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The Daily Press.

VOL. I. NO. 79. CINCINNATI, TUESDAY MORNING, MAY 24, 1859. PRICE ONE CENT.

AMUSEMENTS.

NEW NATIONAL THEATER

LEWIS BAKER, Sole Lessee; D. A. SARZEDAS, Stage Manager; W. C. TRUMBOUR, Treasurer.

The Manager takes pleasure in announcing an engagement, for a few nights with the wonderful
Martinetti Troupe, (formerly of the Ravels.)

TUESDAY EVENING, May 24, first night of the fairy comic pantomime of the
MAGIC TRUMPET.
Harlequin, M. Pratesi; Don Cassander, J. Martinetti; Clown, P. Martinetti; Magician, A. Grossi; Columbine, M'lle Desire.
To be followed by the
CHAISES EQUIPOISE.
By the celebrated Martinetti Family.
After which
LA ZINGARELLA.
By Mons. Pratesi and M'lle Desire.
To commence with the laughable farce of
PADDY MILES.
Paddy Miles, Mr. W. Melville; Dr. Coats, Mr. Hight; Mrs. Fidget, Mrs. Wilkins.
In rehearsal the grand fairy pantomime of "Mazulm; Or, the Midnight Owl."

Wood's Theater

CORNER SIXTH & VINE STS., CINCINNATI.

GEORGE WOOD, Manager; O. C. BRYANT, Stage Manager; P. B. UNDERS, Treasurer.
NOTICE—TIME CHANGED.—Doors open at 6½ o'clock; Performance commences at 7½ o'clock.
PRICE OF ADMISSION.—Dress Circle and Parquette, 50 cents; Family Circle, 25 cents.
Seats can be secured at the Box Office from 10 A. M. until 4 P. M.

Tremendous success of that favorite, acknowledged and highly-talented Comedienne,
MISS MAGGIE MITCHELL,
Second and last week of her engagement.

TUESDAY EVENING, May 24, will be presented the beautiful musical comedy of
THE PET OF THE PETTICOATS.
Paul.....Miss Maggie Mitchell
St. Pierre.....Mr. Collier
Job.....Mr. Eitsler
Overture.....Orchestra.
To conclude with
KATY O'SHIEL.
Katy O'Shiel.....Miss Maggie Mitchell
Duke St. Lorme.....Mr. Eitsler
Captain O'Lynn.....Mr. Collier
A great Surprise is in store for all—prepare for it.
In preparation, the new piece called "The Little Savage."

"We meet for Enjoyment."

THE COMET DANDING ASSOCIATION will give their First Grand Pic-nic on WEDNESDAY, May 25, at METROPOLITAN GROVE, ten miles down the river. The steamer CHAMPION No. 3 has been engaged, and will leave the foot of Walnut street at half-past 7 o'clock, A. M., stopping at Newport and the foot of Fifth street.
Warwood's Cotillon Band has been procured for the occasion.
Tickets, $1; can be obtained from the members of the Association or at the boat on the day of the Pic-Nic. (my23) R. H. KERR, Secretary.

SIG. DONETTI'S

—GREAT—
MONKEY AND BURLESQUE
DRAMATIC TROUPE.

COMPOSED ENTIRELY OF ACTING MONKEYS, DOGS AND GOATS, (as they have appeared in the principal Saloons of Paris, London, New York, Boston, Philadelphia and New Orleans,) in LAUGHABLE PANTOMIMES,
COMIC INTERLUDES,
TIGHT AND SLACK ROPE PERFORMANCES,
GRAND SPECTACLES,
EQUESTRIANISM, &c., &c.
With magnificent Costumes and Appointments, will exhibit at
Smith & Nixon's Hall,
For One Week,
Commencing MONDAY, May 23d; also on WEDNESDAY and SATURDAY AFTERNOONS, for Children and Families.
When last here, this wonderful Troupe drew to the above Hall the largest houses ever brought together in this city, and the Manager, relying on the additions and improvements since made in it, appeals with confidence to the amusement goers of Cincinnati, both young and old. Also,
Sig. Donnetti's World-Renowned
DIORAMIC DISSOLVING VIEWS,
As a grand finale to the Drama, WITHOUT EXTRA CHARGE.
The whole to conclude with the Terrific Ascention of the
Dog John Bull in the Fire Works!
☞Doors open at 7 o'clock. Performance to commence at 8. Afternoon Performances—Doors open at 1½; to commence at 3 o'clock.
☞Admission, for Ladies and Gentlemen, 25 cents. For Children, this being an entertainment peculiarly attractive and fascinating to families, Tickets will be put at the unusually low rate of 15 cents.
☞To relieve the Ticket Office at the Door, Tickets can be procured during each day at Messrs. Peters & Sons' Music Store, and at entrance to Messrs. Smith & Nixon's Piano Rooms. my19-1w.

