

Ryan Stanton ([00:01](#)):

Walters suggested to Schmulbach that he quote ought not to take such a man riding with him. Schmulbach replied Forsythe is a poor man and wanted to ride. Schmulbach appeared sorry for his brutality against Forsythe and said, I did not think I hurt him, let him stay here for the night.

([00:19](#)):

\*music\*

Hal Gorby ([00:44](#)):

By the summer of 1878, Henry Schmulbach was the epitome of success in Wheeling. A German immigrant who arrived as a young boy, by his mid-thirties, he was becoming someone of renown. But in August of 1878, Schmulbach's life could have taken a much different turn. National road looks much different today than it did at the time. But the area became the scene of one of Wheeling's most hotly debated deaths. Who was this poor man named Forsythe? And why did Schmulbach feel he needed to hurt him? This is "Henry the life and legacy of Wheeling's most notorious brewer," a production of Wheeling heritage media. I am your host, William Hal Gorby, a teaching assistant professor of history at West Virginia university, whose research has focused on West Virginia and Wheeling's working class and immigrant history during the late 19th and early 20th centuries. By the late 1870s Wheeling's businesses were on the rise.

Hal Gorby ([01:42](#)):

The city regained the state capital of West Virginia in 1875. So, business expanded to accommodate the yearly legislative and general government traffic. After heated debates downtown, legislators could stop by one of the many saloons to cool off. Henry Schmulbach was also a rising figure in local politics. By 1875 Schmulbach was a member of the Wheeling board of education representing the sixth ward. That September, the board's committee on German decided on a plan to make German language a field of study in schools and to instruct principals and teachers to incorporate German training in their exercises. What a way to preserve the bilingual culture developing in Wheeling's little Germany. By the end of the next school year enrollment in German language classes had grown to 469 total pupils with most in center and south Wheeling. Throughout election seasons, Schmulbach gave generously to the Republican party and its supporters.

Hal Gorby ([02:46](#)):

During the 1876 presidential campaign of Rutherford B Hayes, Schmulbach ordered 50 uniforms for the African American Hayes and Wheeler guards at his own expense. They praised him with an article in the newspaper ending quote, "rah for schmule!" As Ryan Stanton noted in episode one, Schmulbach was also involved in philanthropic efforts. One in particular was the grand opera house formerly known as Washington Hall at the corner of 12th and market streets. The site was the location of the first Wheeling convention in 1861 to discuss plans for eventual West Virginia statehood. Unfortunately, the building was destroyed by a fire in 1875. To fill the now vacant space the Washington Hall association raised money to build a new brick structure on the northeast corner at a cost of over \$35,000. Schmulbach was elected as treasurer for the association and eventually became the owner of the property. The grand opera house inside had a seating capacity of over a thousand people. In 1886, the city directory noted the structure was quote "remodeled after the plan of the finest Eastern theaters" end quote. Schmulbach was also getting very involved in promoting recreation opportunities.

Hal Gorby ([03:59](#)):

In the spring of 1877, he helped reorganize the standard baseball club and served as its president, which opened its season in April with a game between the Alleghenies of Allegheny, Pennsylvania and the Redstockings of St. Louis. The club's goal was to establish a baseball field for the quote "promotion of health" end quote. On July 4th, the club hosted a benefit at the fairgrounds with amusements, including baseball, foot races, greased pig races, a shooting gallery and dancing. Lunch stands would serve ice cream to the visitors who paid 15 cents for admittance. And its support for the community didn't stop there. The great railroad strike of 1877 hit communities along the Baltimore and Ohio railroad, including Wheeling. So Schmulbach offered his financial resources to support a militia company. As the state's capital Wheeling hosted several militia companies that toured, drilled and served as protection against rebellions. Mustered in as the Schmulbach VARs in November 1877, the unit had 35 members under captain WW Miller's command. All of whom were working class residents. They often held balls and functions at the German Turner hall for all the city militias in the public. They served a key role in protecting the state Capitol city. All of these activities between 1875 and 1878 are impressive for any person. Obviously Schmulbach was well-known and respected throughout the community. So, this all brings up a big question. Why would he take such a risk in August 1878 in his encounter with Hamilton Forsythe?

Hal Gorby ([05:43](#)):

This podcast is brought to you by Clientele Art Studio, an art gallery and studio space in east Wheeling. From art shows to concerts, Clientele has event space, as well as multiple studios for rent. Learn more at [clientelestudio.com](#). So, let's set the scene. Here's Ryan Stanton describing the major players involved that night.

