

Smith Abner & Abraham Cresser Wesley & Mrs
Jimm Nanceath. James Caldwell alias
Colbert. and Ray heretofore convict on
the day of November. 1866. in the Com.
the aforesaid did feloniously and
with malice aforethought kill and
murder one Harvey King by shooting
him with a pistol loaded with a leaden
ball or balls. or other hard substance
Against the peace and dignity of said
Commonwealth.

Information of
James Alexander
Commorance
Mr Jones Atty for the
Council

Griffin Wright
W. S. Dickes
L. A. Gifford
L. C. Brown
James Smith
R. B. Salmons

Audun Cant at the Cant house in the town
of Franklin. Dy on Monday the 17th day of
January 1864.

The Commonwealth of Kentucky
Against
Jno O Henry, Father
of the Murderer
Ruth

Mr. Day, Counsel the Attorney for the
Commonwealth and the prisoners being
brought into Court in Custody and Charge

3
of the Sheriff and being arraigned for trial and the indictment read to them by the Clerk and asked them if they plead guilty or not guilty to the Charges in the within indictment and they plead not guilty and the prisoners put themselves upon their Country for trial and the attorney for the Commonwealth doth ask for the same. And therefore came a Jury Court. W^m Mesurier C^l R Pedaw W^m Martin A S Perkins Silenus Morris R Dossdale James Munroe Isamah Lewis W^m Stewart Sen J^m Howland W S Dorthick J B Haggons were sworn and sworn to well and truly try the issue and a true deliverance make &c And there not being sufficient time to conclude the trial this evening the jury were permitted to disperse until tomorrow morning from under the instructions of the Court.

And in Court at the Court house aforesaid on Tuesday January 8th 1867

On day the attorneys for the Commonwealth appeared in open Court and the prisoners being brought into Court in custody and charge of the Sheriff.

And proceeded to the trial of the within
indictment and the jury that were
unpannelled and sworn herein also
appeared. Sermt W W Meguan Delmar
Morris Mr Stewart Sermt Mr Martin A S
Parker G A Sidale Isaac Lewis J M
Newland J H Maggoner W S Borrick
James Manning E R Padon and there
not being time sufficient to conclude
the trial the jury were permitted to disperse
under instructions from the Court until
tomorrow morning. 9 O'clock.

And in Court at Court house aforesaid
on Wednesday January 9th 1864

This day the Attorneys for the Commonwealth
appeared - and the prisoners being brought
into Court in Custody and Charge of the
Sheriff and proceeded to the trial of
the within indictment and the jury that
were unpannelled and sworn herein
appeared. Sermt W W Meguan Delmar
Morris Mr Stewart Sermt Mr Martin A S
Parker G A Sidale Isaac Lewis J M
Newland J H Maggoner W S Borrick
James Manning E R Padon and there
not being sufficient time to conclude
the trial the jury were permitted to
disperse under instructions from the

5
Court until tomorrow morning. 9 O'clock.

And in Court at the Courthouse aforesaid.
on January 10th 1864.

This day the attorneys for the common
wealth appeared and the prisoners
being brought into Court in custody and
charged by the Sheriff and proceeded
with the trial and the jury also appear-
ed. Court - W W Mequian C R Pedron
M Martin A L Packin J Morris L D Lisdale
James Winney Isaac L Lewis J B Maggoner
Mrs Stewart Sen. J M Stewart W S Dortho
who were sworn to try the issue and proceed
ed with the trial and there not being
sufficient time this evening to conclude
the jury were permitted to disperse until
tomorrow morning - from instructions of
the Court.

And in Court at the Courthouse aforesaid
on January 11th 1864.

The Attorneys for the commonwealth again
appeared and prisoners being brought into
Court in custody and charged by the Sheriff
and the jury appeared Court - W W
Mequian C R Pedron M Martin A L Packin
J Morris L D Lisdale James Winney
Isaac L Lewis J B Maggoner Mrs Stewart Sen.

DM Newland & S Borthick and proceeded with the trial. and their not being sufficient time to conclude the trial this evening they were permitted to defer until tomorrow morning. Nine O'clock. From instructions from the Court

And in Court at the Court house aforesaid on January 12th 1867.

The Attorneys for the Commonwealth again appeared and the prisoners being brought into Court in Custody and Charge of the Sheriff - and the jury that were empanelled and sworn did a former Day of this Term. Sawt NW Maguire. CP Pease Aaron J. Wagoner. WM Martin DM Newland James W. W. Isaac Lewis L. D. Birdall Wm Stewart Sen At S Peckers N S Borthick and proceeded with the trial - and their not being sufficient time to conclude the trial this evening the jury were permitted to disperse until tomorrow morning from instructions of the Court.

