Somerset Herald.

SOMERSET, PA., SUNDAY, JUNE 9, 1889.

EXIT.

...this issue the DAILY HERALD ...out, to be recalled whenever the ...of Somerset county demand its ... With the consciousness of ...given our patrons the full value ...their money, we are able to depart, ...satisfied, from the field. The suc... of the DAILY has been phenomenal; ...with the expectation that it ...from two to three hundred ... we were gratified when the ...list ran up against the thou... and amazed when the de... became so great that we were ...to print more than twenty-seven ...copies. Its average circulation ...the entire time of publication ex... twenty-five hundred copies, and ...not only through South... Pennsylvania but hundreds of ...sent to points West of the ... Its marked success is simply ...illustration of the well-known ...maxim that there is always a ...for a good thing. That the DAILY ...good thing we think all our read...will say; intended first only to re...the interesting criminal cases on ...before our county courts, it jumped ...the field of general news. It was ...of the very first papers in the State ...publish a notice of the breaking of the ...South Fork and the terrible havoc ...wrought at Johnstown, and its Sat...evening extra gave the first news ...the world from the flooded dis... Some of the Pittsburgh and ...papers published accounts, ...in their offices based on what ...supposed to have happened; but ...HERALD's extra was the first pa... published that described the flood ...actual observations; its interviews ...Messrs. Knable, Coffroth, Zeigler ...others were the first published with ...who had actually passed through ...flood. Its accounts since have been ...accurate than those of any other ... The HERALD has made no ...and endeavored to incul... to opinions. Its reporters ...live, energetic, indefatigable ...always on the alert; they gathered ...facts and laid them before its ...every morning. The amount of ...matter that has been published is simply ...astonishing to newspaper men in adjoin... men who understand and ...the difficulties that surround ...a daily paper in a town ...Somerset. Then, too, the weekly ...has not been delayed a minute ...this week went to its patrons twice ...usual size.

...The conviction of the McClelland... gang for the burglary at the residence ...Yoder, followed by the convic... of the Nicely boys for the murder of old ...Umberger, is apt to make Somerset ...and Somerset juries a terror to all evil ... For the credit of the fair fame of ...old Somerset be it known, far and ...that of the seven men convicted of ...crimes, at this sessions of our court, ...was a citizen of Somerset county. ..."Somerset Dutch," as our Fayette coun... neighbors are fond of calling us are as ...in the commission of crime as they are ...in its punishment.

..."When the good Lord made 'Uncle John' ...he must have lost the pattern," re... an enthusiastic admirer of that gen... as he closed his wonderful argument ...the jury in the Umberger murder case ...afternoon. "His speech was the ...I ever listened to. There ...one John Cessna," and the speaker, ...had remained in town for the purpose ...hearing Mr. Cessna's speech, hurried to ...S. & C. station to catch the evening ...on that road.

Joseph E. Silva, son-in-law of George ...Lichty, arrived here from Sacramento ...Friday last, having made the journey ...just six days.

Carrie Durst convicted of assault and battery on information made by Catha...Fox, was sentenced to pay a fine of ...and undergo imprisonment in the ...county jail for 30 days.

The Post Office at this point has been ...made a general distributing office owing to ...the disarrangement of the service at Johns...town.

The only regret connected with the pub...lication of the DAILY HERALD is that we ...unable, for want of space, to publish ...the full text of all the great speeches in the ...Umberger case.

GUILTY

OF MURDER IN THE

FIRST DEGREE

Is the Verdict Which the Jury Brought Into Court Saturday Morning.

JOSEPH NICELY AND DAVID NICELY CONVICTED OF THE KILLING OF HERMAN UMBERGER.

The Hearts of All Who Heard Them Wrung by the Agonizing Shrieks of the Wives of the Prisoners when the Verdict was Announced.

THE FINDING OF THE JURY MEETS WITH GENERAL APPROBATION

Closing Scenes of A Justly Famous Case.—A Motion for a New Trial.

AN ERRING BROTHER.

Rev. Amos Sell Pleads Guilty to an Indictment for Adultery.

