

THE MAMMOTH CAVE STAGECOACH ROBBERY AND THE EFFECTIVENESS OF THE KENTUCKY JUDICIAL SYSTEM IN THE 1880s

C. Walker Gollar

On 2 September 1880 violent rains cancelled the evening run of the Mammoth Cave stagecoach and left three would-be robbers drenched in the woods. One decided to head off on his own, while the other two chose to prowl around the country to see whom they could rob. Such lawless bands still wandered through parts of Kentucky fifteen years after the end of the Civil War. Politicians and citizens alike regularly bemoaned the inability of the relatively small police forces to control the increasing crime rate, but as Robert M. Ireland has pointed out, prior to the reforms of the 1891 constitutional convention few worked constructively against worsening social conditions. Instead, many took matters of justice into their own hands, while the courts stood by ready to clean up the aftermath. In the case which follows, one victim employed the prevalent legal means in search of retribution. The worth of his effort and the adequacy of the Kentucky legal system in rendering justice in this case will be evaluated.¹

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1 Robert M. Ireland has written extensively on the deficiencies of the criminal-justice system in nineteenth-century Kentucky. See his *Little Kingdoms: The Counties of Kentucky, 1850-1891* (Lexington: University Press of Kentucky, 1977). Perhaps the best illustration of the effect of public opinion on legal matters was discussed in his essay "Acquitted Yet Scorned: The Ward Trial and the Traditions of Antebellum Kentucky Criminal Justice," *Register of the Kentucky Historical Society* 84 (1986): 107-145. The thoughts of the would-be robbers were carefully reconstructed by authors Margaret Baldwin and Pat O'Brien who have gathered some of the legend associated with the robbery of the Mammoth Cave coaches in *Wanted: Frank and Jesse James - The Real Story* (New York: Julian Messner, 1981), 112. Still, the actual crime, the subsequent trial, and the efficacy of Kentucky justice which this case reveals has not been the focus of any critical investigation.

Sixty-seven-year-old Rutherford Harrison Rowntree early in his career had served for twenty years as county clerk of Marion County and by 1880 was recognized as the senior member of the Lebanon bar as well as president of the Marion County National Bank. Out of respect he was commonly referred to as "Judge" Rowntree even though he never served the court in that capacity. In the fall of 1880, along with vacationing nephew Philip Rowntree, R.H. Rowntree escorted his oldest daughter, Mary Elizabeth, to Mammoth Cave in order to celebrate her twenty-seventh birthday. On the morning of 3 September, "Lizzie" and Phil toured the cave while the judge drove a wagon over to his birthplace in nearby Brownsville. That same morning back on the road near the cave, William Neville and his son drove a wagon full of fruit down "Little Hope Hill." Two men on horseback came out of the woods, purchased a few peaches, and then inquired about the schedule of the stagecoach. Neville explained that Andy McCoy ran a line which transported tourists daily between the train depot in Cave City and the entrance to Mammoth Cave atop the hill. In this the busy fall season McCoy employed a second stage to accommodate extra visitors. The two men listened intently, reconsidered their plans to move on, and then disappeared into the woods.²

2 R.H. Rowntree (hereafter RHR) to Hawkins Rowntree, Plattville, Wisconsin, 19 July 1885, Rowntree Letterbook (hereafter LB) 201; RHR to Harry Rowntree, Richmond, Kentucky, 2 October 1887, LB 388; *Glasgow Weekly Times*, 18 November 1880. From 12 April 1882 to the end of his life, Rowntree pressed nearly all his letters into a letterbook kept at home or in another kept at his law office. The former book in my possession has been passed down through the family; it will be cited throughout this work. Despite Rowntree's protestations, the old homestead had been sold out of the family several years previously. On his return visit, Rowntree recognized little but the spring and a few apple trees, but he decided to re-purchase and develop the land for the benefit of future generations. Subsequent events, however, caused him to abandon these plans. Philip S. Rowntree was the editor of the *Evening Wisconsin*. "Little Hope Hill" was so called because whenever it rained, there was little hope for passage up or down. Cecil E. Goode and Woodford L. Gardner, Jr., published two photographs of the McCoy stages as well as a picture of the McCoy home which served as the stage stop in Cave City. See *Barren County Heritage: A Pictorial History of Barren County, Kentucky* (Glasgow: The South Central Kentucky Historical and Genealogical Society, 1980), 140, 231, and 234. Barren County historian Dr. R.H. Grinstead recalled in his June 1906 homecoming

At five o'clock later that same day, stagecoach driver Hiram Hawkins drove the coach called "Florida" away from the Cave Hotel; two friends from Pittsburgh, W.G. Welsh and George M. Paisley, rode on the box next to him. Inside the coach, S.W. Shelton of Calhoun, Tennessee, and S.H. Frolichstein of Mobile, Alabama, sat on the back bench; Lizzie and Judge Rowntree sat in the middle; Phil Rowntree and J.E. Craig, Jr., of Lawrenceville, Georgia, sat in the front facing the rear. Midway through the trip Craig remarked, "I see two men on the road behind us taking a drink out of a bottle." One jumped on his thin black horse, caught up with the stage, and at gunpoint ordered the driver to halt. The second man rode behind on a sorrel and aimed his revolver at Phil Rowntree. Hawkins stopped the coach in a thicket just past the Little Hope Baptist Church.

