Daily Appeal.

MEMPHIS:

FRIDAY, APRIL 22, 1859.

Largest Circulation in the City.

Reading Matter on Every Page.

The Official Journal of the City.

DEMOCRATIC TICKET.

FOR GOVERNOR,

ISHAM G. HARRIS.

To the Democracy of the Tenth Congressional District.

To avoid mistakes as to the time of holding the convention at Somerville, for the purpose of nominating candidates for Congress, Senator and Floater, we have fixed upon Wednesday, the 27th inst., as the most suitable day, and take this means of notifying the delegates from the several counties in the district of the fact

T. H. LOGWOOD,
W. H. CARROLL,
JNO. M. CARMACK,
P. R. GLENN,
Central Committee for Western District.

APRIL 7, 1859.

POSITION OF HON. STEPHEN A. DOUGLAS.

We invite attention to the able and elaborate communication of "Madison," touching the position and declarations of Hon. STEPHEN A. DOUGLAS, on slavery in the Territories. It is from the pen of a life-long and prominent Democrat, who has proved his devotion to the principles of Democracy by many a well-contested battle with the Opposition on the stump, whose wise counsels have always been respected in our camp, and whose eloquence and ability have been a sure reliance in the days that tested the strength of our cause, and the permanency of our principles. We are content to place this document upon its own merits, without a word of comment, and only ask for it the attentive and thoughtful consideration of our readers.

MORE OF THE TWO OPPOSITIONS.

We have repeatedly reminded our readers that there are strong evidences of a coalition between the Opposition—Know-Nothing Whigs of the South, and the Black-Republicans of the North—for the purpose of beating down the Democratic party in 1860, and securing the Federal Administration to this "black-action" compound faction, whose link of love and bond of union is a common hatred to the Democracy. We have also pointed out the patent fact that the Black-Republicans constitute by far the stronger and more powerful division of this Opposition, and that if this combination should succeed in its purposes, they will control the destiny and shape the policy of the new organization, and the anti-slavery element must of necessity hold the ascendency. These premises we have seen denied in this quarter. They are so palpable as to challenge denial. They must be seen and felt by the Opposition themselves. It matters not under what leader the Opposition forces may be marshalled, whether under BELL or SEWARD, CRITTENDEN or FILLMORE, the result of the coalition is alike inevitable—the anti-slavery, Black-Republican element must rule and mold the policy of any Administration that may be thus brought into existence. There is no escape from such a conclusion—no means of evading this necessary, logical result. Political affinity has never been demonstrated to be like chemical affinity, which latter often produces a compound entirely dissimilar from either of the substances which enter into its formation. On the contrary, political affinities or coalitions are produced by the union of stronger and weaker elements—larger and smaller factions—the result of which most necessarily give to the stronger and larger a preponderance in power and influence over the weaker and smaller. The weaker must be swallowed up, while the larger looms into life and power, full-grown, vital and defiant. We maintain that the Southern Opposition can exercise no influence in such a combination with the Black-Republicans of the North, save to render the latter more formidable, powerful and dangerous—furnish the fuel of sectionalism and give numerical strength to a faction which is only great in that it is mischievous, wild and fanatical.

And yet the Opposition journals of the South are gently and coyly flirting with this overgrown faction, which well nigh wrecked the hopes of the patriot in 1856 by electing JOHN C. FREMONT to the Presidency. The *Bulletin* of this city has declared that if may not with them as individuals—not as a party—so far as to vote for the same man for President. Upon this we commented some week or two since. And now the *Evening Inquirer* declares, in its own language, that "the election of a Black-Republican President, in our view, would be no whit worse than the election of JAMES BUCHANAN, and we should no more think of resorting to revolution on the one account than the other."

From such declarations as these, emanating from sources so prominent in the ranks of the Tennessee Opposition, we are compelled to the conclusion, however unpleasant may be the idea, that the evidenced Know-Nothings, now self-styled Opposition, have determined in advance to join their feeble forces with those of the rampant Black-Republican army of the North, to compass the defeat of a party whose success they have denounced as more hurtful than would have been the triumph of FREMONT. We cannot appreciate the argumentation which has led to such a conclusion. We can only view with sorrow, and horror, the growth of such sentiments in the Southern States, and among high-toned native southern men. We can only ascribe such an opinion to prejudice, fanaticism, or passion. But sure we are the masses will not part company in a sentiment that is contrary to their own education, instincts, associations and devotion to southern rights. They will not long hesitate, when the alternative is presented to them, of supporting the chief and candidate of the Democratic party, or the chosen standard-bearer of the sworn enemies of our southern institutions.