His "Riverance" Will Spend the Next Six Months in Jail.

WITH THE JURY.

After listening to the charge of the Court the jury in the Umberger case were given in charge or tipstaves Scott and Huston and sent to their room for consultation and deliberation. A short time after reaching their room a ballot was taken which stood nine in favor of a verdict of murder in the first degree and three in favor of acquittal. During the night one other ballot was taken which stood eleven in favor of a verdict of guilty in the first degree and one for acquittal. Just before court called a third ballot was taken, which resulted in a unanimous vote for a verdict of guilty of murder in the first degree. The prisoners were brought into court and the jury came in and handed a paper to the Court which read "We find the defendants, Joseph and David Nicely, guilty in manner and from as they stand indicted." The verdict was read by the clerk to the jury when the court stopped him and said: "Gentlemen of the jury your verdict is not correct." The foreman arose and said: "We did not understand your instructions with regard to our verdict." The court recharged the jury in the presence of the prisoners as follows: "The jury say they did not fully understand the charge as to the form of the verdict, and are recharged as to this request in the presence of the prisoners and before recording of the verdict which they returned and that was in form. "We find the defendants Joseph and David Nicely guilty in manner and form as they stand indicted." We charged you that if the jury find that the crime of murder was committed they then must by their verdict say whether it be guilty of murder in the first degree or murder in the second degree. They must if they find it murder, state the degree in their finding.

Counsel requested that the paper containing finding be filed, and the Court made the following order:

Commonwealth vs. Joseph Nicely & David Nicely	"We find the defendants, Joseph Nicely and David Nicely guilty in manner and form as they stand indicted."

"The above finding having been returned, and before recording the Court sent the jury back with additional instructions, because instructions were requested, which instructions have been filed; the counsel for the defense then demanded that the finding be filed; it is now permitted to be filed, but not permitted to be recorded as their verdict.

PER CURIAM.

To this ruling and the sending back of the jury the defendants objected, and pray a bill be sealed, which is now done.

W. J. BAER. [SEAL.]

The jury then returned to their room and in a few minutes came back into court and handed to the clerk a verdict, which he handed to the Court, who handed it back to the clerk, who read "guilty of murder in the first degree" The jury was then polled; the name of each juror was called and he answered "guilty of murder in the first degree." The scene in the court room when the jury handed in their verdict was a remarkable one, and one that will be long remembered by all present. For the first time the iron nerves of the Nicely boys gave away and a perceptible tremor was noticed in their faces. The look of blank amazement that spread over the faces of the counsel for the defense showed how much of a surprise the verdict was to them. Notice was promptly given that a motion for a new trial would be made, and the famous Umberger trial was at a close for the present.

At the afternoon session a motion for a new trial was formally made, for the following alleged reasons:

1st. The verdict was against the evidence.

2d. The Court erred in its charge on the points in the case and on the law of the case.

3d. The jury did not take time to properly consider the evidence.

4th. The behavior of the audience.

5th. That Mr. Cessna had dwelt improperly on some of the facts.

6th. Because of facts learned last evening after the case had been given to the jury.

The motion was directed to be completed within ten days from to-day.

The stenographer was instructed to write out and file his notes of testimony taken during trial.

There was no expression of opinion in the court room at the time of the verdict. The verdict is considered a righteous one and meets with very general approval.