"Come out of the stage, please," ordered the first man in a whiny, nervous voice. Phil Rowntree first hid his watch and pocketbook under the seat cushion, then stepped outside. Lizzie shoved three rings, one of which included a large diamond, under her cushion, then began to rise. "The lady can keep her seat," the spokesman announced, "she need not be alarmed, we will not disturb her." Lizzie nervously repositioned herself in the spot vacated by her cousin. Judge Rowntree also was allowed to stay inside. After all others had filed out hands raised, the leader entered the coach.³ From the judge he took \$30.00, an elegantly engraved gold watch key worth \$35.00, and a gold watch worth \$150. He promised to return the watch if in the end he had made a good haul. Then he overturned the cushion where Lizzie originally was seated and took her rings.

address that McCoy had "made a fortune [through his stage business, but] gave away more than he kept." See his speech which was reprinted as a separate pamphlet entitled "Then and Now" (Glasgow: South Central Kentucky Historical and Genealogical Society, undated), 19.

3 Frolichstein later joked that this was the "most high-handed outrage" he had ever endured. *Glasgow Weekly Times*, 2 December 1880.

Moving outside he demanded that the line of travellers throw down their valuables into a pile on the ground. Phil Rowntree dropped only seventy-five cents. "Who are you?" asked the robber. "I am a newspaper man," responded Rowntree. "Where are you from?" "Evansville," he answered. "Where's Evansville?" "Damtino," said the editor. The thief became incensed with this odd answer which only in part had masked what Rowntree undoubtedly wanted to say, namely, "Damn if I know," which meant, "I am not going to tell you!" Then the robber screamed to all the passengers, "Now I am going to search you in a moment, and if I find a dollar on any of you, I will blow his brains out." At once several more pocketbooks appeared including Craig's purse of \$670. When Craig mentioned that he was from Georgia, the spokesman, who professed to be a Confederate veteran, confessed that he hated to steal from a fellow Southerner. But he and his colleague were not highwaymen but moonshiners who needed money to elude the hot pursuit of government officials. The spokesman took each victim's name and address and promised to repay their loses at some later date. When Judge Rowntree gave this information, the talking bandit pulled a bandanna up over his face, then mumbled, "Oh, yes, I know the Rowntrees." He next asked Lizzie, "Do you know the Gray girls of Lebanon?" "Quite well," she answered. "So do I," he rejoined, "and they are nice girls. Give them my regards when you see them, and tell them that I will make this right some day." In all, the thieves had taken several hundred dollars worth of watches and jewelry and nearly a thousand dollars in cash. Phil Rowntree's valuables, however, were not discovered.

"As I have done pretty well," the spokesman concluded, "I feel that I ought to treat." With that he pulled out a quart of whiskey and took a generous swig, then ordered the nearest man to do the same and pass it down. The last person in the line completed the ritual, then returned the bottle to the spokesman who by this time had remounted his steed. At this point, Judge Rowntree asked about his watch. The robber took out the timepiece, hesitated, then announced that he would keep it. However, when several victims

asked for their railroad tickets, the bandits returned them. Then all passengers were ordered back into the stage.

Racing away the leader announced for "consolation" that he and his partner had earlier robbed the smaller stage. Sam McCoy, whose brother owned the line, had driven the coach called the "Jumper" in the opposite direction toward the cave. The only two passengers, Newton Gassaway, an old local preacher, and George Croghan, a nephew of one of the owners of the cave, had surrendered only a \$25.00 watch and the bottle of whiskey. But after the second robbery, just before disappearing into the woods, the robbers claimed to have stolen \$700 from the first coach. In Logan County later that evening the leader flaunted his loot before his uncle, Colonel George T. Hite, and also gave a gold band ring to one of Hite's daughters. When she saw the word "Papa" engraved inside, she tried to scratch it out. Before morning, the two men had gone to an adjoining farm in northern Tennessee and disappeared, horses-and-all, into a cave.⁴

With money borrowed from Judge Rowntree, Welsh and Paisley spent that same night in Louisville where they described the robbery for the *Louisville Courier-Journal*. Both regretted that none of the victims were armed. James W. Hopper, the editor of the *Lebanon Weekly Standard*, reported that several unnamed "intrepid Kentucky editors" also expressed shame over seven men being easily robbed by two bandits. But except for one old judge, the victims were not Kentuckians, for as Hopper pointed out, "Who ever heard of seven unarmed Kentuckians in one party?" Indeed, most Kentuckians at this time did carry concealed weapons, even though this often seems to have encouraged violence.⁵

4 Concerning the trip to Logan County, see *Louisville Courier-Journal*, 10 April 1882; RHR to Smith in Adairville, 26 April 26 1882, LB 17; RHR to Miller, Horse Cave, 29 April 1882, LB 26.

5 *Louisville Courier-Journal*, 5 September 1880, and *Lebanon Weekly Standard*, 15 September 1880. On 9 September *The Glasgow Weekly Times* reprinted the *Courier-Journal* article but added another paragraph with more details on the robbery from a Cave City correspondent. For a discussion of the impact of carrying concealed weapons, see Robert M. Ireland, "Homicide in Nineteenth Century

Rowntree contributed a similar account of the robbery to the *Lebanon Weekly Standard*, expressing outrage not so much over the material loss but rather because of the continuing danger of highway robbery in Kentucky, especially in the county of his birth. He provided a detailed description of the robbers and offered \$500 for their capture. At his suggestion the proprietors of Mammoth Cave and the Acting Governor James E. Cantrill added \$250 and \$500 respectively to the reward. Posting rewards in order to recover stolen items was a common practice, but, according to the Lebanon paper, Rowntree cared more about suppressing crime than about recapturing his property. Nonetheless, he was said to have been upset over the loss of his watch and, more importantly, the watch key which had been a present from his friend and future governor, J. Proctor Knott.⁶

R. L. Jolly, the marshal of Cave City, and his posse found no trace of the highwaymen. Peace officers were often motivated more by money than by a desire for justice; so a substantial reward encouraged greater diligence. On 23 September the *Glasgow Weekly Times* reported the capture and escape of one suspect. A few weeks later the *Lebanon Weekly Standard* announced that a man from Wayne County had been falsely accused of the crime. Meanwhile, Judge Rowntree sent William Cutliff, a Lebanon detective, to Mammoth Cave; he learned that some residents suspected Thomas J. Hunt, a former schoolteacher, who not long

Kentucky." *Register of the Kentucky Historical Society* 81 (1983): 136-42.