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Trenton	Wednesday	"	11
Dyersburg	Thursday	"	12
Troy	Friday	"	13
Union City	Saturday	"	14
Hickman	Monday	"	16
Columbus	Tuesday	"	17
Union Depot	Wednesday	"	18
Raleigh	Thursday	"	19
Memphis	Friday	"	20
Bolivar	Monday	"	23
Jackson	Tuesday	"	24
Lexington	Wednesday	"	25
Lexington	Friday	"	27
Waverly	Saturday	"	28
Linden	Monday	"	30
Clifton	Tuesday	"	31
Perryville	Wednesday	June	1
Centerville	Thursday	"	2
Hohenwald	Friday	"	3
Franklin	Saturday	"	4
Murfreesboro	Monday	"	6
Rutherford	Tuesday	"	7
Lebanon	Wednesday	"	8
Gallatin	Thursday	"	9
Hartsville	Friday	"	10
Carthage	Saturday	"	11
Lafayette	Monday	"	13
Gainesboro	Tuesday	"	14
Sparta	Wednesday	"	15
Doyle	Thursday	"	16
Liberty	Friday	"	17
Alexandria	Saturday	"	18
Smithville	Monday	"	20
Rock Island	Tuesday	"	21
Manchester	Wednesday	"	22
McMinnville	Thursday	"	23
Beersheba	Friday	"	24
Tullahoma	Saturday	"	25
Winchester	Monday	"	27
Decherd	Tuesday	"	28
Stevenson	Wednesday	"	29
Bridgeport	Thursday	"	30
Shelbyville	Friday	July	1
Fayetteville	Saturday	"	2
Pulaski	Monday	"	4
Lynnville	Tuesday	"	5
Cornersville	Wednesday	"	6
Columbia	Thursday	"	7
Franklin	Friday	"	8
Murfreesboro	Saturday	"	9
Woodbury	Monday	"	11
Liberty	Tuesday	"	12
Lebanon	Wednesday	"	13
Mount Juliet	Thursday	"	14
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The point to which our Government adheres, and which it will carry through, is that the transit trade not only of the United States, but of the whole world, shall be secure in its passage through the territory of Nicaragua, not only from filibuster attack, but from the invasions of civil disorder, which have become chronic in the Spanish American countries, and from violation by the government itself. The principle involves the safety of every other transit route, as well as that of Nicaragua.

In the modified treaty which President Buchanan insists on impressing upon the Cass-Yrisarri treaty, the protection of the transit trade from filibuster attack is covenanted with the United States, but we are denied interference to protect it from violation by any other party. Besides the reasons of high State policy which should prevent the President from acceding to this reiteration of the former claims of Nicaragua, recent events have confirmed in a signal manner the justice of Mr. Buchanan's views. The late destruction of the road and bridges, the seizure of the lake and river boats, and the imprisonment of American citizens by the Nicaraguan government, in a moment of unfortunate alarm, is a notable confession of its own weakness and incapacity.

Sir Wm. G. Ouseley stipulated in his treaty for the same guarantee to the transit route that was inserted in the Cass-Yrisarri treaty, and one chamber of the Nicaraguan Congress assented to them, but the other made the modifications which your correspondent's from there have reported to you, and Sir William consented to them so far as to remit them to England for examination. These modifications stipulate that England may lend men from her navy to seize any filibusters who may have escaped the cruisers, but that no troops shall be landed except at the request of the Nicaraguan Government, to be withdrawn also when the power requests it. These stipulations are a virtual guaranty of protection of the Martinez Government against the people of Nicaragua, and in assenting to them in any way, Sir Wm. Gore Ouseley has failed in his mission, as it has been explained to our Government. Whatever course England may take, the United States will not retain from insisting that the transit trade of the whole world must be free from violation by the Nicaraguan authorities and insurgents, as well as by filibuster invaders.

A new difficulty has presented itself to the opening of the Nicaragua route at this time, in the quarrels that have broken out in the company holding the grant. It seems that the members have split into two parties—one led by Mr. Yelverton, the President of the company, and another, which may be called the Joe White interest. A few days since the Yelverton party got together and seated Mr. Lee, the former Secretary, electing in his place Mr. Body, who has been for some time agent for the company in Nicaragua.