Fair

—AT—
MELODEON HALL.

The Fair for the Benefit of St. Aloysius Orphan Asylum, commences MONDAY, May 23, 1859, and will continue for ten days.
All friends of poor Orphans, and the public generally, are kindly invited to attend. A good Band of Music has been engaged. Refreshments of all kinds will be on hand. Admittance 10 Cents.
By order of Committee,
my21-t JOS. RAMLER, Secretary.

WESTERN MUSEUM.

NEW AND INTERESTING ENTERTAINMENT EVERY DAY AND EVENING.
THE LARGEST COLLECTION OF ANTIQUITIES IN THE UNITED STATES.
N. E. Corner Sycamore and Third Sts.

One Week Only.

MADAME BLANCHE THE world-renowned Planet Reader and Female Botanical Physician, has arrived and taken rooms at No. 40 West Fourth street, where she can be consulted on all kinds of business. Also on persons born in March, April, May, June, September, October and December, she will select numbers in any legalized lottery that will draw capital prizes. Parents having children born in these months, can get their numbers and draw prizes on them.
The Madame is a thorough physician, and cures without fail, (of which she has ample proof,) all diseases of females, inflammation, ulceration, and falling of the womb, coughs and colds. Also, all the diseases of the spine, curvature of the spine, cured at a trifling cost, without injury to the general health, and in a very short time. Also, all kinds of chronic diseases that human flesh is heir to; the worst form of womb disease cured in from four to six weeks.
For particulars call on the Madame, at her rooms No. 40, or see small bills. Office hours from 9 A. M. to 9 P. M. Terms—Reading the planets: ladies, $1; gents, $2; lottery numbers, $3; talismans, $10 to $20. Treating of diseases, extra. my12-cm

JEFFERSON vs. FAIRFIELD.

THE VENDERS OF THE FAIRFIELD County Butter would make people believe, that there is no other place where BUTTER can be made. But, the patrons of J. & B. L. CREW, Grocers, South-west corner of Elm and Third streets, can testify to the superior quality of their Jefferson County Butter.
Messrs. Crew's facilities for receiving Butter, are such, that they can supply any demand, large or small. Dealers and families give them a call. my21

MARBLE WORKS,

CORNER PLUM AND EIGHTH STS.
WM. BROOKFIELD & SON WOULD call attention to their large stock of Marble Mantles, Monuments, and Posts to mark corners of Cemetery lots, of every size of Italian and American Marble. my4-amo

BUY YOUR RIBBONS

At No. 30 West Fourth Street.

AN IMMENSE STOCK JUST OPENED.

J. LeBOUTILLIER & BROS.
my29

STRANGER'S GUIDE.

THE AVONDALE AND READING ROAD OMNIBUSES leave their Office, No. 171 Walnut street, at 8, 10, and 11 A. M.; at 2, 4:30, and 6 P. M. Sundays, 10 A. M. and 5 P. M. my1-ly*

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Applegate & Co., No. 45 Main st.
Anderson, Gates & Wright, 112 Main st.

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J. J. Butler, 39 Vine st.

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Dr. W. H. Beck, 87 Broadway.
Dr. J. C. Beck, 87 Broadway.

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Hedges, Free & Co., 6 Main st.

WATCHES AND JEWELRY.
Beggs & Smith, 6 West Fourth st.
Oskamp & Bro., 108 Main st.

WINDOW SHADES AND OIL CLOTHS.
Snowden & Otte, 21 West Fourth st.
Sawyer & Kirk, 8 College Hall, Walnut st.

WIRE CLOTH AND PRODUCTS.
S. G. Burnett & Co., 27 Walnut st.

STEAMBOATS.