Ryan Stanton ([06:12](#)):

In 1878. It's, uh, August 14th, between the hours of nine and 10 o'clock. Schmulbach and, uh, uh, a man named Hamilton Forsythe are drinking at Frank Walters two-mile house. And so, this, uh, location is where Vance Memorial church is today, to put that into perspective. And Frank Walters was actually the president of the nail city brewing company, which Henry Schmulbach would, of course later acquire.

Hal Gorby ([06:41](#)):

Henry Schmulbach, the brewer and diversified business owner. We already know so much about him. However, the victim that night, Hamilton Forsythe, is a little more mysterious. The 1860 census lists him as being born in Alabama in 1834 and living in east Wheeling as a traveling agent. His father was a successful Irish immigrant and commission merchant named James H Forsythe. The elder Forsythe died very recently. The Wheeling daily intelligence noted he was quote "well known". He was a man of very social habits and much given to entertainments. He was one of Wheeling's old-time magistrates. Most of whom have long since disappeared" end quote. So, we have potential, an emphasis on the word potential, business partners arriving out the pike and engaging in friendly drinking and conversation. The situation would grow slowly more heated.

Ryan Stanton ([07:39](#)):

According to Walters, Schmulbach was driving a two horse buggy when he pulled off to the Tavern with his companion Hamilton Forsythe. Entering the Tavern with Forsythe, Schmulbach asked for some wine and inquired to Walters if a man sitting nearby was Mr. Rush. Upon replying yes, Schmulbach and Mr. Rush shared a drink and conversation. Meanwhile, though, heavily under the influence of alcohol

Forsythe began swearing in a disorderly fashion and started the boast that he could whip any Dutch Turner in the room. He was soon advised that he should stop talking in that manner. Forsythe later made efforts to interrupt the conversation between Schmulbach and Rush. And irritated Schmulbach told Forsythe to go outside and to sit down. Forsythe went outside, but he did not sit down. Instead, what he would do is he took off with Schmulbach's buggy and horses, and Schmulbach, as a lot of people back then would have been, were avid fans of horses and thought of these animals as their pets. And at that moment, they were being raced east on the national road by Forsythe. So, um, after Schmulbach and Mr. Rush finished their drinks inside the Tavern, Schmulbach invited him for a ride in his buggy. So, agreeing, both men go outside only to discover that Schmulbach's buggy and horses are missing.

Hal Gorby ([09:07](#)):

Frustrated, Schmulbach said angrily.

Reese Kefauver ([09:10](#)):

That is mean, I would like to know who did it. He seemed to be angry. And he said that the horses would run off and kill somebody.

Ryan Stanton ([09:18](#)):

Schmulbach would make inquiries to people on the pike and borrow a team to retrieve his own, which were said to be near Stamms Tavern across approximately from Wheeling Park. And I'm sure a lot of our listeners are probably familiar with where Stamms Lane is. So, we're talking about that general location.

Hal Gorby ([09:35](#)):

The owner of the Tavern, William Stamm also witnessed Forsythe's mad dash.

Ryan Stanton ([09:42](#)):

Meanwhile, William Stamm and a group of ladies were sitting near the entrance of the Stamm house when Forsythe drove past them in one of his rapid dashes. Startling the women, they thought it's safer to move inside the Tavern, which was probably a good idea. Forsythe then pulled up to the hitching post and stated quote. "This is Henry Schmulbach's team. And my name is Ham Forysthe.

Hal Gorby ([10:06](#)):

William Fendant would be another of the key witnesses to what transpired that evening. He was a clerk at Stamms Tavern, and he testified to what he did after encountering a drunken Forsythe. "I was at Stamms Four-mile house. I noticed someone driving rapidly toward the house. My horse was hitched to a post and fearing he would scare. I ran out and caught the team. The man in the buggy said, I can drive this team and I let go. And he drove up the road. Shortly after he returned and said, I will show you how I can drive, after which he went off again." Fendent was joined by Ed Mendel. Mendel is listed in the city directory as owning a furniture, carpet, drapery, and funeral parlor. Mendel's role would be crucial in trying to stop Forsythe and give some light into Forsythe's mental state.