6 *Lebanon Weekly Standard*, 8, 15 September 1880; Executive Journal (note on reward), 27 September 1880, p. 454, Luke P. Blackburn Papers, Kentucky State Archives (hereafter KSA), Frankfort, Kentucky. Many conflicting versions of the robbery have appeared in more recent publications, including the *Louisville Courier-Journal*, 13 October 1929; 2, 15, 23 December 1929; 16 May 1937; 15 June 1947; *Louisville Times*, 29 October 1935; "Mammoth Cave's Daring Stagecoach Robbery," *Confessions of the Concessions* 2 (June 1950):1, 3. None of these works use the primary material cited in this article. J. Winston Coleman, Jr., relied heavily on the recollections of R.H. Ray, R.H. Rowntree's grandson, for the version of the robbery published in his *Stage-Coach Days in the Bluegrass* (Berea: Kentucke Imprints, 1976; originally published in 1935), 251-55. Coleman's correspondence to Ray is preserved in J. Winston Coleman, Jr., Letters, manuscript department, The Filson Club Historical Society, Louisville, Kentucky (hereafter MD,FCHS).

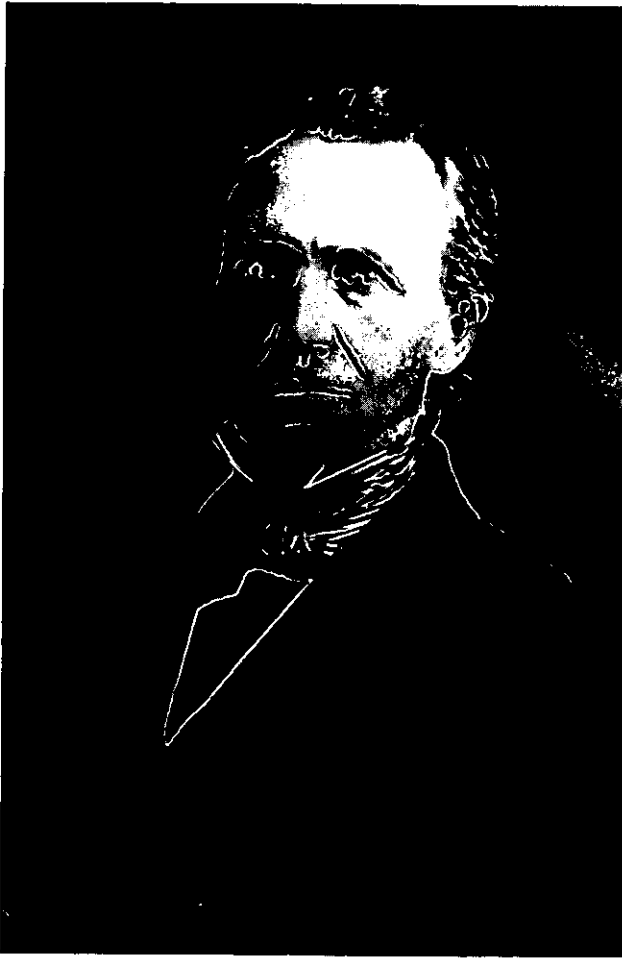
ago had left the area under controversial circumstances. Cutliff found this "intelligent and shrewd" man working in the McHenry coal mines in Ohio County. After Hunt suffered wounds from a fight with a man named Hunter, Cutliff nursed the suspect back to health, gained his confidence, and ascertained that Hunt and his brother, both members of a small gang, recently had pulled off a robbery.⁷

As Cutliff worked to learn the details of the robbery, G.W. Bunker, a Hartford deputy sheriff, conducted his own investigation. He discovered that Hunt had been absent from the mines during the time of the robbery. When Hunt returned, his daughter told neighbors that her father had brought home some "pretty little yellow watches." On 1 November Bunker arrested both Hunt and Cutliff on suspicion of robbery. The *Lebanon Weekly Standard* charged that Bunker had apprehended the detective only "to prevent him from claiming any part of the reward in case Hunt proved to be one of the robbers." In response to this accusation, the deputy's local paper, the *Hartford Herald*, defended Bunker's action, describing him as a most deserving officer. Cutliff, in any case, was not detained long.⁸

Hunt, on the other hand, was brought on 6 November to Cave City and shown to some of the victims. Both stage drivers had doubts about the suspect, but the old preacher Newton Gassaway, before seeing Hunt, correctly recalled that he had a small mole on his nose just below the eye. Other local residents claimed that Hunt had been seen near Mammoth Cave the evening of the holdup. Late on 6 November Hunt was sent by train to Glasgow and delivered to

7 *Glasgow Weekly Times*, 23 September and 11 November 1880; *Lebanon Weekly Standard*, 13 October 1880.

8 *Lebanon Weekly Standard*, 10, 17, 24 November 1880; *Hartford Herald*, 17 November 1880; and *Glasgow Weekly Times*, 11 November 1880. Robert M. Ireland has argued that the failure of county officials to carry out their responsibilities with integrity, and even their occasional participation in criminal acts, "accounted in large part for the great crime wave of the period." Corruption abounded even to the extent that law officers might fabricate a crime in order to get paid for bringing in the "criminal." See Ireland, *The County in Kentucky History* (Lexington: University Press of Kentucky, 1976), 40 passim.