Before this split took place responsible parties were prepared to take hold of the company, put on steamers, build the short railroad on the Nicaragua isthmus, and carry out the terms of the grant for opening the route. Under the circular recently issued by the Postmaster-General, calling for bids for the transportation of the California mail, they stood a good chance of obtaining a contract from the Government to aid them in the formation. On the contrary, political affinities or coalitions are produced by the union of stronger and weaker elements—larger and smaller factions—the result of which most necessarily give to the stronger and larger a preponderance in power and influence over the weaker and smaller. The weaker must be swallowed up, while the larger looms into life and power, full-grown, vital and defiant. We maintain that the Southern Opposition can exercise no influence in such a combination with the Black-Republicans of the North, save to render the latter more formidable, powerful and dangerous—furnish the fuel of sectionalism and give numerical strength to a faction which is only great in that it is mischievous, wild and fanatical.

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whole power of the republic to prevent it, and it was prevented. It should also be borne in mind that the United States were the first to recognize the independency of these republics, and welcome their into the sisterhood of nations.

She, therefore, feels entitled by such antecedents, as well as from her present position, to expect from one and all of them that justice which the sincerity of her desire to re-establish friendly relations with Paraguay leads her confidently to hope will be readily accorded.

And, in conclusion, I again repeat that I but reflect the sentiments of my Government in reassuring your Excellency of her ardent desire to settle all three difficulties amicably, and re-establish the relations of the two Governments on the enduring basis of mutual friendship and respect.

For a few moments the President rolled his bright eyes around the room, as if in search of thought, twirled his sword, thumped his case, and finally, in an easy, soft voice, replied to the following effect—not having been able to retain the exact words:

EXTEMPORY ANSWER TO MR. BOWLIN.

Mr. Special Commissioner of the United States—I know that Paraguay is among the last of her sister States in the Southern continent in the march of civilization and progress; but she is the oldest nationality, and the first to follow the example of her elder sister of the North in asserting her independence. I feel the sincerity of the desire of the United States to cultivate friendly relations with Paraguay, when her minister was accredited near this government, and despite regret that untoward circumstances should have interrupted the harmony that then existed. The honorable discourse, however, of the Special Commissioner inspires me with every confidence that the peculiar questions between the two republics will be settled promptly, frankly and amicably, in a manner honorable and satisfactory to both.

The last notes of his Excellency having died away, we retreated, our excellent and distinguished friend of the Legation, S. Ward, Jr., habited in a black coat, with silver buttons, that gave him the most perfect air of a diplomat of olden time, though a little clerical in appearance, stopping to whisper to the gentleman at the door, the Minister of Foreign Relations, Senor Vasquez, that he desired a copy of the President's remarks.

The Flag Officer, Shubrick, wearing the sword which was presented him by the State of South Carolina, with a light step and erect figure, attracted no little attention, and, as the sapper in this part of the world have not been down as a fire-eater, I observed the President's eyes wandering uneasily, more than once, toward him. The soldiers, drawn up in every direction around the square, upon which the public buildings invariably face in these Spanish towns, saluted us with every mark of respect, as did the people in the streets, though the latter dread to compromise themselves by a too marked civility.

We proceeded from the government house to the residence of General Urquiza, who received us with the frank, manly, easy manner of the soldier, very different from the excessive civility observed by Lopez. The General conversed freely—referred to the United States with enthusiasm; compared the President of Paraguay to Rosas, though he says his last "good, complimentary" letter to the Commodore on the handsome appearance of his officers, and was evidently pleased with the attention shown him. He is short of figure, but stoutly framed, with a dark, handsome countenance, democratic in his manner, and, after a short acquaintance, proves to be a remarkable and interesting man. Though not possessing, to any great degree, the advantages of education, he is naturally gifted with an observing mind, a fund of good sense, and has, at least, discontinued the inhuman cruelties which are always practiced to secure the place he now holds, for the quiet enjoyment of his easy rule. He scarcely seems the man who could order the throats of a hundred men to be cut, as occurred last breakfast, though such things have been done.

These preliminary functions are over, and the *debut* has been made. There are, perhaps, most bitter pills to be administered to the most excellent President of Paraguay, and if his stomach reject them, our stay will next be at Humaita.

