THE TURF.

UNION COURSE, L. I.—TROTTING—*Monday*, April 18, 1859.—Purse, $50; mile heats; best 3 in 5, in harness:

H. Woodruff, br. g. Reliance	1 2 1 1
D. Tallman, b. g. Senator	2 1 2 2
S. Olin, b. m. Lady Fincoven	distanced
W. Peabody, b. m. Lady Warren	drawn

Time, 2:37½—2:45—2:36½—2:42½.

The first of the Spring trotting commenced yesterday afternoon, and drew together an assemblage much larger than was anticipated. The betting was $100 to $60 on Reliance previous to starting. The race was a close one throughout, and occasioned considerable excitement.

TROTTING AND PACING—Same day.—Match, $2,000; two mile heats, in harness:

Mr. Dutline, b. g. James Nixon	received forfeit
Mr. Sands, b. m. Lady Kelly	paid forfeit

CITY ITEMS.

MILITARY.—The Scott Life Guard, under command of Capt. J. H. Ward, paraded yesterday in commemoration of the battle of Cerro Gordo. The Guard mustered fifty men, and marched from their quarters down Broadway to the Park for the purpose of being reviewed by the Mayor; but his Honor was absent at the time. The company then proceeded to Hoboken; where they partook of a collation, at which speeches were made and toasts drank. The corps looked well in their new uniform.

ST. PAUL'S METHODIST EPISCOPAL CHURCH.—Laborers yesterday commenced the retrection of scaffolding around the spire of the Methodist E. Church, corner of Fourth avenue and Twenty-second street, preparatory to finishing the spire. The elegant parsonage adjoining the church is rapidly approaching completion.

GROWTH OF NEW-YORK.—The enormous increase in the value of real estate in this city, and the constantly-increasing business in all departments of commerce and manufactures, is well illustrated by the following facts: The lot on the north-west corner of Broadway and Chambers street—now worth not less than $125,000—was purchased for $1,000 by a gentleman who died last year. In our Post-Office there is at this time a clerk who, since he has been in the employ of the Government, regularly carried on his back the whole Southern mail, from the Battery to the Post-Office. Another fact: The lots to be sold to-morrow at auction by Ludlow & Co., under the direction of the executors of Judge Jay, are a part of fifteen acres bought by the late John Jay at $500 per acre. One lot out of said purchase, situated on Broadway, we are informed has been sold within the past month for $80,000. Fabulous as is the advance from $500 per acre to $80,000 per lot, it is fully justified, as the present owner—who is now erecting a store on the lot—has refused a rent of $16,000 per year for the same.

THE TAMMANY SOCIETY ELECTION.—The annual election of Sachems of the Tammany Society or Columbian Order was held last night at Tammany Hall. There was no opposition to the regular ticket. About two hundred votes were cast. The officers elect are as follows:

For Sachems—Jonathan Trotter, Wilson Small, John Kelly, Nelson J. Waterbury, Thomas J. Barr, Henry Vandewater, Jas. Murphy, Joseph D. Baldwin, John Wheeler, Richard B. Connolly, Douglas Taylor, William Miner, Thomas Wheelan.
For Treasurer—Josiah W. Brown.
For Secretary—Casper C. Childs.
For Sagamore—George S. Messerve.
For Wiskinkie—Stephen C. Duryea.

SUMMARY PUNISHMENT.—In yesterdry morning's issue we noticed the descent of the Fourth Ward Police upon two houses of ill-fame at Nos. 11 and 13 Oliver street, kept by Frank Hesse and Frederick King. Hesse, with his three girls, Amelia Mayer, Louisa Fisher and Margaret Troublehouse, was arrested, but King escaped, leaving the tail of his coat as Tam O'Shanter did that of his mare, in the clutch of his pursuers. The girls in his house named Elizabeth Hank, Susan Shay, Mary Waters, Caroline Anderson and Julia Danford, were incarcerated in the cells, and shortly afterward King was caught by the officers. Yesterday afternoon they were brought before Recorder Barnard, who had temporarily taken possession of the City Hall Police Court-room, and, after the hearing of witnesses as to the character of the houses and the connection of the several defendants therewith, Hesse was sent to the Island for two months, and his girls to the City Prison for twenty days each. King was placed under $2,000 bonds to appear before the Grand Jury this morning in answer to the charge of keeping a disorderly house, and as his girls professed repentance and promised amendment, they received the mild sentence of five days each in the City Prison. Numbers of "fancy men" and "shoulder-hitters" crowded the Court-room, and, when the case was settled, were loud in their consolations of the unfortunates.

FOURTEENTH-STREET POISONING CASE.—The inquest upon the bodies of Mrs. Beetham and Fayette Robinson, who were poisoned at the boarding-house in Fourteenth street, will be resumed at 9 o'clock to-morrow morning, at the Eighteenth Ward Station-House, when Prof. Doremus will give the result of his analysis.

