

## THE UDDERZOOK CASE.

### THE USE OF A PHOTOGRAPH IN A MURDER TRIAL DECLARED PROPER.

The Pennsylvania Supreme Court has given a final decision in the famous Udderzook trial, adverse to the prisoner, and now only by a successful appeal for clemency to the Governor can he escape execution. This is a strange case, it growing out of a combination by two persons to cheat insurance companies, and the murder of one of them by the other to reap the fruit of the fraud. Winfield Scott Goss, an inhabitant of Baltimore, had insured his life to the amount of \$25,000. He was last seen at his shop on the York road, a short distance from Baltimore, on the evening of the 2d of February, 1872, in company with William E. Udderzook, his brother-in-law, the prisoner, and a young man living near. They left him to go to the house of the young man's father. In a short time the shop was discovered to be on fire. After it was burned down a body was drawn out of the fire, supposed to be that of Goss. Claims were made upon the insurance companies, the prisoner being active in prosecuting them. On the 30th of June, 1873, the prisoner and a stranger, a man identified as Alexander C. Wilson, appeared at Jennersville, in Chester County, Penn., and remained over night and the next day. In the evening (July 1) the prisoner and this stranger left Jennersville together in a buggy. Next day, on being met and asked what had become of his companion, the prisoner said he had left him at Parkersburg. On the 11th of July the body of a man, identified on the trial as W. S. Goss or A. C. Wilson, was found in Baer's woods, about ten miles from Jennersville, the head and trunk buried in a shallow hole in one place and the arms and legs in another. The stranger who was with the prisoner at Jennersville, identified as A. C. Wilson, was traced from place to place, living in retirement from June 22, 1872, up to within a day or two of the time when he appeared with the prisoner at Jennersville. During the interval the prisoner and Wilson were seen together several times under circumstances indicating great intimacy and privacy. Wilson has not been seen or heard of since the evening of July 1, 1873, when he left Jennersville in company with the prisoner. Judge Agnew said:

"The great question in the case was the identity of A. C. Wilson as W. S. Goss. This was established by a variety of circumstances and many witnesses, leaving no doubt that Goss and Wilson were the same person, and that the body found in Baer's Woods was that of Goss. All the bills of exceptions, except one, relate to this question of identity, the most material relating to the use of a photograph of Goss. This photograph, taken in Baltimore on the same plate with a gentleman named Langley, was thereby proved by him, and also the artist who took it. Many objections were made to the use of this photograph, the chief being to the offer of it to identify Wilson as Goss, the prisoner's counsel regarding this use of it as certainly incompetent. That a portrait or a miniature painting from life and proved to resemble the person may be used to identify him cannot be doubted, though, like all other evidences of identity, it is open to disproof or doubt, and must be determined by the jury. There seems to be no reason why a photograph, proved to be taken from life and to resemble the person photographed, should not fill the same measure of evidence. It is true that the photographs we see are not the original likeness, and their lines are not traced by the hands of the artist, nor can the artist be called to testify that he faithfully lined the portrait. They are but paper copies taken from the original plate, called the negative, made sensitive by chemicals and printed upon by the sunlight through the camera. It is a result of art guided by certain principles of science. In the case before us such a photograph of the man Goss was presented to a witness who had never seen him, so far as he knew, but who had seen a man known to him as Wilson. The purpose was to show that Goss and Wilson were one and the same person. It is evident that competency of the evidence in such a case depends on the reliability of the photograph as a work of art, and this, in the case before us in which no proof was made by experts of this reliability, must depend upon the judicial cognizance we may take of photographs as an established means of producing a correct likeness. The daguerrean process was first given to the world in 1839. It was soon followed by photography, of which we have had nearly a generation's experience. It has become a customary and a common mode of taking and preserving views, as well as the likenesses of persons, and has obtained universal assent to the correctness of its delineations. We know that its principles are derived from science; that the images on the plate, worked by the rays of light through the camera, were dependent on the same general laws which produce the images of outward forms upon the retina, through the lens of the eye. The process has become one in general use so common we cannot refuse to take judicial cognizance of it as a proper means of producing correct likenesses. But, happily, the proof of identity in this case is not dependent on the photograph alone. Letters from Wilson, identified as the handwriting of Goss; a peculiar ring belonging to Goss, worn upon the finger of Wilson; the recognition by Wilson of A. C. Goss as his brother; packages addressed to A. C. Goss, and envelopes bearing the marks of the firm with which W. S. Goss had been employed, coming and going to and from Baltimore, and many other circumstances following up the man Wilson, leaves no doubt of his identity as Goss, independently of the photograph. The objection to the proof of Goss' habits of intoxication is equally untenable. True, the habit is common to many, and, alone, would have little weight. But habits are a means of identification, though with strength in proportion to their peculiarity. The weight of the habit was a matter for the jury. It is unnecessary to follow the bill of exceptions in detail. They all relate to facts and circumstances bearing on the question of identity. If the bills of exception are many, they only denote that the circumstances were numerous, and in this multiplication consists the strength of the proof. They are many links in a chain so long that it encircled the prisoner in a double fold. The questions put to G. P. Moore, A. H. Barintz and A. R. Carter were unobjectionable. Whether they really could not identify the dark and swollen face of the corpse, it was not for the court to decide. The weight belonged to the jury. There was no error in permitting the jury, after their return into the court for further instructions, to take out with them, at their own request, the letter, check, due bill and applications for insurance—papers which had been proved, read in evidence, and commented on in the trial. The appearance, contents, and handwriting of the documents were, no doubt, important to be inspected to carry all these features in their minds. It is customary in murder cases to permit the jury to take out, for their examination, the clothing worn by the deceased, exhibiting its condition, the rent made in it, the instrument of death, and all things proved and given in evidence bearing on the commission of the offense. We discern no error in this record, and, therefore, affirm the sentence and judgment of the court below, and order this record to be remitted for execution."