FOR NASHVILLE.
The fine passenger steamer LIGHTFOOT, J. A. Frazier, Master, will leave THIS DAY, at 4 P. M. For freight or passage apply on board. my18

PEOPLE'S LINE
PLYING BETWEEN
Cincinnati, New Richmond, Ripley and Maysville.
LANCASTER, No. 3, Capt. J. CONNER, L. H. MORRIS, Clerk, leaves from foot of Walnut street, TUESDAY, THURSDAY and SATURDAY, at 12 o'clock, M. The Lancaster has entered permanently in the trade. For Freight or Passage apply on board.

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R. S. NEWTON, M. D.,
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O. E. NEWTON, M. D.
OFFICE—No. 90 West Seventh street, between Vine and Race. RESIDENCE—No. 53 Seventh street, between Walnut and Vine. OFFICE HOURS—7½ to 8½ A. M.; 12½ to 2½ P. M.; 7 to 8 P. M. 231

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Drs. HAMLEN & SMITH,
DENTISTS,
No. 3 West Fourth St.
178

DR. S. WARDLE,
DENTIST,
Office No. 138 West Fourth street,
CINCINNATI OHIO 3

SALOONS, &c.

THE PLACE,
No. 107 MAIN STREET.

FISK & EDGAR,
CINCINNATI. my19

INDIAN QUEEN COFFEE SALOON
No. 59 East Pearl.
Keep constantly on hand, Hot Coffee, Tea, Chocolate, Beef Steak, Ham and Eggs, &c., &c., &c.
BESUDEN & RICE. 106

G. W. TAGART & CO.,
JOB PRINTERS,
-No. 19-
West Fourth Street,
OPPOSITE THE DAILY PRESS.
ap27-bw

JOHN BONER,
(SUCCESSOR TO PETER SMITH.)
At 36 West Fifth st.,
Has constantly on hand a Large Variety of
FANCY GOODS, TOYS, CHINA,
FANCY BASKETS,
Fishing Tackle, Military Goods, etc.,
WHOLESALE AND RETAIL,
AT VERY LOW PRICES.
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PULLAN, HATFIELD & BROWN,
WHOLESALE GROCERS
AND AGENTS FOR
CINCINNATI STEAM SUGAR REFINERY
No. 55 Columbia (or Second) street.
☞Refined Sugars and Sirups always on hand.
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LANE & BODLEY,
MANUFACTURERS OF
Wood-Working Machinery,
AND CIRCULAR SAW MILLS,
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MITCHELL & RAMMELSBERG,
WHOLESALE AND RETAIL
Furniture Ware Rooms,
No. 99 WEST FOURTH STREET,
NEXT TO POST-OFFICE, CINCINNATI.
☞Factory corner John and Second sts. ap13-cm*

THE PRESS.

Printed by "Caloric."

Departures of Trains.

INDIANAPOLIS AND CINCINNATI—5:20 A. M.; 12:00 M.; 6:00 P. M.

CINCINNATI, HAMILTON AND DAYTON—Indianapolis and Cleveland, 6:00 A. M.; Sandusky Mail, 8:00 A. M.; Sandusky, 4:30 P. M.; Accommodation, 6:00 P. M.

LITTLE MIAMI—Cleveland and Pittsburg, 6:00 A. M.; Cleveland, Pittsburg and Bellair, 8:00 A. M.; Columbus Accommodation, 4:40 P. M.; Cleveland, Pittsburg and Bellair, 11:30 P. M.

OHIO AND MISSISSIPPI—St. Louis, 8:30 A. M.; Louisville, 3:00 P. M.; St. Louis, 8:00 P. M.

PITTSBURG, COLUMBUS AND CINCINNATI (Steubenville Short Line)—East Front-street Depot—6:00 A. M.; 8:00 A. M.; 11:20 P. M.

CLEVELAND, COLUMBUS AND CINCINNATI—East Front street—6:00 A. M.; 8:00 A. M.; 11:00 P. M.

CINCINNATI AND MARIETTA—6:15 A. M.; 3:30 P. M.

CENTRAL OHIO—From East Front-street Depot—8:00 A. M.; 11:30 P. M.

Arrivals of Trains.

INDIANAPOLIS & CINCINNATI—9:40 A. M.; 3:30 P. M.; 9:30 P. M.

CINCINNATI, HAMILTON AND DAYTON—7:45 A. M.; 10:47 A. M.; 6:40 P. M.; 10:10 P. M.

LITTLE MIAMI—7:30 A. M.; 1:23 P. M.; 7:18 P. M.; 10:45 P. M.

MARIETTA AND CINCINNATI—10:20 A. M.; 9:15 P. M.