DELIBERATE SUICIDE.—A German daguerreotypist, named Conrad Koehler, committed suicide on Sunday afternoon at his rooms, No. 236 Houston street. Koehler was formerly Postmaster of Benheim, Hesse-Darmstadt, and came to this country about a year since in very impoverished circumstances. As a daguerreotypist he has striven to mend his fortune, without success, and his poverty weighed very heavily upon his mind. On Sunday afternoon, while taking the portraits of two young women, he sent his wife for some cyanide of potassium. When she brought it, he bit off a piece, and, swallowing it, called for water. His wife asked him what in Heaven's name he did that for. He did not reply, but, going to the faucet, lot on the water and drank a large quantity. Mrs. Koehler told the women to go away and come to-morrow, as the machine was broken. She then attempted to go out for a physician; but before she or the customers could leave, the wretched man fell to the floor in the agonies of death. An inquest was held on Monday morning, when the Jury returned a verdict of suicide. The deceased, who was a man of respectability and influence in Germany, leaves a wife and three children in destitute circumstances.

MAN FOUND DROWNED—FOUL PLAY SUSPECTED.—The body of a man was found yesterday in the water, at the foot of Wall street. Deceased had apparently been dead several weeks. A large contused wound over the forehead, apparently the result of a blow from a slung-shot, awakens the suspicion that the man was murdered, and then thrown into the river; but from the fact that his money was found untouched, it is improbable. Coroner Jackman caused the body to removed to Bellevue Hospital, where a post mortem examination will be made. Deceased was apparently 28 or 30 years of age, of light complexion, dark brown hair, and dark red beard. A person called at the Coroner's office, and identified the body as that of John W. Hughes of Steuben County, N. Y., where his parents reside. The inquest will be held to-day.

The arrest of disorderly girls, at No. 120 Broome street, was in the lower part of the *rear* house. The front house is the residence of highly respectable people.

Grand preparations are in progress for the celebration of the Fortieth Anniversary of the introduction of the Order of Odd Fellowship into the United States, which is to come off in this city on the 26th inst.

DESPERATE ASSAULT.—An altercation occurring at Burling slip yesterday morning, between a deck hand named James McGunnell and a cartman named Dennis McCarthy, the deck hand attacked the cartman with a cotton hook. McCarthy was severely injured about the neck and shoulders by the blows and cuts made with the instrument, and after having his wounds dressed at the Second Ward Station-House, complained to Judge Welsh of the assault. McGunnel, the assailant, was arrested and placed under $500 bonds to answer the charge preferred.

ALLEGED COUNTERFEITING.—John Robbins, a sailor, bought a purse from Jas. Williamson of No. 399½ Water street, which he paid for with a $2 bill on the Farmers' and Drovers' Bank of Petersburg, Indiana. The bill proving bad, Robbins was arrested, and, despite his protestation that he was not aware that the bill was bad, Justice Brennan committed him for trial.

[Advertisement].
BAYARD TAYLOR IN THE NEW-YORK MERCURY.
The exclusive engagement, by the proprietors of *The New-York Mercury*, of the talented American tourist and author, Bayard Taylor, esq., is among the most brilliant of the many journalistic enterprises of this journalistic age. The announcement of this arrangement has been greeted with a *furore* of mingled surprise and admiration, on the part of the public, and not only has the literary world been aroused to a decided pitch of excitement, but all other circles have likewise been brought to the culmination of expectation of interest.
The variety and piquancy of Mr. Taylor's adventures—the romantic and interesting scenes—the thrilling incidents—among which his path has lain, and the fresh, sprightly, strictly conscientious style of his writings, will render them peculiarly appropriate to the columns of a paper that aims to be, and is, at once brilliant and 5 cheats in tone. The general title chosen for these compositions is "STRAY CHAPTERS OF LIFE AND TRAVEL"—a simple but expressive head, under which, not only the characters and costumes of other lands will be portrayed, but the voyager's own personal adventures, vicissitudes, and fortunes, sad and merry, tragic and comic, also.
The first of these "Chapters," which has just appeared in THE MERCURY for April 30, is entitled "THE FIRST JOURNEY I EVER MADE," and is all that could possibly be desired for fascinating interest, instruction, and amusement. The author considers this first journey to have been, perhaps, the most interesting of any, and he has certainly made a glorious hit in describing it.
The recent engagement of our great American artist, Felix O. C. Darley, was a master-stroke of enterprise on the part of THE MERCURY, and indicated what their second *coup-d'état* corroborates—that the Proprietors intend to employ the very best talent, in order to make the very best paper. Darley is universally acknowledged to be the most talented artist now living, whose works are engraved upon wood. England has her Gilbert and Leech; France has her Gavarni and Cham, but our own Darley combines the best qualities of all—the picturesque appreciation of Gilbert, the humor of Leech, the masterly effects and rendition of character that signalize Gavarni, the love of fun and satire that have made the Paris *Charivari* what it is—all are under the control of Darley; and when two such instruments as his pencil and Bayard Taylor's pen are brought together, to enrich the columns of a family paper, we may, indeed, wonder at the progress of weekly literature, and the enterprise of publishers.
The Proprietors of *The Mercury* deserve great credit for having made this acquisition to their already brilliant corps of contributors; and, although the expense has unquestionably been enormous, there is not a particle of doubt that the reading public will most gladly second their efforts to give additional luster and solidity to home reading.
As might naturally be expected, the demand for THE MERCURY, of April 30, containing the first of Bayard Taylor's journeys, is entirely unparalleled in newspaper history, and the rush for it at all the bookstores and news depots throughout the country, plainly attests the immense popularity of the talented traveler. A further proof in the same direction, if further proof were desired, may be found in the fact that the subscriptions received by Messrs. Cald well, Southworth & Whitney, the proprietors of THE MERCURY, since the announcement of Bayard Taylor's engagement, amount, as we are credibly informed, to over *Five Hundred Dollars a Day*, in addition to the enormous sales of booksellers and news agents.
But this, perhaps, is hardly to be wondered at either, when we consider that the New-York MERCURY is acknowledged to be the largest, cheapest, and best literary journal in America, being a large quarto sheet, filled with purely original matter from first to last, for which only two dollars *per annum* is charged, with as liberal a reduction to clubs as is made by other papers of half its size, and less than half its merit!