Reese Kefauver ([10:58](#)):

I was out at the pike the evening the homicide occurred and saw Schmulbach's buggy, near Lucian Hodges place going towards Elm Grove at a rapid speed with a man in it. I was coming towards town. When I got to Stamms house. Herber list asked where Schmulbach was, also I had seen his team. I

replied, I have, but did not know who was in it. He then asked me if I had authority to take the team. I told him I did not have the authority, but that I would take it. I went after Mr. Fendant in his buggy and overtook the team at Priors hill. I got into the buggy with Forsythe and he asked who I was. I replied no difference. I sat on the right side of the buggy. Forsythe asked if I were going to drive the horses. I said, watch and see me. We talked of several things. Deceased said he was going to trot a match was Spalding Wallace for \$500 and Schmulbach had put up a check. I told him I'd save \$500 from Mr. Schmulbach. By this time, I had got to the cut road when Billy Heizer or Schmulbach hollered stop that team.

Hal Gorby ([12:07](#)):

Billy Heizer would be another participant in the night's drama. He rode Schmulbach out to where Mendel and Fendant stopped Forsythe.

Johnathon Porter ([12:15](#)):

I called to stop that team. Mr. Schmulbach jumped from my buggy and ran through a fence down to the cut. I saw two men get out of the buggy on the cut road and clinch. There were not more than two seconds from the time the first man got out until the second followed. Words were exchanged, but I did not understand what they were cause I was too far away to distinguish them.

Hal Gorby ([12:36](#)):

Here's where the story gets somewhat cloudy, both Fendant and Mendel witnessed the fight that took place. While Walters and Heizer did not clearly witness the struggle. Fendant described. "Schmulbach started around the buggy and Forsythe jumped out just behind my buggy. They clenched and Schmulbach fell under. Forsythe fell under my horses' feet. Schmulbach then turned him over and hit him four or five times. Mendel took Schmulbach off after which Forsythe never spoke. Schmulbach was sitting astride of Forsythe's back. I gave my horse to someone standing by and assisted in taking the deceased off the road. I did not see any stones as it was too dark. Neither did I see anything in Schmulbach's fist, as he struck Forsythe. The licks sounded dull and heavy as if struck with the fist. Mendel had a clearer view of what took place after the two men were clenched or started to fight. He saw what happened next.

Reese Kefauver ([13:36](#)):

Schmulbach jumped from the buggy he was in and ran down from the pike to me and put one of his feet on the hub of the buggy and said, I will teach you to take or steal my team and struck over my knee at deceased. I caught and held him off. Forsythe said, I will meet him and rolled or jumped out of the buggy. Schmulbach started around the team and Forsythe around the buggy. But the latter turned and the two men met and clenched. Schmulbach followed first. He rolled over and got on Forsythe at this fence horse scared as the two men fell almost under his feet. Schmulbach rolled Forsythe over and hit him several times. Don't know how often I pulled him off Forsythe. And when he asked me if I were against him too, you replied, oh, pushaw. After the licks, the deceased never moved or spoke, no threats were made by either party. The difficulty occurred at the end of Stamm stables, east of the dwelling house, where there were sharp stones on the road. I do not remember who assisted me in taking the deceased up for the grass. I told Billy Houser who was by to go on home. That I would care for Forsythe.

Hal Gorby ([14:50](#)):

From sitting in his buggy, Heizer could not hear or clearly see what took place. He did eventually walk down to see the bloody scene.

Johnathon Porter ([14:59](#)):

The reason I did not go down to the cut road with them was because my horse got unruly and was trying to get away. As soon as the animal was quieted, I went down to the cut road where I saw Forsythe, lying on its back with one hand across his breast and the other at his side, a number of men who were leaning over him. This was about 10 o'clock.

Hal Gorby ([15:18](#)):

Frank Walters of nail city brewing had not witnessed the violence, but he did encounter Schmulbach after the incident. He saw Forsythe too.

Ryan Stanton ([15:28](#)):

Reports state that after the incident, Schmulbach left with his buggy and returned to Walters two-mile house where he approached the gate and asked Walters for some water to cool those horses. With froth covering the horses, Walters said they were too overheated and thought it best to let the horses rest before watering them. Schmulbach commented to Walters that he had given Forsythe a good licking. And that in the process his shirt collar was torn. As the two men were talking, a wagon drove up to the Tavern. By candlelight Walters went outside with Schmulbach to see Forsythe was lying in the back of a light spring wagon driven by Mr. Stamm. Although bruised bleeding and unconscious Forsythe was still alive. Walter suggested to Schmulbach that he quote "ought not to take such a man riding with him." Schmulbach replied Forsythe is a poor man and wanted to ride. Schmulbach appeared sorry for his brutality against Forsythe and said, I did not think I hurt him. Let him stay here for the night.

