EXAMINATION.

Dr. R. S. Bunn called: Am a practicing physician and surgeon; made a post-mortem examination of bodies of Misses Paul and Munday on the 9th June last; body of latter was at house of Mr. Munday at the time; found a wound on right side of her head; her skull was dashed in, extending from the inner third of left eye up about two inches, and extending backward toward the ear, carrying with it the same breadth of about two inches to the base of the left ear; the bone was so much fragmented that you could take your finger and dip down into the brain any place; there was evidence of a number of strokes having been given; there was a number of places where the skin was broken, as if by the end of a club; think there were about three such places; concluded this was quite sufficient to cause death; also found scratches on the face; our conclusion was that the person had died as quickly as if the head had been severed from the body; after all the injuries had been inflicted, death would be nearly instantaneous; would suppose the injuries had been inflicted with a club; one of that size, (club shown,) by repeated blows, would cause the injuries; after examining body of Cassie Munday, went on to Miss Paul's; found her skull fractured from near the base of ear, extending around to left side, and some hemorrhage of the wound; found also wound on right side of her head, which did not open into skull; saw enough to satisfy me that her injuries would produce death; these injuries were apparently made by same blunt instrument.

Cross-examined: Couldn't tell if the injuries were made by wood or iron; would think those of Cassie Munday were made by a person using right hand; (further examination unimportant.)

John Buck, (a juror) called: (Defendant's counsel ask to know what is desired to be proven by witness. Counsel of Commonwealth state that they desire to prove by witness that in December, 1861, he delivered to the Warden of the Western Penitentiary for confinement therein, a certain Philip Fulgart, from Cambria county. Objected to by prisoner's counsel—first, that the witness is incompetent, he having been sworn as a juror in the case; second, that it is not competent to prove by parol testimony the fact proposed, until record evidence of the trial and sentence is produced; that the fact of his reception and incarceration in the Penitentiary is not the subject of parol but of record evidence. The Court decided that the fact that he was taken to the Penitentiary could be proven by witness, but if it were a question whether or not he was properly there, it would not be competent testimony, and that the record would not show whether he was taken there or not; the Court rules that he is a competent witness, and seals a bill of exceptions.) Witness then states: As Sheriff of Cambria county, I took one Philip Fulgart to the Western Penitentiary shortly after I came into office; it was in December, 1861; took him to the Warden and got a receipt for him; did not know that I would be a witness on this case till the moment I was called.

#### RECORD EVIDENCE.

Commonwealth's counsel now offer as evidence the record of conviction of Philip Fulgart. Objected to by prisoner's counsel, on the ground that it does not appear

that this is the same man testified to by the preceding witness, and it does not appear that the record convict was ever taken to the Penitentiary. Objection overruled, and record read by Mr. Johnston—"Commonwealth versus Philip Fulgart, No. 6, December Sessions, 1861. Indictment for arson—a true bill. And now, December 3, 1861, Defendant arraigned. Jury find Defendant guilty. 14th December, 1861, sentenced to pay a fine of \$100 and costs, and undergo an imprisonment in the Western Penitentiary for seven years and three months."

Officer David M'Kelvey called: Know defendants; have known Buser for some years past—Howser not so long; (prisoner's counsel ask to know what Commonwealth's counsel propose to prove by witness; proposition stated—"We propose to prove that some two years since these prisoners were arrested by witness in the act of committing a burglary, and afterwards lodged in the Western Penitentiary for that offense; and that he afterwards saw them, on the 17th day of May last, the day of their discharge from Penitentiary." Objected to, that the evidence is in part irrelevant—that part wherein is proposed to prove that he saw prisoners on the day of their discharge from Penitentiary—and that the rest is incompetent and illegal. Objection sustained by Court. When Commonwealth offer to prove that witness knew, of his own knowledge, as a fact, that prisoners were in the Penitentiary, and were discharged on that day. Objected to, that the facts proposed to be proved by witness could only be proven by the record evidence of the Penitentiary. Court overruled objection.—Witness continued: These prisoners were in Western Penitentiary; saw them the day they came out; don't mind the date but it was somewhere about the middle of May of the present year; am a police officer for Allegheny city; cannot remember exactly what time it was they were sent to penitentiary, but know they were sentenced for two years and six months.

Cross-examined: Arrested one of these men in this case; the inducement held out to me was, that Mr. Hague came to me and told me that there had been a murder committed in Cambria county, and that these men were suspected of the crime; believe there was a reward of \$500 offered for the arrest of the guilty parties; never saw them in the penitentiary; was not present when they were delivered to the keeper.

#### THE PLOT TO MURDER FORMED IN THE PENITENTIARY.

William M'Creery called: Question by counsel for prisoners. Have you ever been in the penitentiary? Answer—I have just got out of penitentiary; was convicted on a charge of burglary; was in penitentiary once before, on a charge of the same kind, in 1857; have a pardon; (produced it, and Mr. Johnston reads it to the Court); witness states that he was pardoned for the first crime, also, and that his pardon is in Washington county. Competency of the witness objected to on the ground that the pardon produced for the last conviction did not remove the disability occasioned by the first conviction and incarceration in the penitentiary for burglary in 1857, for which no pardon is offered in evidence, and it not appearing that he served out his time. The Court decided that though it had erred in not instructing the witness that he was not compelled to answer the question as to his first conviction of burglary, still it was held that the testimony of witness was as competent to prove his pardon as it was to prove his conviction. Testimony received.