[Advertisement.]
HILL'S AIR GAS LIGHT CO. have removed to No. 510 Broadway, where the light and heat are on exhibition at all times. It is the best, cheapest, and most simple gas works in the world. A child can manage it; two feet square is all the room required for it, and we challenge a comparison with any Gas Company to burn it through ice, salt and water for 100 10,000 feet, and we offer State and County Rights for sale.
HILL, MAPES, HILL & Co.

[Advertisement].
PAUSE
TO EXAMINE THE PRICES OF ENGLISH CARPETS.
Royal Velvets, $1 25 to $1 50..Brussels, 90c. to $1 25
All-Wool Ingrains, 37½c. to 75c..Rugs, Mats, &c.
Oilcloths, 31c. to 75c. per yard.
HIRAM ANDERSON, No. 29 Bowery.

[Advertisement.]
EVERYBODY COULD BE USEFUL AND HAPPY if they had the proper occupation, and knew how to control their passions, and use their talents to the best advantage. A correct Phrenological examination, as given at FOWLER & WELLS'S, No. 308 Broadway, is just what is needed by most persons.

[Advertisement.]
GURNEY'S NEW PHOTOGRAPHIC AND FINE ART GALLERY, No. 707 Broadway, first block below the New-York Hotel. Photographs, Daguerreotypes, Miniatures in Oil and Ivorytypes.

[Advertisement.]
GAS, GAS.—GAS FIXTURES, of new and beautiful designs, will be found at our great Manufacturing Depot, No. 376 Broadway. Wholesale trade especially invited.
WARREN FECK & Co.

[Advertisement.]
THE BEST THING IN THE WORLD
For Coughs, Colds and Pulmonic Complaints is Mrs. M. N. GARDNER'S BALSAM OF LIVERWORT AND HOARHOUND, an Indian Remedy, for sale everywhere.

[Advertisement.]
METALLIC TABLET RAZOR STROP.—This inimitable article may be obtained of the sole manufacturers, J. & S. SAUNDERS, No. 7 Astor House, and of the various agents throughout the city.

[Advertisement.]
EDWARD H. DIXON, M. D., Editor of THE SCALPEL, attends exclusively to OPERATIVE SURGERY and CONSULTATIONS on the more obscure DISEASES of the Pelvic Viscera. Hernia, Hæmorrhoids, Stricture, Fistula, and Prolapsus of the Rectum effectually cured, without a cutting operation. Office hours from 1 to 3, and 7 to 9 evenings, at Dr. D.'s residence, No. 42 Fifth avenue. At all other hours he is at his private Hospital, where all the comforts of domestic life, with spacious apartments, and separate nurses are provided for those who require surgical operations and careful dietetic treatment.
The office of The Scalpel is at No. 1 Vesey-st., Astor House, where all literary and business communications must be left.

[Advertisement.]
GENUINE COCOAINE,
FOR DRESSING THE HAIR,
Prepared only by JOSEPH BURNETT & Co., Boston. For sale by HEGEMAN & Co., Nos. 161, 399, 511 and 756 Broadway.

MARRIED.

RITCH—PRATT—At Buffalo, on Thursday, April 14, by the Rev. Dr. Thompson, Thomas G. Ritch of New-York, to Maria E., daughter of the late Hiram Pratt, esq., of Buffalo.
TWEEDIE—WALKER—On Saturday, April 16, at the residence of John J. Walker, No. 54 Union place, by the Hon. Daniel F. Tiemann, Mayor of the City of New-York, David Tweedie of this city, to Elizabeth Ann, daughter of Thomas E. Walker of West Farms, Westchester County.
WEST—CRANER—On Sunday evening, Oct. 10, 1858, at St. Stephen's Church, by the Rev. Joseph H. Price, Darius West to Miss Mary Ann Craner, both of this city.