Hal Gorby ([16:34](#)):

While several men involved would testify to what they saw that night it seems unclear who threw the first punch or instigated the fight. Upon leaving Henry Schmulbach and those on national road.

Ryan Stanton ([16:48](#)):

Instead, what Mr. Stamm would do is drive the unconscious body of Forsythe to the courthouse in Wheeling. Soon after his arrival, a crowd gathered around with curiosity as Mr. Stamm told the spectators of the happenings at his Tavern. Bystanders were shocked by the current state of Forsythe. Shortly after his arrival at the courthouse, Forsythe died. Those who had seen Forsythe earlier in the evening reported that he appeared to be in the enjoyment of excellent health.

Hal Gorby ([17:16](#)):

The local press coverage in the days around the accident set the tone for how locals understood what happened immediately. The newspaper called the event, quote, the Schmulbach Forsythe homicide end quote, noting the quote excitement in the city over the tragedy end quote. Locals were trying to seize as much of the details on what took place out the pike that evening. Soon afterwards, a coroner's jury was summoned. They met at 5:30 Thursday evening in the parlor of the central hotel with large numbers of spectators eagerly awaiting the news outside. The post-mortem examination was done by three physicians, doctors LD Wilson, Allen, and Bates. The key testimony came from Dr. LD Wilson on his examination of the deceased body. He was slow and steady in his diagnosis.

Reese Kefauver ([18:09](#)):

He made a post-mortem examination and found a contusion of the scalp at the Vertex of the head, three bruises on the forehead, right side severe contusion of the right eye, swelling of skin, fracture of small bones in the nose, dislocation of cartilage of the nose, a wound on the upper lip at about two and a half inches long, which has very nearly divided the lip and some bleeding from one ear. We opened the chest of the deceased and found his lungs sound except the portion of the left lung, which had grown slightly diseased caused probably from pneumonia. His heart was healthy, but rather small for a man of his size. Everything appeared to be in normal condition. The wounds could have been made with the fists. The wound looks as though he has fallen from the buggy and then tussle upon some hard substance. Had there been a stone on the ground and had it struck his head, the wound would have appeared probably even more severe. Evidently death was caused by concussion of the brain. It was hard to tell what produced the concussion. It might have been caused by the fall, or it might've been caused by the blows. Blows would have caused injuries described except the one on the back of his head. The first symptoms of concussion is drowsiness. The party who suffers a concussion may or may not be sensible. The probabilities of the concussion might have been anything. I have seen persons beaten up as badly as the deceased, recover. The wounds were naturally trivial.

Hal Gorby ([19:40](#)):

This testimony was very telling, especially for what physicians understood about concussions of the brain at the time. The next step would shock Wheeling.

Ryan Stanton ([19:50](#)):

A coroner's jury was summoned. And after about a day of gathering evidence and testimony, the jury came to the following verdict. That quote "Hamilton Forsythe came to his death from concussion of the brain resulting from the blows from the fist of Henry Schmulbach on the national road, near the four-mile house. Schmulbach then gave himself up the law and was arrested, after which he posted \$10,000 bail.

Hal Gorby ([20:16](#)):

Wheeling residents were terribly shocked by the news from out the pike. Why would Schmulbach ruin his career in what appeared to be a drunken fight? Furthermore, why was he with this man in the first place? Ryan Stanton explains a plausible reason.

Ryan Stanton ([20:31](#)):

As you look at this little story one question occurs, uh, while examining the incident. And that is why was Forsythe with Henry Schmulbach? What was their connection? Uh, and horse racing seems to be the obvious answer. And ironically Forsythe would have inherited \$2,500 from his father's estate in a few days. So that's what one would tend to think that Forsythe was interested in gambling, a little bit of money or investing with Schmulbach and probably why they were hanging out that evening,

Hal Gorby ([21:02](#)):

Regardless of the motivation, it appears there was a pretty solid case to be made against Schmulbach based on the witness testimony, but was there? Justice at this time could be quick and swift, but this was no usual case. This was Henry Schmulbach. The wheels of the local justice system would move rather slowly through the summer, fall, and into the winter of 1879. At the basic level, the issue was Schmulbach's intent. Did he plan to murder him? Was it just manslaughter, killing Forsythe in a moment of drunken passion or was it self-defense? Forsythe did steal his team and buggy and some testimony

seemed to suggest Forsythe might've attacked Schmulbach first. The formal indictment by the grand jury was not issued until October 22nd in the Ohio county circuit court. They ruled quote Henry Schmulbach with force and arms in and upon the body of one Hamilton Forsythe.