And in Court at the Court house aforesaid on Monday January 14th 1867

The attorney for the Commonwealth again appeared - and prisoners being brought

7
into Court in Custody and Charge of the
Sheriff - and the Jury. David W W
Mcguire. L R Padon. J Morris J Maggo
-ner J M Martin J M Newland. James Manning
Isaac Lewis G A Suddale Mr Stewart Seal
A S Perkins W S Dorchest proceeded with
the trial and there not being sufficient
time to conclude the trial this evening
the jury were permitted to disperse from
instructions of the Court until tomorrow
morning 9 O'clock

And in Court at the Court house aforesaid
on Sunday January 15th 1867.

The Attorneys for the Commonwealth
again appeared & the prisoners being
brought in Court in Custody & Charge
of the Sheriff. and the jury that were
empaneled. David W W Mcguire
L R Padon G A Suddale J M Martin
J M Newland James Manning J Morris
J C Maggo. Mr Stewart Seal A S Perkins
W S Dorchest. proceeded with the trial
and there not being sufficient time to con-
clude the trial today they were permitted
to disperse until 9 O'clock tomorrow
morning from instructions from the
Court.

And in Court at the Court house aforesaid
on Wednesday January 16th 1867.

This day the Attorneys for the Comon-
wealth appeared and the prisoners were
brought into Court in Custody and Charge
of the Sheriff and the Jury found W^m
Megowan, E. B. Pedow, C. C. Dredde, W^m Martin
J. M. Newland, James Wining, J. Norris, J. C.
Maggoner, W^m Stewart Sen, A. S. Perkins, W. S.
Dorrick, Isaac Lewis and proceeded
with the trial and there not being sufficient
time to conclude the trial this evening they
were permitted to disperse from under the
instructions of the Court tomorrow morning.

And in Court on January 17th 1867.

This day the Attorneys for the Commonwealth
appeared and the prisoners were brought into
Court in Custody and Charge of the Sheriff
and the Jury. W^m Megowan, E. B. Pedow, C. C.
Dredde, W^m Martin, J. M. Newland, James Wining,
J. Norris, J. C. Maggoner, W^m Stewart Sen, A. S.
Perkins, W. S. Dorrick, Isaac Lewis and
proceeded with the trial and there not
being sufficient time to conclude the
trial this evening they were permitted
to disperse till tomorrow morning
9 o'clock from instructions from the
Court.

And in Court at the Courthouse aforesaid
on January 18th 1867.

On this day Cause against the Attorneys
for the Commonwealth and the prisoners
being brought into Court in Custody and
Charges of the Sheriff and the Jury that
were empanelled and sworn herein
appeared Court W W Meyer James
Humes W B Fagan G D Dindale W M Martin
W L Berthick L A Torri Isaac Lewis AS
Peckham W Stewart Sen J C Haggons J M
Howland took their Seats ready to
proceed with the trial and there not
being sufficient time to conclude the
trial or the jury to agree in a verdict
and the Cause being finally submitted
to them they retired to their room - under
the Charge of the Sheriff -

And in Court on Saturday January 19th 1867
at the Courthouse aforesaid - Court
Communicated of Kentucky Jeff
Against

Indict. re Mrs J Henry & others
Verdict.

Murder

Wegth

On this day Cause against the

Attorneys for the Commonwealth and the
prisoners Mrs P Henry Abraham Curran &
Abner Owen Wesley Ann Charles Smith Wm
Hume W B Kinneath Joseph Paine.

as Foreman. At the request of the Counsel for defendants said Jury was called by the Judge of this Court asking each Juror if the verdict as declared by their Foreman as aforesaid was their verdict and each ^{answering} in the affirmative and the verdict was received and then Jury discharged.

Met in Court at the Courthouse on Saturday Jan 19 / 1897.
 Commonwealth of Kentucky J. P. F.

Against.

Mrs P. King & Abraham Auer. 3

3 Murder.

3 Rapes.

This day Defendants by their Counsel and Filed motions and grounds for new trial which is laid over until Tuesday the 14th day of the present term of this Court for argument.

Motions
 & Grounds
 for new
 trial.

The Defendants King & Auer against whom a verdict of guilty of Murder or an indictment for murder of Harvey King has been rendered at the present called Lewis of the Supreme Bench Court. moved said Court to set aside said verdict and grant them a new trial for the following grounds.
 Messrs. Rowit.