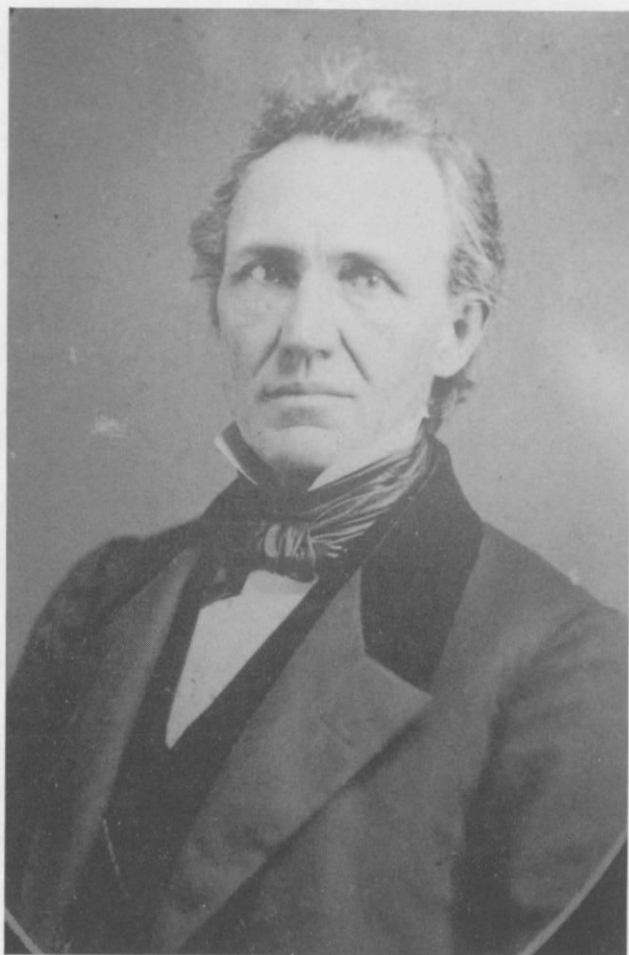


Rutherford Harrison Rowntree, ca. 1872

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B.E. Wilkinson, the jailer. According to the local paper, the announcement that a suspect had been found caused "as large a crowd to assemble as would a fierce combat between bull-dogs."⁹

⁹ *Glasgow Weekly Times*, 11 November 1880. The local persons who identified Hunt included William Sanders, Dan Wilson, James Bird, and George Tribble.



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On Tuesday morning, 9 November, the proprietor of the stage company wired Rowntree: "We have the right man." The examining trial was scheduled for later that day in Cave City, but Rowntree had the hearing postponed to the following afternoon so that he and J.E. Craig, Jr., could attend. Throughout this and all subsequent legal proceedings, Hunt was represented by, as local legend recalled, perhaps "the greatest natural criminal lawyer who ever practiced the bar in Kentucky," Major William H. Botts.¹⁰ Newton Gassaway and the local residents repeated their claims against the suspect, and Craig also swore that Hunt was the robber. The stage drivers and William Neville, however, testified that he was not. When Rowntree entered the room, Botts took one look at this man's "open, honest, intelligent face," then whispered to his assistant, Harry Gorin, "If that old gentleman swears to Hunt, our case is lost." Rowntree, however, failed to recognize the suspect. Nevertheless, the presiding judges John Morris and Will L. Meyers concluded that enough evidence had been brought forward to warrant a trial, and they scheduled it for the next court term in April. Because Hunt was unable to post the bail of \$800, he was returned to the Glasgow jail. Gorin travelled to Ohio County in search of an alibi for his client. "The more I investigated," he later revealed, "the darker it looked for Hunt, and Botts and I, who had both at first believed him innocent, began to doubt it." On 18 March 1881, Hunt was indicted on two counts of robbery. So that more evidence could be gathered and the attendance of the out-of-state victims guaranteed, Rowntree twice asked the court to postpone the trial; both times his petition was granted. Sometime after the indictment, he began to suspect that the robbery may have been led by someone other than Hunt, maybe even by a member of the infamous gang of Frank and Jesse James.¹¹

10 C. Goode, *Southern Kentuckians, Historical Sketches of Barren and Surrounding Counties in Kentucky* (Glasgow, 1989), 123. Also see, "Major W.H. Botts' Greatest Speech," in Florence Gardiner, ed., *Cyrus Edwards' Stories of Early Days* (Louisville, 1940), 247-54; and Grinstead, "Then and Now," 19.

11 *Glasgow Weekly Times*, 18 November 1880; *Lebanon Weekly Standard*, 10

On 26 March 1882 a man calling himself "Tom Hill" was arrested for causing a drunken disturbance in a bar just outside Nashville. "Hill" soon admitted that he was Bill Ryan of the James gang. In July Governor Thomas T. Crittenden of Missouri offered \$5000 for the capture and conviction of any other gang member. Later that year Ryan was found guilty of train robbery and sentenced to twenty-five years in prison. During the first months of his incarceration he kept to himself all that he knew about the Mammoth Cave robbery. In November a secret informer reported to Captain Delos Thurman Bligh, a Louisville detective, that the James gang regularly hid in a cave on a rented farm in northern Tennessee. Bligh passed this information to Colonel James Alexander of Gallatin, the owner of the property. He ordered the renter, "Frank J. Howard," to vacate the farm at the end of the year. But when Bligh failed to mount a raid, Alexander concluded that the reports about the outlaws must have been false and withdrew his notice of eviction. "Frank J. Howard," who was indeed Frank James, remained for several more months on the property. On 24 January 1882, Dick Liddil, a gang member who sixteen months before had spent an unprofitable night drenched in the woods near Mammoth Cave, secured a promise of immunity, surrendered to Crittenden, and then led Sheriff James H. Timberlake from Missouri to Kentucky where he "kidnapped" Clarence Hite, a first cousin of Jesse James and a cohort in crime. Clarence Hite