Hal Gorby ([22:03](#)):

Feloniously willfully and of his malice of forethought did make an assault and did strike, beat, and kick the said Hamilton Forsythe end quote. They found he did act with malicious intent in killing Forsythe based largely off the number of wounds Forsythe sustained. This seemed to confirm the autopsy report of Dr. Wilson. Schmulbach pled not guilty to all charges a few days later. With that, the case was set for trial, but that speedy trial which some thought would take place, kept being delayed and delayed by attorneys. By early February 1879 the trial had still yet to be set. A special term of the circuit court was called, but initially the quote Schmulbach homicide case as it was called was not listed. While some blamed Schmulbach's attorneys, the reality was that circuit judge Melvin was quote, anxious to dispose of a number of cases where in the defendants were held in jail end quote, as noted by the Wheeling daily Intelligencer.

Hal Gorby ([23:16](#)):

The writer noted that actually quote it was Mr. Schmulbach's wish we understand to have his case brought to trial as soon as possible end quote. In a surprising turn, the case was brought to trial within a week. Here is where we encounter some trouble in telling the story. Trials at this time were often very dramatic events. Newspapers would give significant copy to them. However, in this trial, both major newspapers in the city would give very short trite coverage to the trial. Why? This remains unknown. There are limited records on what took place. Regardless the jury made short work.

Ryan Stanton ([23:57](#)):

The trial was originally scheduled for November, but after delay, the trial finally took place in February of 1879. After normal trial procedures and much of the same testimony that was given in August, the jury deliberated for a half hour and upon re-entering the courtroom the sheriff had to give several notices to the packed courtroom to maintain order. And the jury's verdict would actually come very late in the evening. It was announced at 11:00 PM and their final verdict would be that Henry Schmulbach was innocent of murder. And so why innocent? OK uh, most likely what they took into consideration was Forsythe's actions of stealing Schmulbach's horses and racing them up and down the national road. An act of self-defense. And the fact that Forsythe may have actually hit his head on rough stones upon colliding with Schmulbach that caused a concussion of the brain that eventually would kill Forsythe. So was Schmulbach malicious in his act, probably not, but did he want to give him that good licking? Probably, but Schmulbach, you know, did not have the intentions of actually, you know, killing Forsythe.

Hal Gorby ([25:09](#)):

Maybe it makes more sense to not know the full details of the trial coverage or why the jury came to its conclusions. Time has a way of altering perceptions and many people in the community probably felt that Schmulbach was justified in his actions against Forsythe. The quote homicide, and then the trial did not hurt Schmulbach's business prospects, nor did they limit his detractors, who probably felt he got away with murder. Either way it all fed into his growing legend in the city.

Ryan Stanton ([25:40](#)):



One would also have to consider the financial standing of Schmulbach in the community and his wide network of friends and associates. So Schmulbach would probably gain social opponents, but he did not seem to mind. Uh, he was quite comfortable with this time living at his home on chaplain street and after the verdict was read, uh, he was congratulated by friends and there was a lot of talk on the streets that evening about the verdict. Uh, but most people seem pleased with the outcome of that.

Hal Gorby ([26:09](#)):

Even with his trial Schmulbach's legacy would not be that negatively affected. He would go on to be a favored figure of the city's working class through his brewery and Mozart amusement park. Even with his fame, this podcast title is about Wheeling's most notorious brewer. Why was he notorious? Yes, it was partly the 1878 incident with Ham Forsythe but it was also his growing role in local politics and the perceived evils of the saloons he supported. By the late 19th century Wheeling was dealing with a rapid expansion of population and industry. The city suffered from a number of clear problems. One of the biggest problems related to the perceived connections between the brewers, saloons and houses of ill fame. Why were saloons and prostitution houses thriving in Wheeling? Why wasn't city council doing more to stop organized vice, and was Schmulbach in control of city council? We will talk about these subjects in our next episode. This has been Henry the life and legacy of Wheeling's most notorious brewer. This episode was written, researched and narrated by me, William Hal Gorby. We had help in producing this episode from Wheeling heritage. Editing provided by Alex Weld, sound and music editing and recording done by Dillon Richardson and Johnathon Porter, audio interviews were done with Ryan Stanton and voice acting provided by Reese Kefauver, myself and Johnathon Porter. This podcast is a production of Wheeling heritage media.