1st Because said called Lewis was illegally used informally called and

said Court was illegally held and had no lawful power or authority to try said Cause and to receive said verdict or to render sentence on said verdict
 2nd Because the verdict of the Jury is contrary to law and the evidence in the Cause.

3rd Because the verdict of the Jury is contrary to law and the evidence in the Cause. Court admitted evidence to be given to the Jury contrary to rule authorized by law.

4th Because the Court refused instructions asked for by the Counsel for the prisoners which instructions were according to law and applicable to the Case - and ought to have been given.

5th Because the verdict of the Jury is contrary to the law truth & Justice of the Cause.
 6th Because the Court in the absence of the legal and duly elected Commonwealths attorney appointed Mr Wm Thompson stated Commonwealths Attorney and after the argument of the Cause had agreed to about 1/2 the value the said Thompson against the Counsel of the prisoners

13

And their Counsel was permitted to retire from the Cause and give & yield the Closing and last speech or argument. Against the prisoners to ask of the fee & ask paid attorneys engaged in the prosecution

Wherefore the said Henry & Anna pray the Court to set aside the verdict grant them a new trial and all other proper relief

W L Mendenwood

Clerk of Western

W H Skiles & W M Mendenwood

And in Court at the Court house aforesaid on the 22nd day of January 1864.

The Commonwealth of Kentucky vs

Order
overruling
Grounds
for new
trial

Against

Wm O Kelly & others

3 Murder

3 Rape

The motions and grounds

for a new trial filed herein on former day of the Term by Repts Counsel and the same being laid over until today to be heard - and after hearing the arguments of Counsel and after due Consideration of the Court. Said motions and grounds for a new trial are overruled to which overruling of the Court the Defendants by their Counsel excepts and pray an appeal to the Court of Appeals.

Next
Exemption

Commonwealth of Kentucky, *Jeff*
Against
Mr O King & others *3* *Verdict*
3 *Reple*

It is remembered that after the jury had returned their verdict with-
 Canceled the prisoners Mr O King & Abraham
 Allen. against whom the jury had rendered
 a verdict of guilty, moved the Court to set
 aside the verdict and grant them a
 new trial for the following reasons. First
 which are Copied on the preceding
 page of this record. But the Court

overruled motion to which the prisoners
 King & Allen. by their Counsel excepted
 and prayed an appeal from the judgment
 and proceedings of the Court below to the
 Court of Appeal. of the Commonwealth
 which prayer. & Motion of said Defendants
 the Court ordered to be entered on the record
 After this Court on the day of next following
 the Court proceeded to render sentence upon
 the verdict and judgment against the
 prisoners as follows.

The Commonwealth of Kentucky, *Jeff*
Against

Mr O King & others *3* *Verdict*
3 *Reple*

The Defendants Mr O King
 was this day brought into Court and
 being informed of the nature of the -

15th
indictment plea and Verdict was asked if he
had any legal Cause to show why judgment
should not be pronounced against him and
none being shown It is adjudged by the
Court that the Defendant Mr Poling be
taken to the Jail of Simpson County and
there safely kept until the 20th day of
March 1867 on which day between Sun
rise and sunset the Sheriff of Simpson
County shall hang him by the neck until
he is dead.

1854 read -
Judymur the Commonwealth of Kentucky
James

Agnes

Mr J. E. Hines
Coventry

W. A. C. W.

Maar des

The defendant Abraham Owens was this day brought into Court and being informed of the nature of the indictment plea and verdict was asked if he had any legal Cause to show why Judgment should not be pronounced against him and none being shown the Court adjudged by the Court that the Defendant Mr P. H. King be taken to the Jail of Simpson County and there safely kept until the 22 day of March 1864, on which day between sunrise and sunset the Sheriff of Simpson County shall hang him by the neck until he is dead.

to which sentence and judgment of the Court the prisoners by their Counsel accepted and now again except - but their exceptions was overruled by the Court all of which is signed and sealed by the Court and made part of the record.

And the Court ordered the witnesses taken and gave on the trial of the Cause aforesaid to be Certified to the Court of Appeals of the Commonwealth of Kentucky which proceeds is as follows Court.

John Evans

John Evans

John Evans

Part of the Court testified as follows.