THE SICKLES TRIAL.

WASHINGTON, April 18.—The court opened at the usual time, a large audience being in attendance. The petty jury, which had been directed to be in attendance 2 P. M. to-day, had their names called and were excused from further attendance until this day fortnight. This would indicate an intention on the part of the Judge to admit the evidence offered.

District-Attorney Ould proceeded to close his argument against the admissibility of the evidence offered to prove adultery. He had been endeavoring, he said, when he closed his remarks 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 legal questions. He had been then interrupted, politely of course, by a question from Mr. Brady, asking him on what were the jury to pass.

If the court determined the justification and the cooling time, it was the duty of the jury to be left to pass upon facts, as connected with the killing, and to apply the law enunciated by the court with reference to justification. The court has its peculiar functions, and so has the jury. If the man was no other questions in the case, that was the fault of the case, one of the incidents attached to the case. The jury is to 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 fact would be 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 courts to pass upon provocation, justification and cooling time.

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 points before your honor for determination. We offered to prove habitual adultery; objections were 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, we mean to contend that the jury are the judges of the law and of the fact, but that time has not arrived yet."

Mr. Ould—"I certainly misunderstood the argument of the counsel. Provocation, justification, provocation and cooling time were not now before 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 in the case cited by either side. In the Massachusetts 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 evidence to constitute legal provocation in law? 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 Sellers's case, as to the effect that the law ought to give, and what he jury ought give to certain questions affecting honor and dishonor, and there the court decided the question.

Counsel referred to the second volume American Criminal Practice.

Mr. Ould, resuming, replied to the proposition of Mr. Phillips, that the evidence was competent for rebutting malice, that he thought was begging the question. Was there evidence of such a character on its face? It would be a legal absurdity to admit it. If not, it was not competent. It had been also argued that the evidence was competent as effecting the questions whether the passion of the prisoner was heated or feigned, for the purpose of the jury to find out whether it was real or feigned. It had also been argued that the deceased was giving the signal of adultery, and that, therefore, the evidence was competent. In all cases, as the prosecution held, the adultery itself was not a legal provocation or justification, nor could an invitation to adultery be set up. The other learned counsel, Mr. Graham, had argued that the evidence of adultery was always properly before the court. That was not so. He contended that where such evidence was admitted, it was admitted only as part of the *res gestæ*.

Judge—In the case of Fishwright Carrington and Paine, the whole case in detail, as the jury understood it, was 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 as being material for the jury to hear. Facts proved could have been part of the *res gestæ*.

Dist. Attorney—The case in Sir Wadell was precisely the kind of case alluded to.

Dist. Attorney—They were made a part of the evidence of the prosecution, and were put in as evidence connected with the homicide. Counsel challenged the defense to point a case where objections were made to such evidence and not sustained.

Mr. Graham—would it be proper to kill a man to prevent him committing assault and battery?

The District Attorney proceeded to argue that the testimony in regard to the handkerchief did not convict the parties with any wonderful intensity. This was, therefore, not a proposition to construe evidence offered in the court, but to give new evidence on a disputed point. He held to his position, that it was for the court and the court alone, to pass upon the subject 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 the accused the privilege of trial by jury it gave him the trial by jury in accordance with the common or the English law, and in no other way. That 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.

In the Sickles case, the judge has just delivered the opinion of the court, deciding the evidence showing the adulterous communications existed between Mr. Key and Mrs. Sickles admissible. It has been alleged by the defense that this case was analogous to that of Jarbo's. He proceeded to show that an 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." 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 humble mind than the expression indicated. The Judge in Hopkins's case had drawn a distinction between declarations made by the deceased and those made by the prisoner. Otherwise a party might manufacture testimony in his own case. The much object a could possibly apply to the declaration of the deceased, he insisted that the instructions of the court in Cooper's Reports, in 1854, were overruled by the Supreme Court of Ohio, in a case from Lexington to the effect that the facts did not justify the act, or constitute a legal provocation, and thus the killing was murder. The bed ground on which this evidence had been urged was on the ground of its being *res gesta*, that it was consistent as explaining the declaration of the prisoner that he deceased had adulterated with.

The declaration in question was part of the *res gesta*, and was receivable, but the evidence of the truth of the declaration was not *res gesta*, and was receivable

The Judge delivered his opinion, declaring the