OHIO AND MISSISSIPPI—7:00 A. M.; 1:30 P. M.; 10:10 P. M.

☞See "Local News" on Third Page.

THE MOUNTAIN MEADOWS MASSACRE—A TALE OF HORROR.—One of the dread mysteries of Mormondom which the United States Judges in Utah are endeavoring to unravel, greatly to the consternation of the "Saints," is the horrible massacre, at Mountain Meadows, of one hundred emigrants, on their way from Arkansas to California. At the time, we are told, that the unfortunate victims fell under the weapons of the Canosh band of Paravant Indians; but various subsequent developments have established the conviction that these were merely tools in the hands of the Mormons themselves. An eye-witness of the transaction has been found at last, and we have received, from an official source at Salt Lake, a statement of his account of the affair. He says the massacre was designed and carried into execution for mere purposes of plunder, to get possession of the thirty wagons and seven or eight hundred head of cattle belonging to the emigrants. It will be remembered that our Salt Lake correspondent, last summer, presented some evidence sustaining this view—but still the subject was left partially in doubt. Now, the whole fearful truth stands revealed, presenting one of the most shocking cases of cruelty and crime that has ever stained the records of a civilized community. The witness says:

While I was residing at Cedar City, I was called upon by Messrs. Isaac Hight, John D. Lee, and John Higbee—all three Mormon military officers—to go a few miles out South of the city, which I did. There I found thirty or forty others, selected from different settlements. We were addressed by the above officers who told us that they had sent Canosh, the Paravant Chief, with his warriors, to destroy the Arkansas company, and that if he had not done it we must: and that if any of us refused, or betrayed them to the Americans, they would take good care of him hereafter. Here we were all ordered on the quick march to the Mountain Meadows, where we found the emigrants, with their wagons formed into two circles, with their families in their midst, trying to defend themselves against the merciless and blood-thirsty savages, who lay around in ambush, killing them as opportunity presented.

Hight and Lee formed their men into two companies, and made a precipitant rush at the poor defenseless victims. The men inside of the circles rose up, but instantly fell dead or mortally wounded, under the fire of the wretches who so cruelly sought their lives. Nothing remained to be done, except to kill the frightened females and their innocent children clasped in their arms. Others clung with desperation to their bleeding, dying husbands, pleading in vain for mercy at the hands of the 'Christians' who controlled the no more savage Indian assailants.

"John D. Lee now sent to the Indian Chief and his men in ambush to come out and finish the survivors, directing him to spare only the little children, who could not talk. The savages came instantly, with knives drawn, and speedily finished the bloody work. The scene beggars description. The demoniac yells of the savage monsters, mingled with the shrieks and prayers of helpless mothers and daughters, while the death-blows were dealing with unflinching hands, and scalps were torn from heads which bloomed with beauty and innocence but a few hours before. Now the work of butchering ended. The murderers threw the dead into two heaps, covered them slightly with earth, and left them 'to feed the wolves and birds of prey,' and returned home with their booty of cattle, and wagons, and a great quantity of goods, etc."

The narrator of the above facts also furnishes the following statement of crimes within his knowledge. He says:

"G. D. Potter, William Parrish, and Beetson Parrish, were all murdered on the road to Springville, in the month of March, 1857. All that is requisite to bring the murderers to justice, is a thorough investigation by the United States Court.

"Henry Forbes came into Springville last winter, from California, and put up with J. Terry, one of our bishop's policemen. A short time after he was missing, and has never returned. His horse, saddle and revolver were sold by Terry, and put to his own use."

[This case was mentioned by our Salt Lake correspondent last summer, but at that time the name of the missing man could not be ascertained.—[ED. BULLETIN.]

Some eight or ten winters since, ex-Governor Everett, of Massachusetts, with the late Amos Lawrence, was in a sleigh, riding into Boston. As they approached a school-house a score of young boys rushed into the street to enjoy their afternoon recess. Said the Governor to his friend, "Let us observe whether these boys make obedience to us, as we were taught fifty years ago." At the same time he expressed the fear that habits of civility were less practiced than formerly. As they passed the school-house all question and doubt upon the subject received a speedy if not satisfactory settlement, for each one of twenty juvenile New Englanders did his best at snow-balling the wayfaring dignitaries.