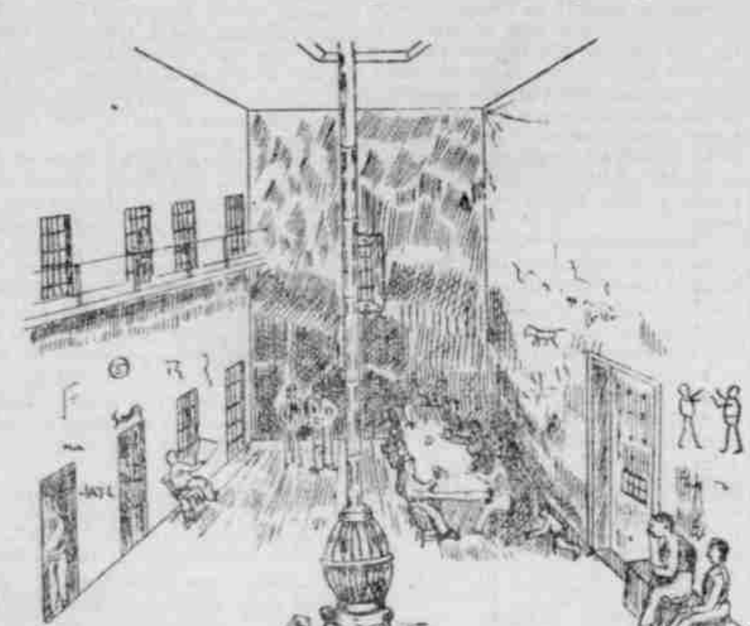
It is expected that the counsel for the prisoners will make a determined fight for the lives of the prisoners and the last of the case is not yet.

The scene at the Somerset House this morning when the news of the conviction of the Nicely boy's was received was one to touch the heart and excite the sympathy of the most bitter denunciator of the murderers of Herman Umberger. The wives and aged mother of the prisoners have been at the hotel all week. A messenger was sent to the court house and as soon as the verdict was announced sped back to the hotel. No thought of a verdict which would condem their loved ones to the gallows had evidently crossed the brains of these poor women, and their heartrending cries when they realized the awful truth, brought the tears to the eyes of more than one strong man.

In the cases against Rev. Amos Sell, charged with rape, adultery, fornication and bastardy, the prosecutrix, Susan Custer, was put upon the stand, and told her story, after which the court instructed the district attorney to enter a *nolle prosequi* in the rape case, and the reverend gentleman then plead guilty to the charges of adultery, and fornication and bastardy. The court asked the preacher what he had to say why sentence should not be passed on him. Mr. Sell said in extenuation "that he was but human, was a poor man, and unable to pay a large fine; that his wife was in bad health and his family suffering." The Court then sentenced him to pay a fine of $50, to pay to the prosecutrix $60 for lying-in expenses, to pay the costs of prosecution and to undergo imprisonment in the county jail for a period of six months.

THE OLD JAIL.

Next to the Court-room, the place of most interest to the hundreds upon hundreds of visitors who have flocked to Somerset during the past week, has been the old jail. Every day crowds of people besiege the Sheriff for permission to examine it. The famous "McClellandtown Gang" and the Nicely boys have proven strong drawing cards, and were the Sheriff to permit it, there would be a full house—not only every day, but every night. The illustration given below conveys a good idea of



the interior. Owing to the miserable manner in which the old prison is lighted, our special artist was unable to procure a view as full of detail as was to be desired. The large number of prisoners confined within its walls during the past three months, has only emphasized what the State Prison Board reported several years ago, "that it is the worst, the most foul smelling, and poorest adapted building for the purpose in the State, and one which the christian people of the Commonwealth have cause to be ashamed of." Sheriff McMillen and his deputies are unremitting in their efforts looking to the physical and moral welfare of the unfortunates committed to their care; but labor as they may, wash, and scrub, and scour, and clean, and disinfect, they can never make a building that was so badly planned either a safe, healthy, or proper place in which to keep those that the law deprives temporarily of their liberty. The necessity that at least there may be some arrangements made by which the prisoners of different sexes are confined in different apartments is a crying one, and one the failure of which to remedy is a blot on the fair name of our county. While not in favor of keeping prisoners in idle luxury, the HERALD is in favor of treating them with such care as will at least insure that they shall not be injured in health. The idea that men were to be sent to prison in a vindictive spirit of revenge, is one that held sway only in the middle ages. A more enlightened age looks on them as places where men are to be reformed and made better. If the commission of a single crime puts a man in a position where there is no hope for reformation, then it were better to "off with his head" and rid society of him for good and all. The old prison has had its day, and we agree with the members of the many grand juries that have condemned it, that it is time that "it should go."

Something About the Johnstown Business Houses.