DIED.

BARRETT—On board the ship Margaret Ellis, on the passage from Buenos Ayres to this city, on Saturday, April 2, of consumption, Mr. William P. Barrett, aged 30 years, of Brooklyn, N. Y. Buried at sea.
BANKS—On Thursday, April 7, on his farm, near Mercer, Mercer County, Pa., in the 53d year of his age, the Rev. Joseph Banks.
DEMOTT—On Monday, April 18, Jane Maria, only daughter of George V. and the late Mary Demott, aged 3 years, 9 months and 27 days.
The friends and relatives of the family are respectfully invited to attend the funeral on Wednesday afternoon at 3 o'clock, from her father's residence, No. 3 Bergen avenue, Hudson City, N. J.
FERRY—On Monday afternoon, April 17, Elizabeth, the beloved wife of Ezra H. Ferry, aged 60 years and 6 months.
The relatives and friends of the family are respectfully invited to attend her funeral on Wednesday, at 10½ o'clock, from her late residence, No. 29 South Second street, Williamsburgh.
FINCH—At Nassau, Rensselaer County, at the residence of his father, on Saturday, April 16, Thadeus S. Finch of this city, aged 33 years.
GLOVER—In this city, on Saturday, April 16, of consumption, William C. Glover, auctioneer, aged 45 years, formerly of Salem, Mass.
HOLMES—In Brooklyn, on Saturday, April 16, Mary Agnes, eldest daughter of Francis H. and Mary F. Holmes.
HUGHES—On Sunday morning, April 17, at his residence, No. 194 Mulberry street, Mr. William D. Hughes, aged 65 years.
LEE—Suddenly, in Poughkeepsie, on Saturday, April 16, at the house of Geo. W. Sterling, Orlando E. Lee of Fishkill, N. Y., in the 31st year of his age.
His relatives and friends, and those of the family, are respectfully invited to attend the funeral on Tuesday morning, the 19th inst., at 10 o'clock, from his late residence, near Fishkill Village, without further invitation. Friends in New-York and vicinity will leave on Tuesday morning, in the 6 o'clock train, for Fishkill. Carriages will be in attendance on the arrival of the cars at Fishkill.
MARSTON—On Monday, April 18, at the residence of her father, Ann Elizabeth Marston, in the 31st year of her age.
The funeral will take place on Wednesday, 20th inst., at 1 o'clock, at her father's residence, No. 368 Pacific street, Brooklyn. Her friends and relatives are invited to attend.
McKENZIE—In this city, on Sunday morning, April 17, Mrs. Maria McKenzie, wife of John McKenzie, aged 49 years.
PIERSON—In this city, on Sunday, April 17, Elizabeth Isabella Pierson, daughter of the late Robert Pierson, aged 16 years.
REYNOLDS—In this city, on Monday morning, April 18, at the residence of her son-in-law, Dr. Hilton, Elizabeth, relict of the late Philip Reynolds of Fonda, Montgomery County, in the 88th year of her age.
Her friends and those of her sons, Philip, Peter M. and Alexander Reynolds, and of her sons-in-law, Jacob Burke, E. John Everett and Dr. Hilton, are respectfully invited to attend her funeral from the Memorial Church, corner of Hammond street and Waverley place, on Wednesday, at 2 p. m., without further notice.
SAMMONS—In this city, on Sunday, April 17, George, young est son of Hiram T. and Syrena G. Sammons, aged 14 months.
SPAULDING—In Brooklyn, on Sunday, April 17, Mary Abbie, daughter of Charles W. and Mary E. Spaulding.
TUTTLE—On Sunday night, April 17, at 12 o'clock, after an illness of two days, Charles F. Tuttle, of the firm of Tuttle & Bailey, aged 36 years.
The funeral will take place from the Rev. Dr. McLean's Church, corner of South Fourth and Sixth street, on Wednesday, the 20th inst., at 2½ o'clock p. m. The remains will be interred in the Cemetery of the Evergreens. The friends of the family are invited to attend without further invitation.
TUFFS—In this city, on Monday, April 18, John Tuffs.
His friends and those of his father-in-law, John G. Rohr, are requested to attend his funeral on Wednesday, 20th inst., at 2 o'clock p. m., from his late residence, No. 33 West Thirty-third street.
WHEELER—The funeral of Ida M., daughter of Hayden W. and Andelucia E. Wheeler, will take place this (Tuesday) morning, April 19, at 11 o'clock, from their residence, No. 83 Willoughby street, Brooklyn. The friends and acquaintances are most respectfully invited to attend without further invitation.

TRIAL OF DANIEL E. SICKLES

CHARGED WITH THE

MURDER OF PHILIP BARTON KEY

Special Dispatch to The N. Y. Tribune.

WASHINGTON, Monday, April 18, 1859.