A little girl about ten years of age, daughter of Paul Doran, switch-tender at the depot of the Sandusky, Dayton and Cincinnati Road, was run over by a freight car, Tuesday evening, and it is supposed fatally injured. Both arms were cut off, one near the shoulder and the other just above the wrist. She was playing on a side track upon which the car was switched, and was not discovered by the train men until too late to avoid the catastrophe. It is scarcely possible for the child to survive. *Sandusky Register.*

Miss Way and Professor Wilson left New Orleans, the 3d inst., in a balloon, came down too low, the anchor caught in a tree, and they had to remain all night, suspended at some forty feet above the earth, and not able to descend on account of the darkness. Finally, when day came, Miss Way let herself down, with the aid of a rope, and went in search of help. The balloon was got down safely.

LAW REPORT.

HAMILTON COUNTY DISTRICT COURT.

CHARLES COOK AND WM. SEITER (NOW CONFINED IN THE PENITENTIARY), GRANTED NEW TRIALS.—Wm. Seiter vs. the State of Ohio—Charles Cook vs. the same. Judge Brinkerhoff delivered the opinion of the Court. The cases were before the Court on writs of error, allowed by the Supreme Court and made returnable here. The object being to reverse the judgment upon the Common Pleas, and the sentence of imprisonment for life passed on these petitioners, on their being found guilty of murder in the second degree. The indictment was for murder in the first degree, and it charged the homicide as the joint act of Seiter and Cook. The cases were necessarily somewhat blended; and although the trials below were separate, the findings separate, and the writs of error separately prosecuted, the Court, so far as it was convenient, the cases would be considered together.

The duty of reviewing proceedings of this character was not a pleasant one. Where crime of some degree of enormity was committed, it was always a matter of regret that error should intervene to release parties from punishment or to delay it; and he (Judge B.) felt himself compelled to say, for the benefit of any young men who might be present, the Court felt no special sympathy for those petitioners, and the evidence of their character and conduct, as embodied in the bill of exceptions—their habits of idleness, of drinking, and, above all, their evident familiarity with the den of the strange woman whose house, as it was wisely said, was the way to hell, leading down to the chambers of death, all rendered it very apparent that if it should happen these young men should be restored to their liberty, neither they nor society would be any special gainers by the restoration, unless they materially altered their courses of life. Notwithstanding the rules of criminal procedure, established as they had been by the wisdom of ages for the protection of innocence, must be maintained in their integrity; and without reference to the circumstances of the particular case before them they should look to the questions of law involved, without bias or favor. In that spirit they had endeavored to enter upon the consideration of the questions which this record presents. A number of questions had been raised and discussed by counsels which the Court did not deem it necessary to notice. They should notice such only as they deemed to be of a serious character.

First, as to the case of Seiter, it was alleged the Court erred in its charge to the jury, or rather in its refusal to charge as requested on a particular point by counsel for plaintiff in error. The Court here rehearsed, in a brief manner, the history of the case, remarking that in order to a proper understanding of the questions, it might be necessary to make a succinct statement of the facts as they transpired (according to the testimony) on the evening when the homicide occurred.

It would be seen from this statement of facts, which was but general, and by no means intended to give the details, that the testimony by which these facts were to be developed depended of necessity on the statement of the inmates of this house, and of Swift, who accompanied the parties that were involved in the transaction. The degree of credit, therefore, which was to be attached to the testimony of Swift, was a matter of vital importance to the defendants respectively.

It is alleged for error that the Court charged the jury thus: "It is contended by counsel for the State that the position of one of the witnesses, Swift, is that of an accomplice in this crime. It is for you to say, gentlemen of the jury, looking at all the circumstances, whether this is so or not." The principle of law is that the testimony of an accomplice in crime must be corroborated to make it entirely worthy of belief. It certainly would not do to convict on the testimony of an accomplice unless corroborated. The principle as well applies to the defense. The witness is before you, and his testimony. It is for you to judge of his credibility. In reference to accomplices our Supreme Court uses the following language: 'The evidence of accomplices in crime should be cautiously received, and in all cases suspiciously scrutinized by a jury.'"

In this part of the charge it is alleged the Court below erred; and this Court is unanimously of opinion it did err. It is frequently remarked, and, perhaps, it may be called a rule of evidence, that a conviction ought not to be on the unsupported testimony of an accomplice. Nevertheless, it would not be error if the jury, under all the circumstances, should take it on themselves to convict on the testimony of an accomplice alone. But be this as it may, the Court did not believe the rule applies in the case of a defendant. It is a rule for the protection of parties accused of crime; but it was a new principle to the Court, and they did not think it a correct one, that the fact of complicity in a crime on the part of a witness, was to be determined by a jury, when the party was not on trial for any such crime; and then, in this collateral way, if the jury shall first find him to be an accomplice, they shall disregard his testimony, unless it is corroborated. We think, therefore, in this charge the Court below erred.