While we have published as much as we could about losses of families, individuals, dwellings and manufactories, we have had but little information to give with reference to particulars pertaining to certain business features. Our Pittsburg exchanges, though filled with incidents touching some of the thousands who perished, and concerning scores whose rescue was miraculous, have said scarcely anything about this matter, except in a general way. True, one of them gave what purported to be a list of stores &c., that went with the general wreck, but so full of mistakes as to give no just conception. Anyone can see, in looking at the fabulous amount named as the aggregate losses the utter absurdity of newspaper individual estimates. For instance the Pennsylvania railroad loss is put at ten millions. Eight or nine hundred thousand would be nearer the truth. One store whose building and stock would not exceed seventy thousand is put at one hundred and seventy-five thousand; another is put at two hundred thousand; whereas it could be stocked and replaced by forty thousand; another, whose stock would not have invoiced fifteen hundred, is put at ten thousand, and so on to the end.

Individual losses, that is losses of clerks and employes are equally absurd as those found in the list. One whose furniture would not reach two thousand, is down in the list at eighty thousand. These are given as samples.

While the property loss is simply enormous, it is an outrage to run the aggregate up to $70,000,000. Fifteen to twenty millions would be nearer the notch.

Among the stores well known to Somerset county people that have been destroyed are M. L. Maloy's, W. A. Rosensteel & Son's, C. Shoff's, C. O. Luther's, Geo. Keifer's, Swank & Son's, A. Nathan's, D. C. Philips' & Bro.'s, J. Q. A. Benshoff Charles Griffith's, Eldridge & Young's, Aker's & Baumer's, W. Kramer's, M. Caldwell's, Brinker Bro.'s. Fockler & Levergood's, Blank & Allen's G. M. McGray's, John Ryan's and William Masterton's. Among those partially destroyed are Geis, Foster & Quinn's, John Thomas & Son's, Woolf, Son, & Thomas and the Company's large store.

Incidents of the Flood.

The generous act of a Somerset county man is worthy of record. Mr. Peter Cobaugh's store, standing at the lower end of Morris street, in Kernville, and on the bank near where the Johnstown and Kernville bridge stood, was the only store not swept away. Of his stock of $12,000 or $15,000 worth of general merchandise, scarcely anything is left. It was not carried away by the flood, but generously given to the destitute.

Mr. William Donaldson's residence was on Vine street, in Johnstown. About 10 o'clock in the forenoon of Friday. Owing to the water surrounding the house, he sent his wife and children over to Kernville. He and his sick mother, not being able to be removed, remained in the house, and after floating around for many hours, were rescued. His wife and children had to leave the house in Kernville on the approach of the destructive wave. One of the children, a boy eight years old, was separated from the mother, and was not heard of until Saturday afternoon. It seems he got onto the road leading to Grand View cemetery, lying on top of Kernville Hill fully a mile from town. On Sunday morning at half-past one o'clock, a man who was going across the hill from Cambria City with a lantern saw him sitting on a newly made grave, and asked his name and residence. The little fellow told the name of his father and where their house stood; and when asked where the family was, said Pa and Grandma were left in the house and are drowned and Ma and I ran up the hill, and "only me and my little brother here in this grave are saved." The little hero was taken to a farm house, put to bed and returned to the parents Saturday afternoon. This incident was given to the writer by Mr. Donaldson himself, at Somerset depot yesterday. Mr. Donaldson having been sent up here with some special message to Captain Hamilton, in charge of the station with his Company.

Lawyer W. H. Rose, whose fine brick residence stood a little below the Market House, on Main street, in Johnstown, was floated on a roof down to the point near the Pennsylvania Railroad's stone bridge, and then carried by the current up Stony Creek, and then over into the upper part of Kernville.

Harry G. Rose, Prosecuting Attorney, who lived with his father-in-law, Mr. James A. Lane, on lower end of Locust street was instantly killed by a log that shot into the house in the upper story of the building. At the time of the rescue of the family his wife and he were found wedged together in a mass of wrecked matter, she holding his hand and unconscious of his death. Her sister, wife of Mr. Earl Ogle, with her little son is a guest of Mr. and Mrs. F. W. Biesecker.