After long argument by the District-Attorney, Judge Crawford has decided that the evidence tending to prove adultery is admissible, but reserving the question of what the legal effect of the admission may be, the point to which most of the arguments of the prosecution were directed. The Judge's opinion is mainly based on the right of the defense to have the evidence already given explained. As in Jarboe's case, the result is unexpected by all, and gave general satisfaction. The Jury was evidently gratified. Mrs. Brown resumed the stand, and testified to having seen Key and Mrs. Sickles several times enter the assignation house, separately and together. Mrs. Sickles inquired of her as to the house before hiring. A white string was usually tied on the blind. The witness is straightforward and garrulous. She was examined by Mr. Ratcliffe. On cross-examination, Mrs. Brown said she saw Key and Mrs. Sickles go into the house thrice by the front door and once by the back. She saw Key three or four times get wood in the yard and take it into the house, and presently smoke ascended from the chimney. Then came the white string. Saw no one else enter. She lives in the next house but one.

SECOND DISPATCH.

Good progress has been made to-day. The adultery evidence is sufficient for a divorce. The parties were identified by their faces. Eight or ten separate visits to the house were proven. Mr. Sickles was out of the room during most of the testimony. The defense say they are sure to finish to-morrow or the next day.

The time to be occupied by rebutting testimony is uncertain. The prosecution have little hope of introducing evidence touching Mr. Sickles's character and past conduct. The ground of the offer will be that it bears upon his state of mind at the time of the homicide. The objection is that it would tend to show that he had no right to be insane, not that he was not. This is similar to the prosecution's objection to the defense proving moral causes, as showing, not that he was, but that he ought to have been insane. This admission is improbable.

The decision to day implies that the prosecution is outwitted.

THIRTEENTH DAY'S PROCEEDINGS.

WASHINGTON, Monday, April 18, 1859.

The Court opened at 10:20, the usual large audience being in attendance.

Mr. Sickles was soon after ward brought into Court.

The Petit Jury which had been directed to be in attendance to-day had their names called, and were excused from further attendance till this day fortnight. This would indicate an intention on the part of the Judge to admit the evidence offered.

Counsel for the prosecution are inundated with country newspapers containing editorial comments in regard to the conduct of this trial. They have little time, however, to read or profit by the sage suggestions therein made.

District-Attorney Ould proceeded to close his argument against the admissibility of the evidence offered to prove the adultery. He had been endeavoring, he said, when he closed his remarks on Saturday to show that the facts offered in evidence on the part of the defense did not amount to legal provocation, much less to justification, and that the questions of provocation, justification, and cooling time were mere legal questions. He had been interrupted, politely of course, by a question from Mr. Brady, asking on what were the Jury to pass if the Court determined the justification and the cooling time. It was the duty of the Jury, he held, to pass upon the facts as connected with the killing, and to apply the law as enunciated by the Court. With reference to justification, provocation and cooling time the Court has its peculiar functions, and so has the Jury. If there were no other questions in the case, that was the fault of the case—one of the incidents of the case. If a man were indicted for poisoning, would the learned counsel claim that evidence of justification, provocation or cooling time should be given? Did not the law declare that in such a case there could be no justification, no provocation, no cooling time? The Jury pass upon the truth of the facts offered; their sufficiency in law was a question exclusively for the Court. If the Court decided that they were sufficient in law, then the question of their truth went before the Jury. But if the Court decided that they were not sufficient in law, then, of course, they did not go before the Jury. It was the constant practice of the Courts to pass upon provocation, justification, and cooling time.

The Judge—At a different stage from this, however.

Mr. Brady—We utterly refuse to enter into any discussion of any question at this time except what relates to the particular point before your Honor for determination. We offered to prove habitual adultery; the objection was made to that. As to justification, provocation and cooling time, we propose to be heard at a future stage in asking the Court for instructions, and we mean to insist that the Jury are judges of the law and the facts; but that time has not arrived yet.

Mr. Ould certainly misunderstood the arguments of counsel, if the questions of justification, provocation, and cooling time, were not now before the Court.

Mr. Phillips—If the evidence has a tendency toward justification, that is sufficient.

The District-Attorney held that it had no such tendency, for in law the facts amounted neither to justification nor provocation. He referred the Court, on this point, to Addison and to 6 Iredell, 178 and 181, The State agt. John P. Creighton. In the case cited by the other side, Manning's case, the question of provocation was before the Court, and the Court there declared what would be and what would not be provocation. Did not every Court, in cases of murder, necessarily decide upon the sufficiency of the evidence to constitute legal provocation? Undoubtedly it did. Here the facts sought to be put in evidence were admitted, but the question was whether they amounted to a provocation or a justification. The same doctrine came up incidentally in Selfridge's case, as to the effect which the law ought to give, and which the Jury must give, to certain questions affecting honor and dishonor, and there the Court decided the question. Counsel referred to vol. 2, Archibald's Criminal Practice.

At this point the Court interrupted Mr. Ould, to have the Grand Jury called.

The Court relieved them from further attendance until this day fortnight.