November 1880; and *Louisville Courier-Journal*, 10 April 1882 and 29 March 1914. See the indictments in Petitions for Pardons, Blackburn Papers, box 38, folder 566 (May 1882), KSA. J.W. Henderson served as foreman of the jury. Witnesses included Lizzie, Phil, and R.H. Rowntree, along with Craig, Gassaway, Bungler, the two stage drivers, and two townspeople, James Bird and Elijah Martin. Both parents of the James brothers had been born in Kentucky; various persons, especially in the Bardstown area, maintained sympathy for them. In April 1881 several police officers approached the Hite farm but were afraid to mount a raid. Sometime later that summer, Jesse James killed Ed Miller, a gang member, on nearby property. Though the exact circumstances were never revealed, Jesse's suspicion that Miller had betrayed him probably provoked the murder. Such dissension had plagued the gang throughout the previous months. On the activity of the James gang at this time, see *Louisville Courier-Journal*, 10 April 1882 and Baldwin and O'Brien, *Wanted: Frank and Jesse James*, 158-66.

promptly was convicted of train robbery and sentenced to twenty-five years in the Missouri State Penitentiary. Upon hearing the news of Hite's imprisonment, Rowntree wrote warden R.D. Willis asking him to question Hite about the Mammoth Cave robbery.¹²

As Rowntree waited for a response, the Kentucky legislature on 22 March approved an act that Rowntree had submitted which agreed to pay travel expenses for out-of-state witnesses. Craig, Shelton, and Philip S. Rowntree promptly travelled to Glasgow. On 31 March, Hunt was brought before Judge C. H. Leslie and prosecuting attorney S.M. Peyton on the first indictment of robbery of the Rowntree stage. Hunt begged for another continuance, but when the motion was denied he entered a plea of not guilty. The rest of the day was spent selecting a jury. The trial began at 9:00 a.m. the following morning. The three non-resident witnesses, along with Newton Gassaway, testified that Hunt was the spokesman of the two robbers. Judge Rowntree maintained his doubts, while both stage drivers adamantly declared that Hunt was not the man. Throughout the investigation Hunt denied any knowledge of the crime, defied the prosecuting attorney, and insulted all witnesses who charged him. After only a brief deliberation, the jury returned a verdict of guilty and sentenced him to three years imprisonment. Hunt was led back to jail where he awaited passage of the sentence. According to one report, his "sullen demeanor" as well as his unfavorable reputation as a former schoolteacher had turned conflicting testimonies into belief in his guilt.¹³

12 *Louisville Courier-Journal*, 10 April 1882 and *Lebanon Standard and Times*, 26 April and 10 May 1882. Clarence Hite was the son of Colonel Hite and his first wife, Mimms Hite, who was the half-sister of Robert Sallee James, the father of Jesse James. Captain Bligh's informant had been Colonel Hite's second wife (thus Clarence Hite's stepmother), the widow, Mrs. Sarah Peck, formerly Miss Norris.

13 *Acts of the General Assembly of the Commonwealth of Kentucky* (Cleveland, Ohio, 1882), vol. 1, chapter 540, pp. 48-49. Though the legislation concerning the travel expenses of witnesses was passed, the state delayed payment in spite of Rowntree's repeated appeals. Concerning the trial, see *Transcript of Commonwealth vs. Hunt*, found in Blackburn Papers, Petitions for Pardons (May 1882), box 38, folder 566; RHR to Jesse Rogers, 29 April 1882, LB 25; and *Louisville*

Before the day was over, Rowntree returned to Lebanon where he found two letters with upsetting news. R. D. Willits, the Missouri warden, reported that during questioning Clarence Hite claimed that Bill Ryan and Jesse James had robbed the Mammoth Cave coaches. Henry Craig, a lawyer in Kansas City, reported that James had a diamond ring and a watch engraved with Rowntree's name. On the morning of 3 April 1882, two days after Rowntree read these letters, Jesse James was killed by Bob Ford in a small house overlooking St. Joseph, Missouri. When Marshall Enos Craig arrived on the scene, he found Rowntree's watch in James's pocket. Shortly afterwards, Ryan confessed that he and James had committed the robberies. James had acted as the spokesman. Upon hearing this confirmation, Rowntree, whose zeal for retribution had backfired through the conviction of the wrong man, fell ill and during the following week was confined to his bed. Finally on 12 April he suggested that Judge Leslie postpone sentencing, sent the related information to the prosecuting attorney, and detailed the bizarre turn of events for Hunt's lawyers.¹⁴

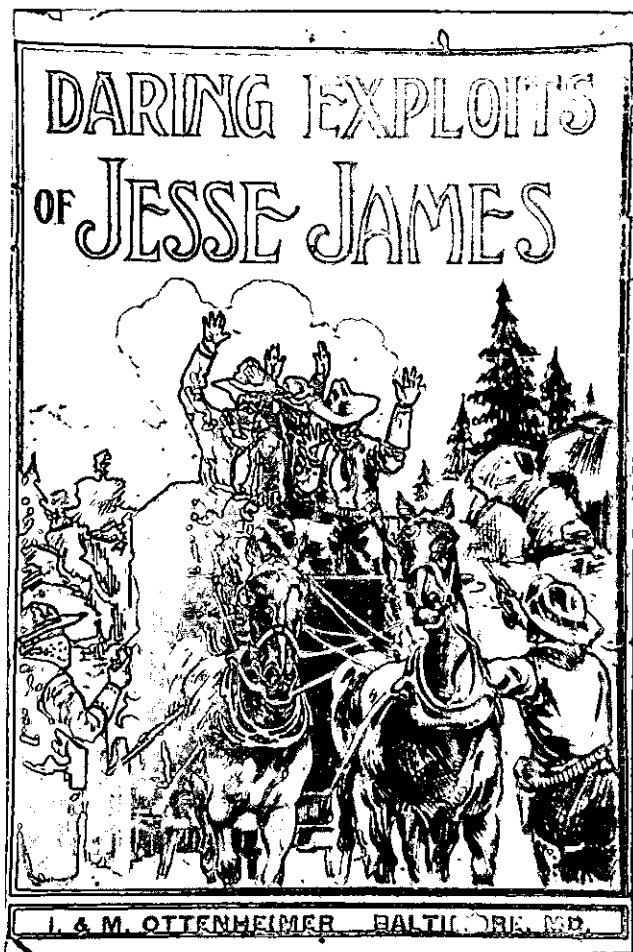
Courier-Journal, 23 December 1929.