The Pittsburgh *Times* in Saturday's paper, publishes what it calls "a correct list of the lost in Johnstown." How correct it is any one who has been there can see at a glance. Under the "A" head, it has George Akers, city editor of the *Tribune*, and one child. The only George Akers there, is the local of the *Tribune*, and the writer has seen him three times since the flood. Under the "B" head it has Dr. J. T. Beam, Dr. S. Y. Beam, Dr. W. C. Beam, Dr. L. T. Beam. Only two Doctors Beams lived there, namely, Dr. L. T. and W. C., both of whom are lost. John Brady is down twice. In the "C" list is Joseph Crouse, liquor dealer, whom the writer talked with several times since the disaster; not a member of his family lost. David Creed and family is in three places. Mrs. DeFrance is put in twice to swell the list, and two imaginary Misses DeFrance's also. In the "E" list the two missing Eldridge's were multiplied into six. And thus the long list runs to "Y." A more inaccurate list could not have been gotten up with such an intention in view.

When will the papers let up in publishing so many things about the terrible flood that have not even the semblance of truth for a foundation. Surely the truth, naked and unvarnished, is sufficiently horrible, without calling upon a lively imagination. We are glad to see that the "avenger" Chal. L. Dick, ex-Burgess, is getting a rest. The sensation writers have let him alone since he popped over his nineteenth man; and they have not hanged (in their minds) any "Huns" within the last twenty-four hours. Shame on these manufacturers of horrors.

Mr. Cha's H. Fisher has bought of the publishers of the HERALD all back numbers from March 13th to present date, and can supply copies of all and any date at 5 cts per copy. Mail orders promptly filled. Send postage stamps to Fisher's Book Store for HERALD's back numbers.

We are glad to take advantage of the enterprise of the DAILY HERALD in giving an invitation to strangers, as well as our old patrons, to call and see our immense stock of Hats, Bonnets and Trimmings; besides, Laces, Embroideries, Hose, Gloves, Kerchiefs, Collars, Cuffs, Buttons, Corsets, Jewelry, &c., &c.

M. M. TREADWELL & Co.

Down to Bed Rock.

Drop in and see how cheap you can buy a Hanging Lamp. Lamps of all kinds. Dishes of all description—very cheap. Glass Ware at a sacrifice, at the store of

E. B. COFFROTH,
Somerset, Pa.

Murder!!

In murder trials it is most important to know the exact time at which the crime occurred. To the unfortunate criminal time may be life. In all cases time is money and money can be saved by buying time-pieces at Neff & Casebeer's, who carry a large assortment of the Finest Grades of Watches and Clocks, Jewelry and Silverware, Eye-glasses and Spectacles.

We also do engraving of all kinds. Goods purchased from us will be engraved free of charge.

NEFF & CASEBEER.

Five Brothers.

Fred, John, Ben, Ruby, and Nick, now on trial at the store of

ED. B. COFFROTH.

Ladies, you can find all colors of ready mixed paint, and in any quantity you want, put up in any sized tin cans; also, all kind of wood stains, tube colors, paint brushes, scrub and dusting brushes, at J. B. Holderbaum's Hardware Store, Somerset Pa.

Bug Finish.

Ready for use. No mixing required. Sticks to the vines and finishes the whole crop of Potato bugs with one application. One pound will go as far as ten pounds of Paris green and plaster mixed by hand. Sold cheap by

J. B. HOLDERBAUM.

Fine Clocks.

Ansonia Walnut Mantle Clocks with the latest improved eight-day movement in for only $5.00, at less cost than they have ever been sold at before. Also Seth Thomas Clocks of a finer grade at $5.00 and $8.00, at

HERR BROTHERS.

What's the matter with stopping in at Ferner Bros., and buying a pair of boots or shoes before going home. They will sell them to you cheaper than anybody else.

Every Justice of the Peace is required by law to post a copy of Justice's fee bills in his office. These fee bills can only be obtained in this county, at Fisher's Book Store.