Again, in the case of Seiter, the Court was requested by defendant's Counsel to charge the jury in these words: "Unless you are satisfied from the evidence that the defendant, Cook, inflicted the stab of which Kate Berean died, Seiter, in pursuance of an agreement with Cook, was either actually present, or near enough to render aid and assistance, and with the intent to render such aid in the act of homicide, you cannot in the present issue convict him of any grade of homicide;" all of which instruction the Judge refused to give. It will be seen from the statement of facts that this blow from the knife from which death ensued, was inflicted after Seiter and Swift had passed out of the gates, which were locked after them; and the instruction here requested by the Counsel, and refused by the Court, raises the question, whether under our Statute a party can be convicted as a principal in a homicide, or other criminal act, when he is neither actually nor constructively present, participating in that act. Though a party does not actually engage in the criminal act, if he is present aiding or abetting, or so near to the scene of the crime as to be able to render assistance, and with the view and intent to render such assistance should it become necessary; or where he is on the watch to give alarm in cases of impending interruption of the criminal act, in all such cases a party may be convicted under our statute as a principal in the crime. But where neither of these states of facts exist, although he may have procured the act to be done, he cannot be indicted as a principal, but should be indicted under the 36th section of the Crime's Act, for procuring the act to be done, that being a substantive and distinct offence from the act itself.

It is testified by some of the witnesses in this case that Seiter said to Cook "kill her Charley," accompanying the instruction with an approbrious epither. If it be taken for granted that he used these words, and, in pursuance of that direction and on account of it, Cook did kill her, Seiter could not be convicted under the issue made up under this indictment, but should be indicted and tried for procuring the murder to be done.

For these reasons the judgment and sentence of the Court of Common Pleas in the case of Seiter must be reversed, the judgment set aside, and a new trial awarded.

In Cook's case, the charge of the Court in respect to the credibility of accomplices, and leaving the question of fact as to whether Swift was or not an accomplice the jury, was the same as in the case of Seiter, and the same error intervenes. But there was an additional assignment of error in close connection with this point in Cook's case.

When Swift was on the stand the question was put to him by Council for the defendant whether there was any previous understanding or concert between himself and Seiter and Cook, as to going to the house of Mrs. Davis for the purpose of having a difficulty, to which the Prosecuting Attorney objected and the Court sustained the objection.

Now take this in connection with the charge of the Court in reference to the subject of accomplices. It will be seen that the testimony of Swift (who was a competent witness) as to whether he was an accomplice or not, or whether there was any agreement between him and his associates, was rejected and ruled out; He was not permitted to testify on that point, and yet in the charge of the Court the jury are told that if Swift was an accomplice they could not rely on his uncorroborated and unsupported testimony. It seems to this Court that this combination of facts was clearly error, and must have operated greatly to the prejudice of defendant; because, by this charge of the Court, suspicion, and even worse than suspicion, was thrown on the credibility of Swift, and yet when on the stand he was not permitted to testify as to the fact on which his want of credibility was to be based.

The remaining allegations of error in Cook's case are based on the charge of the Court, on the subject of self-defense. [The words of the charge were here quoted.]

It is claimed by counsel for plaintiff in error that by the proper construction of this portion of the charge, the doctrine is laid down that in no case can the justification or excuse of self-defense, be made available in a case of homicide, unless actual necessity for taking life exists, and that in all cases the jury shall be the sole judges of the actual necessity. This Court was not quite certain that this was a fair construction of the charge. It was susceptible of such construction, yet perhaps, it was not a necessary one, and on full reflection, he (Judge B.) was not disposed, as it was not necessary, to predicate error upon it. The entire Court, however, was of opinion that a somewhat modified statement of the law on that point would be necessary to its full and correct understanding; and that the excuse of justification of self-defense in cases of homicide might be made available in some instances where there was no actual necessity for taking life, provided, the party who resorts to it actually and honestly believes that he is in danger of his life, or of great bodily harm, and the jury find that the circumstances of the case were such as to justify and render rational such a belief, although no actual danger existed. Again, it was assigned for error that the Court, on the subject of self-defense, that a party claiming the benefit of that right, must not bring on the attack, but must himself be in the right, etc. If the balance of the charge, there did not appear any modification of the charge thus broadly stated; and by this statement the Court thought the jury were liable to be misled, left as it was, without an exception; because, if a party being in the wrong in the commencement of a fight, afterwards endeavors, honestly and vigorously, to get out of the combat, and retreats to the wall, while his adversary, then pursues him with deadly intent, and with deadly weapons, he may in that case, make available to himself the right of self-defense, even though he were originally in the wrong.