Witness states: Was an inmate of the Western Penitentiary prior to the 17th of last May; have seen John B. Howser there; never saw him anywhere before that; was well acquainted with Daniel Buser; had known him before he came there; it was about two years ago last January, as near as I can recollect, that Buser was committed from Allegheny county; he told me he came from Pittsburgh; he was put in the second cell from me; it is customary in that place when a new convict comes, to put him in cell with one who has been there some time, to instruct him in shoemaking; after he had been there a short time, he was put in with a man in the cell adjoining mine; and he and I had the first conversation with regard to Cambria county; we talked of my having stopped on his boat in 1855; he recognized me as the person having done so; had not seen him nor heard of him from that time until he came to the prison; we talked about a great many things; meantime Philip Fulgart, who was some five cells further up the range or tier, was brought down and put in the cell with the prisoner in the cell adjoining the one Buser occupied; after Buser became acquainted with Fulgart, Buser told me he had got some points from Fulgart, ("points" among the convicts signify places where money and valuables are to be found,) and that he and Howser intended going after one of these points as soon as their term expired, and if they succeeded in making any one of the points, they were to "put up" some of the money for Fulgart, to employ counsel to get him out of prison; we had different conversations with regard to this matter, but don't remember how many; he

told me, and Philip Fulgart afterwards told me, that there were several places where these points could be had—one was to be found at an aunt of Fulgart's wife; there was another one where an old woman lived by herself—a weaver—think he called her Mary Paul; there was also a man, but don't mind his name nor where he lived; we had other talks, I don't know how often; remained in that cell fifteen months, and then was moved up to the cell adjoining Philip Fulgart's; Fulgart and Buser worked together by spells, in the same cell, hob-nailing shoes; were in that cell up to the day previous to Buser leaving; Fulgart remained in the same cell after Buser left; about four or six weeks before Buser went out, he came up, on a Saturday, (sometimes prisoners get together by making an excuse to get their hair cut,) when I heard a conversation; did not hear first of the conversation; Fulgart was about nine feet and Buser about five feet from me, including thickness of wall; the first I heard was Buser saying, "well, Fulgart, if I make any one of these points, you can depend on us doing what I promised;" he said, "you can be got out, or will be got out by next August;" Fulgart said, "At the old woman, the weaver's, you can get that, easy—there will be no one there to stop you—I think you will find the money in the bed;" he did not name the woman, but called her the old weaver; Buser remarked, "Johany (Howser) and I will make sure of that, if we have to murder to get it;" this is the principal part of that conversation; Buser stated that as soon as they got out and could make arrangements, they would go on their expedition; don't remember the name; they also spoke of a man who was a cooper by trade; don't know where he lived; this was one of several points about which he was talking to Buser; had a talk in March, I think, with Howser; had climbed up to the window of my cell, and could see the opposite cell window, which was Howser's; asked Howser if he was going to send some weed (tobacco) in when he got out; he said he could not then, for he was hard up, and would have to make a raise first; asked him if he could make a raise; he said, "oh, yes, there is a pile waiting on me;" asked him if it was in Cambria; he just nodded, (affirmatively) without speaking; I said "I know," or "Das had told me"—something that conveyed the idea that I knew they were going on an expedition; never heard any conversation between the prisoners that I could understand, as they talked German; did hear them say Cambria—knew that word—in their conversations, twice that I mind of; it was Sunday each time; these prisoners are the Howser and Buser spoken of; Buser speaks good English, and speaks German also; I do not pretend to understand German; heard Buser say that he and Philip Fulgart could talk together best in English; don't think Howser can speak good English; it was the 7th or 17th of May that Buser and Howser left penitentiary—don't mind which day; both left their cells the same time; Buser said he was going out that day, and was bidding good-bye to the prisoners.

#### TUESDAY—THIRD DAY.

Court met at 9 o'clock.

Michael Stibolisky re called: My wife is not here; she is sick; has a baby only eight days old; has two babies the same age.

Cross-examination: She was never examined as a witness in regard to this murder.

Joseph W. Myers, Esq., called: On the afternoon of the 8th June last, Michael Stibolisky called on me to hold inquest on bodies of Misses Paul and Munday; the body of former was in stable; found body of latter in orchard; (draft of location shown to witness); it is nearly correct; (clubs shown witness); these clubs were in my possession till last Court; can't tell name of wood; some call it swamp elm; have seen the same kind of wood growing about 1 1/2 miles from where Miss Paul lived.

Cross-examined: There was a nick on end of club; recognize it by that; these clubs I think were of original growth, not limbs, and cut off a little under the ground; this timber growth is about half a mile from Jackson road, and about three hundred yards from Wissel road.