Mr. Ould resuming, replied to the proposition of Mr. Phillips, that this evidence was competent for rebutting the question. That, he (Ould) thought, was begging the question. Was the evidence of such a character on its face as would be a legal rebuttal of malice? If not, it was not competent. It had been also argued that the evidence was competent as affecting the question whether the passion was real or feigned. It was immaterial for the Jury to find out whether it was real or feigned. It had been also argued that the deceased was giving the signal of adultery, and that, therefore, the evidence was competent; but if, as the prosecution held, the adultery itself was not a legal provocation or justification, how could an invitation to adultery be? The other learned counsel (Mr. Graham) had argued that the evidence of adultery was always properly before the Court; that was not so. In Iredell's case the question came before the Court whether the evidence of adultery could be admitted to reduce the grade of homicide, and there the Court rejected such evidence. He contended that where such evidence was admitted, it was admitted only as part of the *res gestæ*.

The Judge—In the case of Fisher & Carrington and Paine, the whole case is detailed; the interview between the father and the man in whose house the crime was committed; it was committed more than once; and yet all the circumstances were gone into, so that there it was impossible that the facts proved could have been part of the *res gestæ*.

District-Attorney—The case in Vol. 6 Iredell was precisely the kind of case alluded to.

Mr. Graham—There all the proofs were got in.

District-Attorney—They were made a part of the evidence of the prosecution, and were put in as evidence connected with the homicide. He challenged the defense to point out a case where objection was made to such evidence and not sustained. It had been also set up here that the indictment recited that deceased at the time of the homicide was in the peace of God and of the United States, and that he was not so in point of fact, and that, therefore, the indictment could not be sustained. The words are mere surplusage, and might have been omitted. They meant simply that he was under the protection of the laws of God and man—nothing more than that. If Mr. Key had been engaged in a riot, or if he had been blaspheming, would it be contended that any man might kill him?

Mr. Graham—In an effort to prevent him committing a crime it would not be murder to slay him.

District-Attorney—Would it be proper to kill a man to prevent him committing an assault and battery?

Mr. Graham—I take the ground that if a man assaults me I have a right to resist him to the death.

District-Attorney—That depends altogether on circumstances.

The Judge—It would depend upon the nature of the attack.

The District-Attorney proceeded to argue that the testimony in regard to the handkerchief did not connect the parties with any adulterous intercourse; this was, therefore, not a proposition to continue evidence already partially given, but to give new evidence on a distinct point. He held to his position that it was for the Court, and the Court alone, to pass upon the nature of the evidence offered. It was only for the Jury to pass upon the facts allowed to be given in evidence. Trial by Jury was a creature of the common law, and when the Constitution of the United States gave to the arraigned the privilege of trial by jury, it was in accordance with the course of the common law, and in no other way. The common law had been announced by Hale and Foster and East and others, and what he contended for now was one of the principles of that common law. It had been alleged by the defense that the case now presented was analagous to that of Jarboe. He proceeded to show that no such analogy existed. In the case now before the Court the prisoner made the declaration at the time of the homicide, "He has defiled my bed." In Jarboe's case the question was by the prisoner to the deceased, "What do you intend to do?" and the answer was, "You will see what I intend to do." That was a matter which did not explain itself, and therefore it was right for the Court to allow the evidence to be given to explain the declarations. There the declaration of the prisoner explained itself, and therefore no evidence was necessary to elucidate it. The facts themselves carried no further impression to the human mind than the expression itself does. There was another distinction between the two cases: In Jarboe's case the expression was made use of both by the deceased and the prisoner; here no expression was made use of by the deceased. His Honor, in Herbert's case, drew a distinction between the declarations made by the deceased and those made by the prisoner. Otherwise, a party might manufacture testimony in his own case, while no such objection could possibly apply to the declaration of the deceased. He insisted that the instruction of the Court in Jarboe's case applied to this case here, namely, that the facts did not justify the act, or constitute a legal provocation, and that the killing was murder. In regard to the question of insanity, his Honor's rulings hitherto had been that no declarations made by other parties to the prisoner could be admitted as proof of insanity, and on that ground the evidence must necessary be ruled out. What then was left as competent evidence in law? Nothing but that the prisoner was witness to the adulterous intercourse between deceased and the prisoner's wife. The last ground on which this evidence had been urged was on the ground of its being *res gestæ*, that it was competent as explaining the declaration of the prisoner that the deceased had violated his bed. The declaration itself was part of the *res gestæ* and was receivable, but the evidence of the truth of the declaration was not *res gestæ*, and was not receivable. As well might the United States go into a long evidence of the manufacture of fire-arms and detail the manner of making the pistol which had been offered in evidence in this case. But, say the defense, the declaration of the prisoner shows his motive, and this evidence ought to be received because it explained the declaration. That raised the direct question whether the fact of adultery constituted a legal provocation or justification, and he had already shown that it did not. It had been hinted rather than argued on the other side, that the prisoner at the time of the homicide was but defending his wife from future advances of the deceased. The law however, says that for the taking of human life such an excuse affords no justification or excuse.—Nothing but an attempt to commit a felony can excuse the taking of life. It must be distinctly and satisfactorily shown that the deceased was at the very time attempting to commit a felony. But an invitation to adultery does not rise even to the dignity of a trespass.