14 RHR to Governor Luke P. Blackburn, 25 April 1882, found in J. Winston Coleman, Jr., Letters, MD, FCHS (Rowntree did not press this letter into the surviving letterbook); RHR to H.D. McHenry, 12 April 1882, LB 1; RHR to S.M. Peyton, 12 April 1882, LB 2; RHR to Gorin, 13 April 1882, LB 3; and *Lebanon Standard and Times*, 26 April 1882. Clarence Hite's brother, George, Jr., as well as Bob and Charlie Ford, confirmed that James and Ryan were the robbers. RHR to Lizzie, 24 April 1882, LB 13; and *Louisville Courier-Journal*, 6, 10 April 1882. The earliest biographies of Jesse James did not mention his involvement in these Mammoth Cave stage robberies. For example, see Frank Tiplott, *The Life, Times and Treacherous Death of Jesse James* (New York: Promitory Press, 1970; originally published in 1882) and J.A. Dacus, *Illustrated Lives and Adventures of Frank and Jesse James and the Younger Brothers* (2nd ed.; St. Louis, 1882). The first biography to recognize James's participation in the robberies largely quoted the version given by Welsh and Paisley to the *Louisville Courier-Journal*, 5 September 1880, noted in footnote 5. See J.W. Buel, *The Border Bandits - Jesse and Frank James* (Chicago, n.d.), 155-62. The most recent literature, though acknowledging James's involvement, does not rely on the relevant primary sources and makes little or no mention of the complicated court case which followed. For example, see William A. Settle, Jr., *Jesse James Was His Name* (Columbia, Missouri: University of Missouri Press, 1966); Carl W. Breihan, *The Escapades of Frank and Jesse James* (New York: Frederick Fell Publishers, 1974); John Ernst, *Jesse James* (New York:

Gorin made a motion for a new trial for Thomas Hunt and then drafted a petition for pardon from Governor Blackburn. Hunt was "a very poor man," Gorin wrote, without "a dollar in the world." Because his wife was "in a very delicate condition," she and her two small children had been forced to rely upon the charity of strangers during Hunt's eighteen-month confinement. Gorin emphasized that Hunt was innocent and knew nothing of the James gang. Sixty-eight townspeople signed the petition, although this did not include any of the victims, jurors, or court witnesses. But fifteen of the signers also endorsed a second affidavit which stated that they had seen a photograph of Jesse James that revealed he bore "a strong and striking resemblance to said Hunt." In fact, the two men shared similar features, combed their hair in like manner, and, most striking of all, had a facial mole in almost the same spot. Comparable physical attributes (enhanced by the cover of a bandanna) had allowed some, but certainly not all, of the witnesses to condemn an innocent man who had lost favor because of his courtroom behavior and bad reputation. Undoubtedly because of Hunt's inability to pay legal fees, his counsel did not conduct a thorough preliminary investigation which would have proved that Hunt was innocent. A general bias against the poor prevailed in court cases of nineteenth-century Kentucky. In Hunt's case, his lawyers went to work effectively only after the real robbers had been discovered.¹⁵

Prentice Hall, 1976); James D. Horan, *The Outlaws* (New York: Crown Publishers, 1977); and Baldwin and O'Brien, *Wanted: Frank and Jesse James*.

15 Petitions for Pardons, Blackburn Papers, box 38, folder 566 (May 1882). Petition of Hunt, undated, KSA. Thirty-two years after the pardon, the *Louisville Courier-Journal* interviewed Gorin who at that time described Hunt's physical appearance. The paper published some of Gorin's comments along with photographs of Hunt and James. *Louisville Courier-Journal*, 29 March 1914. Gorin supplied a detailed description of Hunt in a newspaper article which published photographs of both Hunt and James. See *Louisville Courier-Journal*, 29 March 1914. Robert M. Ireland has discussed the general bias against the poor in the court cases of nineteenth-century Kentucky. He also noted the regular success of skilled defense attorneys over the usually inexperienced prosecutors. Generally such outcomes were motivated by large fees promised to the defense, something which Hunt certainly was unable to provide. See Ireland, "The Buford-Elliott Tragedy and