James R. Cooper called: (clubs shown;) Saw these clubs at Miss Paul's; know them to be the same; made a notch in this one myself while in orchard; Miss Paul sold a good deal of stave timber to Mark Senter; he paid her I think \$3.00 per thousand; some he paid \$5.00 for; G. W. Pringle got a lot of staves from her land also; might have got 25,000 or 30,000; Henry Carpenter got some from her too.

Officer James M'Kelvey re-called: Don't know what business these prisoners followed after they got out of penitentiary.

#### PRISONERS START ON THE EXPEDITION.

Mrs. Elizabeth Graham called: Resided in third ward, Allegheny city, about the first June last; was boarding at Mrs. Miller's at the time; she married Mr. Johnson since; am acquainted with prisoners; they came to Mrs. Miller's about the 28th or 29th of May last; staid until

3rd June; they cupped me that day, when both were present; on Sunday, our next door neighbor, Mr. Barnes, got his hand cut; they dressed his hand; Buser said if they didn't go away on Monday, they would dress it again; he went in early Monday morning and dressed it; he then borrowed a dollar from me; said he wanted to go to the drug store to get some medicine; said he had a little money but they wanted to go away; wanted to buy tickets to go to the country; Howser was there at the time; Monday afternoon about two or three o'clock, they left; they took a carpet-sack and a box with them when they left; it was a dark tin box; (box shown;) it was such a looking box as this; don't know if it is the same; never had it in my hand; they had a black oil cloth carpet-sack; they came back the next Saturday afternoon; Howser's feet were very sore; they were so sore he had to stay in the house for about a week afterwards; Buser was about back and forward; Howser cupped his own feet; they followed cupping, bleeding and leeching; neither told me where they were going when they left; they had no money but a few dollars before they left—when they came back, Buser said they had money now, but it wouldn't do to get at it yet; heard a conversation between prisoners; I was sick and was lying in a room on lounge; they were in same room; RETURN AND QUARREL ABOUT THE SPOILS. They had a few words together, and got to quarreling; Howser told Buser he wanted him to get that money they had—he wanted his share; he said he wanted to go home to his father; Howser is the larger of the two; (pointing him out;) Buser put his finger up to his eye and said, "Do you see anything green there?" he said it wouldn't do to get that money yet, for it might get them into trouble; didn't hear anything further at that time; Howser appeared to me like a man distressed in mind when he came back; thought so because he would go moving about from room to room, and wasn't jolly and jolky as he had been before.

Cross-examined: Was married on 10th of July; my husband is at home; was a single woman at the time of the conversation spoken of; there were no other boarders there but these two men and myself; was sick at the time; before I got sick, worked around, sewed, &c.; was sewing at time I got sick, for Mrs. Hinkle was living with Mrs. Johnson; had money when I came from Blair county; belong to Blair county; my name was Eller before I was married; I had been married to a man named Kuhn, and that was my name then; Kuhn was dead about four years; Buser and I am not on very intimate terms; never saw him before the 28th May, when he came to board at the same house with me; he did not furnish me with funds sometimes; was not away from the house often at night about this time, except at the next neighbors'; wrote home and got money; that was the way I was able to lend the dollar to Buser; don't remember the time I wrote, but guess Mr. Johnston does—he saw me write the letter; addressed my letter to my father, Daniel Eller, at Sarah Furnace; (a letter shown;) this is my handwriting; it was about a week till I got a letter from my father in reply, and it contained \$20.00; did not owe it all at the time; had no physician attending me, after these men left; they had been attending me from the 3d of June, which was the day they cupped me; paid them one dollar for cupping me; I lent them a dollar besides this one; remember seeing a white dog which was poisoned come into yard; it was the next day after prisoners came back; it was on a Sunday that Mr. Barnes got his hand cut; know Buser and Howser dressed it on Monday morning; Barnes is a married man, and his wife is here as a witness; she was at home at the time; these men did not attend to Barnes' hand regularly on till Wednesday; prisoners got a bucket of coal from Mrs. Barnes; it was on the day they dressed the hand; I wrote to Buser after he was put in jail on this charge, and said I could be a witness for him, but when I studied over matters, found I was wrong; I tried to find out witnesses for him; his wife told me to write to him something that would encourage him; his wife cannot write English; she can write German; do not know if he can read German; Mr. Hegus subpoenaed me; we talked a little over what he wanted me to testify to here, at home in Allegheny city; I was lying on the lounge when these men had the conversation I alluded to; they sat in the same room, with their backs against the wall; Howser is a German; can't tell where his father lives; he is a married man; don't know where his family is; they had a pistol at the time of this conversation, and were talking about getting another; don't know that they had been in Beaver, nor that they said they were going there; didn't hear them saying they were going to any town; they said they were going to the country; don't know where they got the carpet sack; it was a large black one; the first I saw of it, they brought it down stairs; I saw the date on the 3d of June as the day on which I was cupped by having heard Mrs. Miller talking with the landlord about paying the rent; am confident it was the third; Mr. Graham was in the army on the 3rd of June last; I wrote a letter to