For these reasons the judgment would be reversed, and the verdict set aside.

Judge Carter, in a few remarks, expressed his dissent on the subject of self-defense; he thought a constrained and restricted meaning was put on the language of the charge. His object was to convey to the jury that an individual who claimed the right of self-defense must be himself in the right. He did not go into particular instances, as he deemed them inapplicable. As to the exclusion of the testimony of Swift on the subject of any agreement between the parties before they went to the house, it was excluded on the general principle that the defendant has no right to make testimony for himself on his own declarations.

In reference to the subject of accomplices, the Court did not use the term in its technical sense in the first instance, and they left the credibility at last to the jury, but made a suggestion that where a party was complicated in the crime, his testimony either for or against the prisoner, was to be viewed with care, and ought to be corroborated; and they did not say that the testimony of Swift, or of Seiter should be absolutely corroborated to render it worthy of belief. He had seriously considered the charge, and sincerely believed every particle of it to be the law. It struck the mind of the judge on the trial, and he believed the minds of the jury, that the knife had been in the hands of Seiter before it was used by Cook, and that it was procured by him, and if so, he was a principal, and not an aider an abettor.

Judge Johnston here rose, and protested against any remarks being made in the presence of so large an audience that Seiter had anything to do with this knife, when there was not the smallest evidence of anything of the kind. It was sheer imagination.

Counsel for plaintiffs in error—Judge Matthews, Judge Johnston, and T. A. Logan.

For the State—T. Gaines and Wm. H. Kerr.

Various Items.

Three prisoners broke from the Zanesville jail on the evening of the 18th.

The Perrysburg Journal says that more corn will be planted in Wood County this season than ever before.

Philosophy easily triumphs over the misfortunes of the past and future; but misfortunes of the present is triumphant over her.

Forty-two boys, their ages ranging from six to ten years, were admitted as pupils into Girard College, Philadelphia, on Monday.

O. H. P. Brown having been suggested by the Cleveland Leader as a Republican candidate for Lieut. Governor, declines a nomination.

W. B. Rudd, of Sullivan Township, Ashland Co. has lost several fine Durham cattle by their eating hay affected with the ergot or blasted rye.

The Fremont Democrat of yesterday says, We understand that a Lodge of the Sons of Malta is to be instituted in this place next week.

Hon. R. J. Dawson, of Fort Wayne, Indiana, the Democratic candidate for Congress from his district, at the last election, died on the 16th inst.

Hon. John J. Crittenden and lady, were in Vincennes on Friday. Mr. C. and not visited the old "post" before since 1812, when he was there several weeks on the sick list as a soldier.

How long did Adam remain in Paradise until he sinned? said an amiable spouse to her husband. Till he got a wife, was the calm reply.

The Ohio State Journal Says that Rev. Mr. Norton, pastor of Trinity Church, will resign his charge of the parish, on account of ill health. The congregation will lose a most devoted, able and efficient minister.

Enter Bridget, with the mistress' favorite poodle wringing wet. "How is this, Bridget? How came Fido so very wet?" "An' faith, mam, an' it was little Tommy that had the little baste lashed to the end of a rowl, and was washing the windows with him."

"PICKING," ETC.—The Washington correspondent of the Press says that the office of Superintendent of Public Printing is worth twenty-five thousand dollars a year. The *salary* is only three thousand—the remainder, we suppose, is made up of "pickings and steal ings."

The boy upon foot can not bear to see the boy who is riding. And so it is with envy of a larger growth. We are always crying out "cut behind," in hopes of seeing some hanger-on, more fortunate than ourselves, knocked off his perch.

Charles Lindsey was drowned in the Sandusky river, near Fremont, on Wednesday, while trying to save some spiles belonging to the Fremont and Indiana Railroad Company which had drifted down by the late freshet.