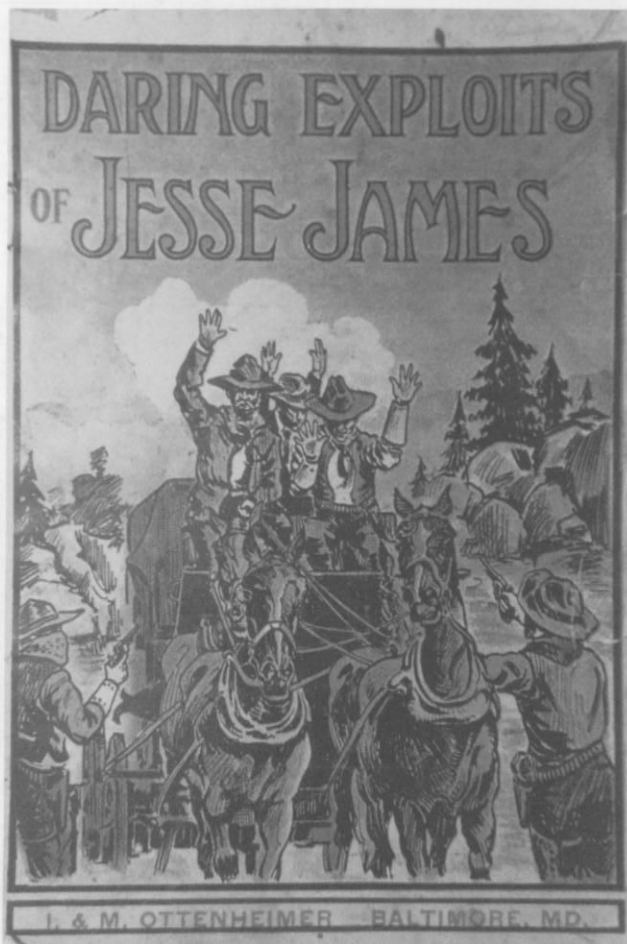


*Cover of 1914 paperback by Lige Mitchell
which featured the Mammoth Cave stagecoach robbery*

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On his way to Frankfort, Gorin visited Lebanon on 25 April. As Rowntree sat down to write in favor of the petition, a parcel containing Lizzie's gold ring arrived. The evening of the robbery, Jesse James had given it to a cousin in Logan County; at the time

the Traditions of Kentucky Criminal Justice," *Filson Club History Quarterly* 66 (1992): 395-420.



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of his death, the ring was in St. Joseph, Missouri. Henry Craig had persuaded James's widow to return it. Rowntree shared this good news in a letter to Governor Blackburn, concluding, "I felt that I have kept up the search & by it got Hunt convicted - and the conviction is now clear with me he is innocent." With Rowntree's letter and the signed petitions, Gorin proceeded to Frankfort. Governor Blackburn requested an additional statement from the Barren County Court. On 27 April the judge and the prosecuting attorney wrote in support of the pardon.¹⁶

"Lenient Luke" Blackburn, as part of his grand plan for prison reform, maintained a liberal pardoning policy throughout his administration. Prisoners were usually released not because of injustice in the court system but because of inhumane conditions in the state penitentiary. In this case, however, a judicial error was corrected through Blackburn's pardon of Hunt on 1 May 1882. Once released, Hunt fled back to his family in Ohio County. There G. W. Bunker still maintained that he had apprehended the right man when he had arrested Hunt, even threatening to sue for his reward money. When Rowntree heard of this, he prepared to defend Hunt's innocence, explaining, "He may be mean, but I am sure he was not the stage robber." The suit never materialized. Hunt left Ohio County and spent the rest of his days in relative obscurity. The general suspicion was that he had been involved in an even more serious crime at the time of the robbery, but he was apparently never linked with any other offense and was certainly not arrested on another charge.¹⁷

16 RHR to Blackburn, 25 April 1882, found in J. Winston Coleman, Jr., Letters, MD, FCHS; Leslie to Blackburn, 27 April 1882 and Peyton to Blackburn, 27 April 1882, Blackburn Papers, Petitions for Pardons, box 38, folder 566 (May 1882), KSA. On 29 April Gorin sent certified copies of the indictments and the verdict of the jury which had convicted Hunt to Frankfort. See certified copy of indictments against Hunt, transcript of *Commonwealth vs. Hunt*, and Gorin to Blackburn, 29 April 1882 in Blackburn Papers, *ibid.* Hunt never was tried on the second indictment concerning the robbery of the smaller stage. What happened to the gold ring in the years after its return is unknown.

17 *Glasgow Weekly Times*, 10 May 1882; RHR to J.T. Hunt, 2 April 1884 (source of quoted material), LB 64; RHR to Jesse Rogers, 2 April 1884, LB 65;

Henry Craig, the Missouri lawyer, had suggested that in order to recover the stolen items Rowntree should submit a detailed description of the watch, the watch key, and his daughter's rings to the probate judge of St. Joseph. But this information failed to satisfy Marshall Enos Craig who also demanded payment for finding Rowntree's watch. Rowntree grew enraged, yet acknowledged that, "The value of the watch and rings is no consequence to me. If I never get them back I can do without them." Then he told Jesse Rogers, a nephew in St. Joseph, that when asked to pay for the watch, "Say to . . . [Marshall] that you will have nothing more to do with it & will so write to me, but under no circumstance must you sue or tell him you will because if you do he will dismiss you [this is, deny your right to claim the watch and rings on my behalf] and I would rather lose all & several hundred more than you should be dismissed on my account."¹⁸

Despite Rowntree's instructions, Rogers paid Marshall thirty dollars for the watch. On 29 April 1882, the express mail delivered it to Lebanon. "I am glad to see it again," Rowntree wrote to Henry Craig, "& feel glad that I will not be humiliated in the same way by Jesse James." To a friend in Kentucky, Rowntree proclaimed, "The watch was in Jesse James' pocket when killed and now is in mine." The following day Rowntree received a photograph of Hunt from Henry Craig. He compared this likeness to one of the deceased outlaw. "I can now understand," he explained to Rogers, "how the

Executive Journal, 1 May 1882, p. 85, pardon of Hunt, Blackburn Papers, KSA. Nancy D. Baird has described Blackburn's pardoning policy in *Luke Pryor Blackburn: Physician, Governor, Reformer* (Lexington: University Press of Kentucky, 1979). In 1884 Rowntree wrote to the warden of the Tennessee Penitentiary reporting that he had been told that Hunt was in prison at that time for some unknown crime. RHR to the Keeper of the Tennessee Penitentiary in Nashville, 2 April 1884, LB 66. No response or follow-up to this letter survives. However, the penitentiary records contain no mention of Hunt. See *Report of the . . . Tennessee Penitentiary* (Nashville, 1885). Hunt died near Scottsville in Allen County in 1928. *Louisville Courier-Journal*, 23 December 1929.