The Judge—Five propositions are stated as the basis of an offer to prove the fact of adultery in this case, and that that fact is known by the prisoner. The proposition is not to introduce evidence of adultery as proper under all or any circumstances, but whether, under the existing state of the evidence already given, the defense are entitled to adduce further evidence than they have already given to the Jury. It is a question of competency of evidence for any purpose; what may be its legal effect is not the inquiry. That the Court may be called upon to give an opinion on before the trial terminates. But I will not anticipate it. That opinion must be founded on all the evidence, and can be properly investigated when the evidence on both sides is closed. A great mass of testimony has been received going to show the adulterous intercourse, the frequenting by deceased of the immediate neighborhood of the defendant's house. The exhibitions of a handkerchief! What did they mean? Have not the Jury a right to understand what they meant? By themselves they might be regarded as weighing very little, or as having more or less influence on any particular point raised. The Jury must pass on them, and on all the evidence. Can they do so without a full knowledge of what that testimony imports? At the time of the homicide, the prisoner declared that the deceased had dishonored his house, or defiled or violated his bed; for all these expressions have been used by the different witnesses examined. This declaration is a part of the principal fact. It is important to the Jury to have it explained, and it is the right of the defendant, in all justice, to have it explained. Jarboe's case has been referred to as a decision rendered by this Court on great deliberation; it is one from which I am not disposed to depart. In that case, considerable testimony having been given, it was proposed to prove what passed at an interview between the witness, who was the father of the prisoner, and the deceased and the prisoner himself, in regard to the engagement of marriage. This interview, it will be observed, was two or three months before the homicide. Here the Judge quoted his ruling in that case, and proceeded. It is said, however, that the expression of the prisoner here at the time of the homicide, that the deceased had defiled his bed, explains itself, and that it is not susceptible of any further elucidation. It was certainly not stronger than this case of Jarboe, where the prisoner asked the deceased if he was going to marry the unfortunate girl, his sister, and he said, No. You see, or you will see, what I am going to do. The plain English of that is, "I am not going to marry her." In this case, it is true, the expression used by the prisoner is one that might be ordinarily understood in a particular sense; but men may have various ideas of phraseology, and the Jury are to pass on this case on the evidence. That declaration, to be sure, is in proof by the United States; but still there may be a different construction put upon it by one man from that put upon it by another. Be that as it may, in order to insure perfect understanding by the Jury what was meant by that declaration, I think on that ground also the evidence is admissible—the Court reserving, of course, an opinion on all the evidence until, in accordance with the ordinary course of practice here, that opinion is asked in the shape of what lawyers here call prayers. I am of opinion that the evidence is admissable.

The silence in the Court, as Judge Crawford pronounced this decision, was almost painful, and as he closed, there was a perceptible though silent expression of satisfaction.

Mrs. Nancy Brown was then recalled.

Examined by Mr. Ratcliffe—I was sufficiently acquainted with Mr. Key to know him; the last time I saw him was on the Wednesday before he was shot, when he went into the house on Fifteenth street: I saw him take a key out of his pocket, unlock the door and go in; he came out in about an hour; I am acquainted with Mrs. Sickles; I saw her go backward and forward often; I saw her go in and then out the back way; he would go to the back gate and let her out, and then he would come out of the front door.

How long were they in the house?

A. About an hour.

Q. How did you know that it was Mrs. Sickles?

A. I inquired different times; I saw Mrs. Sickles at her own house after that; then other persons were present; she was the lady I had seen go into the brick house.

Q. How often had you, before that Wednesday, seen him go into that house?

A. I saw him go in three times before, when he unlocked the door, and took the key from his pocket; saw Mrs. Sickles go with him, and have hold of his arm, except the Wednesday before Mr. Key was killed.

Q. What time elapsed between these three times you saw them go into that house?

A. About a week; I saw them go in three times within three weeks; Key came up to my door in October; he rode up; he stepped on the porch, and asked me whether the house was occupied; I said no; he asked me who the house belonged to; I told him to a colored man named John Gray, and he lived somewhere on Capitol Hill, and that the colored people could give him all the information; he came about three weeks after that, and tied his horse to my tree; I asked him whether he did not know that that was against the law? (Laughter).

Mr. Ould—I suppose that is not evidence.

Witness—I asked him not to tie his horse there again.

Mr. Ould—That's not evidence. Stop, Mrs. Brown.

Witness—I was only telling you what he was; he said, I won't tie it; there any more; he said, I rented this house for a friend of mine, and want to see how it is situated; I don't know whether he said it was for a Member or Senator; he then untied his horse and went away; I never spoke to him any more.