That he is acquainted with all the prisoners was with them at a Mulberry tree in Hays field below Hays Mill on the night the train on the Louisville & Nashville Rail road was robbed they were there when I got there - Says they all got in a line to elect a Captain & Chink's Cherry was elected Captain. They all held up their hands & took an obligation to go to the train and if either of them should reveal the thing that death should be the penalty. They then took a drum or two and went to the Rail Road and tried to pull out a rail that was not done - Obstruction was then put on the track and train thrown off & obstruction put behind so as to hinder it in, He says.

Left Smith lying near the track who said he was
 sick and wanted to go home. That he
 didn't like such doings. Reported to King
 that Smith was drunk. King said he would
 go and see about him, that he believed he
 was trying to play off - The train was thrown
 off the track. Hainsworth & William Hume were
 left behind to load the horses. The train was
 then robbed and they all went on except Mr
 Hume & Hainsworth. I did not go in myself.
 After the robbery they all crossed the Creek on
 the hill near James Smith's field - had a
 division. Each one got about \$11. across
 some clothing jacket knives & 11 valises
 &c. I got Seven Dollars 100 Cents, Henry King
 was present at the time & took the obligation
 in these words. If either or any of them
 revealed this secret they would kill him.
 Henry King was present at the robbery -
 That it King about two weeks before the
 robbery and took him out and asked
 him if Calbert had not told him something
 and then proposed to him to go in to the train
 robbery. That it was a good thing. Hume
 did not agree. Soon after King came
 again and told him that the ^{train} set for robbing
 the train was Wednesday night - and that
 all who knew it had to go into it & had to
 go Wednesday - After the robbery Henry the

prisoner told him Billy Low knew all about it that told him every man in it. - this was Saturday evening before Harvey Thurg was killed on Sunday. Asked him what would be done about it, and said he would give witness Low Mallan to go and kill him Low. Low was in sight when this proposition was made - When Thurg was talking with him about joining them, he said to him it would be dangerous. Thurg said no body would be hurt. In the second conversation he had with Thurg, Thurg said he had got all his men - Witness said he knew the train was guarded. Thurg said he knew it was not, that he had his men on the train named Thompson. It was on Saturday that Thurg told him would give him \$10 to kill Low on Tuesday following. He heard Harvey Thurg was killed Mr Duncan & Mr Murphy. Told him it was best for him that he had told all about it, he first told it when arrested, then afterwards told it to Mr Fitch in Louisville the Rail Road Agent. And Mr Fitch told him that when the men he told on were convicted he would see to his case, demand any reward or other thing was.

19
 promised him or that he was said to Lynch
 or Richards too of the guards at the jail
 that he expected, a reward. or had been
 promised one he heard Saldin say he
 would get some reward he denied that
 he told Oliver so in jail or that he expected
 to get part of it. Says that when the obligation
 was taken some of them wanted to get
 out of it - but none of them backed out.
 and no objection was made to the obligation
 but Cant say who raised his hand - after
 he had done told Chubb. said the
^{Chubb says he}
 would not have to serve as long; as he
 had told all about it. Keshaw employed
 no lawyer to defend him. has not been
 kept in the same room in the jail with
 the other, but has had a better room.
 which he thought was because he had told
 about it.

Stephen Cornwell. Says he is acquainted
 with all the prisoners except the negroes. That they
 they all met at the old field of Hays on the
 night of throwing the train off the track
 and they all took an oath that should
 any one reveal the secret that he should
 be killed. they then went near the Rail Road
 and hid their horses. Lemmings McLean
 John & Hammett to take care of them, they

they tried to get row up. I failed they then
 put rails on the track and threw the train off
 the track. They were in command. They then fired
 pistols and went into the train - that is -
 they the two men & West Jim with pistols
 in hand and demanded money & pocket
 books of passengers. I think they got some.
 Saw them have valises when they left the
 train. They then went across the creek on
 hill & divided the spoils. Each got \$11
 some extra John Brown got \$4. They got from
 the valises knives & fork pocket knives and
 clothing. Harvey King was at the old
 field and the train and at the division
 heard him cursing some man that
 was hurt and Paine told him that unless
 he quit he would shoot him. West Jim
 conducted the division either Mr King or
 West Jim administered the oath, don't
 think they elected a Capt. or heads men.

Where they left their horses was 1/2 mile
 from the Rail Road. The robbery was on
 8 or 9 November. Mr King & the two
 together ^{with} King proposed to him to make
 the raid on Rail Road - he agreed to go.
 King told him that the two men & the
 Smith were in it & that that was enough
 for him to know. He identified a pocket
 book. King & he showed him in the