18 RHR to Jesse Rogers, 14 and 20 April 1882, LB 4-6 and 10. Rowntree had requested a description from the jeweler, Kendrick and Sons of Louisville, from whom he had made the purchase in 1872. RHR to Kendrick and Sons of Louisville, 17 April 1882, LB 9.

witnesses mistook Hunt for Jesse James." Rowntree sent Hunt's picture to Phil Rowntree and also mailed a copy to the Missouri State Penitentiary asking the warden to show it to Bill Ryan and Clarence Hite. Both failed to recognize Hunt as a member of the James gang.¹⁹

Throughout this ordeal, Rowntree received communications from distant, previously unknown Missouri relatives who had followed the case. When one such person asked about the family connection, Rowntree answered, "I will be glad to recognize you as my kinsman provided you are no kin to Jesse James." James's widow had adamantly refused to surrender the diamond ring and the gold watch key, even though Rowntree had offered her more money for the key than the gold in it was worth. Still, he treasured his pocketwatch and gained celebrity status among the children of Lebanon who followed him on the chance that they might catch a glimpse of the timepiece that had been stolen by Jesse James.²⁰

On 25 November 1889 Rowntree responded to Reuben T. Durrett's invitation to join The Filson Club, his recently established historical society in Louisville, commenting, "Altho I am near 77 years old having been born in 1813 near the great Mammoth Cave in Ky, I accept the offered membership in the 'Filson Club' and will take pleasure in aiding its promotion." This gracious old man had survived three wives and seven of his eleven children. He finally passed away on 29 October 1891. The inheritor of the watch, his only son, Rutherford Harrison Rowntree, Jr., was tragically killed three years later in a riding accident. He was only twenty-four years

19 RHR to Jesse Rogers, 26, 29 April; 1 May 1882, LB 21, 24, and 30; RHR to Henry Craig, 29 April 1882, LB 22; RHR to W.S. Miller, 29 April 1882, LB 26; RHR to Phil Rowntree, 2 May 1882, LB 27; and RHR to R.D. Willis, 1 May 1882, LB 28. After Hite had viewed the photograph, he delivered a formal affidavit describing the Ryan and James robberies of the Mammoth Cave stages. See "Affidavit Made by Clarence Hite," reproduced in full in *Glasgow Weekly Times*, 10 May 1882.

20 RHR to C.H. Rowntree, 17 May 1882, LB 33-34; RHR to Jesse Rogers, 2 February 1884, LB 53. Rowntree claimed to have written directly to Zerelda James, though he failed to make a copy of the letters in the surviving letterbook. See RHR to Jesse Rogers, 3 February 1883, LB 53. Apparently Rowntree made no attempt to recover the third ring stolen from his daughter.

old and unmarried. The watch was saved for another namesake, grandson Rutherford Harrison "Harry" Ray, who later as a prominent merchant in Owensboro proudly wore his grandfather's watch. After his death in 1964, the heirloom was donated to The Filson Club, then located on Breckinridge Street. Three years later, on Saturday, 24 June 1967, a modern-day Jesse James broke into The Filson Club, smashed a glass display case, and removed the entire collection of twelve antique watches. None were ever recovered.²¹

The proceedings immediately following the robbery of the Mammoth Cave stages illustrate the inadequacy of the Kentucky judicial system during the 1880s. To begin with, insufficient numbers rendered the police force largely ineffective. The need to drum up a posse of undoubtedly less than enthusiastic civilians underscored the scarcity of trained police. The offering of a substantial reward was intended to mobilize the police but in fact merely caused a number of detectives to be consumed with greed. One exception, Judge Rowntree's hired hand William Cutliff, had uncovered vital information which unfortunately was lost because of the greed of deputy G. W. Bunker. Also, Hunt was never apprehended for a crime which he most certainly did commit. In addition, the attorneys in this case were hardly visible until the verdict had been proved incorrect. Gorin arduously pursued the pardon but showed less enthusiasm while searching for evidence which might have vindicated his indigent client prior to his conviction. Of course, the defense counsel worked with an obstinate man, but Major Botts's reputation was outstanding. Yet even greater legal expertise was exercised by Rowntree who uncovered on his own initiative information the defense lawyers had not found. Meanwhile, the jury was governed more by sentiment than by

21 RHR to Durrett, 25 November 1889, LB 424; copy of police report, "Antique Watches Stolen from the Filson Club," FCHS. In his will, Ray, who had no heirs, authorized the donation of the watch. See the will of R. Harry Ray, *Davless County Kentucky Will Book R*, p. 287. A photograph of Rowntree's watch was published in the *Louisville Courier-Journal*, 5 September 1968.

evidence. At least three witnesses, including Rowntree, maintained serious doubts about the accused, yet the jury hardly hesitated in rendering a verdict of guilty. The "strong and striking resemblance" between Hunt and James contributed one unreliable factor, but the jury also depended on other reasons unrelated to the indictment for prosecuting the accused. Intent on a conviction, and perhaps weary of the ineffectiveness of the legal system, the jury exercised their rights expeditiously but without discretion. Throughout this ordeal, however, Judge Rowntree stands out, not so much because of his legal expertise but rather because of his determination to discover the truth. Amidst distracted police, inattentive lawyers, rancorous townspeople, and offended jurors, Rowntree maintained his integrity.