Q. Did you notice anything Mr. Key had with him?

A. I noticed, on that Wednesday, he had on a shawl when he went in; it was on his left arm; but hadn't note when he came out; this was the Wednesday before he was shot; when he first came to the house, we laughed when we saw the smoke come out of the chimney; he went down the yard, and got wood to make a fire; saw a white string tied to the upstairs shutters, so that, when the wind blowed, it would swing.

Q. Have you seen the shawl since?

A. I saw the shawl, but, you know, there are so many alike, I don't like to swear to this one.

Mr. Ratcliffe (to officer)—Tell Mr. Mann to bring the shawl in.

Witness—I don't want to tell a lie. (A shawl was produced—it had a gray and red border.)

Witness (examining)—This looks like it; he had it folded up on his left arm.

Q. How was Mrs. S. dressed?

A. She had on a little small plaid silk dress, which she wore open, and she had a black Raglan—a cloak, you know, as I call it, fringed with bugles, and a black velvet shawl with lace; and I saw her in a brown dress, like a traveling dress, the Wednesday she went in and out the back way; in entering the house the back way—it was where they put the wood—the mud was that depth [four or five inches]; the alley was not paved.

Q. What was the state of the weather?

A. It was always fair when I seed them.

Mr. Ould—That's not evidence.

Mr. Brady—You say Mr. Key told you he hired the house for a Senator or Member. Did anybody occupy it except Mr. Key and the lady?

A. Never saw anybody go in but themselves; I am sure I did not.

To Mr. Graham—Saw them go up and turn back; they saw two policemen standing down K street; they were at the gate; I was at my gate; they went up Fifteenth street as far as I could see them.

Q. Mr. Stanton requested that the prisoner might retire during this examination. To this the prosecution said they had no objection.

Mr. Sickles accordingly retired, accompanied by an officer.

Mr. Graham—Did you see them come back that day?

Witness—Not likely; they were so scart, they run away. (Laughter.)

Cross-examined by Mr. Ould—Whereabouts do you live?

A. I live next door but one to John Gray's; (there are three little houses), in a small frame; I live on the north.

Mr. Brady here put in a true copy of the survey of the premises from the Surveyor's Office.

Mr. Ould examined the witness particularly about the houses and their tenants in that immediate neighborhood. She said the first time she saw Mrs. Sickles was three weeks after Mr. Key told her he had taken the house; never held a conversation with her until she went to Mrs. Sickles's house; I think it was in November when Mr. Key first came to Gray's house; I took no particklar notice; I was standing at my gate.

Q. How many feet from Gray's house?

A. I never measured it. (Laughter.)

Mr. Ould—About as far as the back part of this room from where you stand?

A. I don't think it's so far.

Q. How do you know it was Mrs. Sickles?

A. Because I inquired, and was told; I asked different people, and they all told me it was her, and when I saw her at her own house, I knew it was the same person.

Q. Why did you go there?

A. I went to see if it was the same lady.

Q. What was the occasion of your going there?

A. She sent for me to identify her, whether she was the same person; it was the Tuesday after the killing.

Q. How many times altogether did you see them go into the house?

A. Three times, and at another they only came to the gate; as I said before, Mr. Key unlocked the door for her to come in.

Q. How far off were you?

A. Not so very far, from here to there; she had a black bonnet on but no veil at the time I seed her; could see her feturs; I knowed her afore, and of course knowed her agin; I was standing at my front door when I seed her go in the front door; she passed by me and looked in my face; she was with Mr. Key each time; the policemen were standing at the corner of K and Fifteenth streets talking when Mr. Key and Mrs. Sickles came there the last time; they passed on to go into the house; did not go furder; they saw the policemen and immediately turned back.

Q. I suppose they saw them?

A. I know they did, for they started off.

Q. Did they return that day?

A. It is not likely they returned that day; not likely, gentlemen; I did not watch more after that; I know they were not so foolish. [Laughter.] After they seed the police; not likely after that. [Renewed laughter.]

Q. Where does Mr. Seeley live?

A. His alley opens very near to the back opening of Gray's house; the white string was put out every time that he came first and made the fire.

Q. How do you know that it was he that made the fire?

A. Because there was nobody else to make the fire, and because I saw him go down and fetch the wood. [Laughter in Court. The Judge ordered it to be suppressed, as there was no cause for laughter.] Never saw Key go there by himself except the first time when he came about the house; saw the string out of the window three or four times; if I had looked oftener I might have seen it oftener.

Q. How did you come to notice it?

A. Because I knew it was the signal, of course. [Laughter.] She was with him every time I saw him but that once; I saw him go down the yard for wood four or five times; of course when I saw him go down for an armful of wood he was there.

Q. You did not know whether he was there by himself?

A. I should think he was not when I saw the signal flying. [Laughter.]

To Mr. Ratcliffe—It was Mr. Mann who called for me to go and see Mrs. Sickles, and I there identified her as the person whom I used to see go to that house; the shawl was shown to me the next week after the death of Mr. Key; the other man, I never could speak his name [Mr. Gintry], was there when the shawl was shown to me; I could not identify the shawl, but I stated at that time that I thought it the same shawl; I think it now the same sh