The Shelby (Ky.) News states that the wheat crop in that county, is as promising as was ever known. The farmers are generally backward in planting corn, but with favorable weather, all will be right.

Charles Rogers, conductor on the Memphis and Charleston Railroad, was killed on the 16th, at Bray Station, by the cars being thrown from the track by cattle. Several passengers were severely wounded.

The Columbia Hotel, at Bristol, Va., was burnt on Wednesday night, together with nearly all its contents. The proprietor, Col. J. C. Grant, and his wife, barely escaped with their lives.

A man should advertise because it pays; be temperate because it conduces to health; discard the use of tobacco because it is indecent; marry because it makes him happier, and pay the printer because it is his duty. So says a sensible wag at our elbow.

One afternoon last week four boys, who were bathing in the Delaware, off the end of Reed-street wharf, Philadelphia, raked up from the bottom an old canvas bag containing about $400 in doubloons. The coins generally bore old dates.

A fire broke out at Williamsport, Pa., at half-past nine o'clock on the night of the 16th, by which five dwellings and two Presbyterian churches have been destroyed. The fire was raging at eleven o'clock, and further destruction of property was feared.

The heaviest reward ever offered for the detection of crime in this country is that announced by the insurance companies of Boston, for the arrest and conviction of the incendiary who set fire to the mechanical bakery in that city some time since. They have offered $10,000 for detecting the miscreants.

Thirty emancipated slaves from Western Virginia, *en route* for Liberia, under the control of the agent of the Colonization Society, started for Norfolk by way of Petersburg. Only twelve arrived, the others escaped, preferring slavery to freedom.

The Louisville Democrat says, Dr. Fowlkes, President of the Southern Pacific Railroad, has got the work out of difficulty by his indomitable perseverance. It will take much less now to go on with it. Success to his efforts.

The Flemingsburg (Ky.) Legion has it from good authority that many people in the mountain counties of the State, on account of the shortness of their crops last season, are now seriously suffering for want of the necessaries of life, and calls upon all who have it to spare to contribute to their relief.

A bright and beautiful bird is hope; it will come to us amid the darkness and sings the sweetest song when our spirits are saddest; and when the lone soul is weary, and longs to pass away, it warbles its sunniest notes, and lightens again the slender fibers of our heart that grief has been tearing away.

The St. Louis Democrat says: "The Hannibal and St. Joseph Railroad is now carrying passengers from St. Louis to St. Joseph for $7 00, and second class fare $3 00. The company have established a line of boats to Omaha; and the Platte Valley now runs daily between St. Joseph and Leavenworth, touching at intermediate points, and connecting with the morning train from St. Jo."

Most truly did Theodore Sedgewick say that it is the man of robust and enduring constitution, of elastic nerve, of comprehensive decision, who does the work of life. It is Scott with his manly form. It is Brougham with his super human powers of physical endurance. It is Franklin at the age of 70, camping out on his way to arouse the Canadas, as our hardiest boys now of 20 now camp out on the Adirondook or on the Miramachi. It is Napoleon, sleeping four hours and on horseback twenty. It is Washington with his splendid frame and physical strength.

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Important Testimony.
From Hon. J. W. Chapman, Judge of First Judicial District, Indiana.
MADISON, Ind., 1858.
Dr. GEO. W. PHILLIPS, Cincinnati, Ohio—Having used several small bottles of your "Cough Syrup," personally and in my family, and having seen its effects on others, in numerous instances of severe cold and cough, I most cheerfully recommend it as an infallible remedy in all such cases. If this Syrup were in general use, I confidently believe a large majority of the colds, accompanied by coughs, that now terminate in Consumption, would be effectually arrested. In fact, I can see no necessity for any, who can obtain this remedy, being thus afflicted.
Respectfully yours, J. W. CHAPMAN.
Read This, Also.
From Hon. B. Storer, LL. D., Judge of the Superior Court of Cincinnati.
CINCINNATI, Dec. 5, 1858.
Dr. G. W. PHILLIPS—Dear Sir: Your Cough Mixture has been used with great success in my family. I believe it to be a most safe and efficacious preparation for the cure of ordinary colds, as well as of chronic affections of the throat and lungs. Many of my neighbors, who have felt the good effects of this medicine, assure me that they regard it with great favor.
B. STORER.
DR. G. W. PHILLIPS,
Sole Proprietor.
Sold Wholesale by Suire, Eckstein & Co.; John D