The Pittsburgh Gazette.

SATURDAY, OCTOBER 7, 1865.

CITY AND SUBURBAN.

THE BOYD'S HILL MURDER.

Frecke and Marchall to be Tried Separately.

MARCHALL ON TRIAL.

Testimony for the Prosecution.

THE PRISONER CONVICTED.

According to arrangement, the case of the Commonwealth, vs. August Frecke and Benjamin Bernhardt Marchall, indicted for the murder of an unknown man, on Boyd's Hill, Eighth Ward, on the night of the 23d of August last, was taken up in the Court of Oyer and Terminer yesterday morning, at nine o'clock, Judges Sterrett, Mellon and Brown presiding.

THE MURDER.

Our community was never more shocked than upon the announcement of this murder, and the mystery which surrounded it kept the people in a state of excitement for weeks. The victim was unknown, his terribly mutilated body interred without identification, and at this time nothing is known in reference to his name or place of residence. The murder was one of the most atrocious in the annals of the county. The particulars are too fresh in the memory of our readers to justify repetition at this time, further than will become necessary in reporting the trial.

THE PERPETRATORS.

Marchall and Frecke, the alleged perpetrators of the horrid deed, were formally arraigned on Thursday, both pleading "not guilty" to the indictment. The former it will be recollected, has made a confession of his guilt, in which he implicates the latter, and describes how and for what purpose the murder was committed. This confession was made before the Mayor, and but recently published at length in the *Gazette*. Marchall was arrested on the 26th of last month on a charge of burglary, and suspicion fastened on him as being connected with the murder, by the discovery of bloody clothing at his house in the Eighth ward. A few days subsequent Frecke was arrested at McKeesport.

INTEREST IN THE TRIAL.

Soon after the assembling of court, promptly at nine o'clock, all the available standing and sitting space was occupied with spectators, but the court officers, as directed, excluded from inside the bar, all but attorneys, jurors, court attaches, and members of the press. At fifteen minutes to nine o'clock the prisoners were brought in by Warden White and placed in the dock.

MOTION FOR SEVERANCE.

District Attorney Kirkpatrick, for the Commonwealth, moved the court that the prisoners be tried separately and not jointly, without assigning any reason. This motion was resisted by J. H. Miller and J. J. Siebenick, Esqs., counsel for Frecke, and by Thomas Ewing and J. H. Slagle, Esqs., representing Marchall, mainly upon the ground that no reason had been given for the motion, and that a severance in the trial was not demanded by the defendants and was against their wishes; also, that the prisoners were indicted and had been arraigned jointly.

Judge Sterrett said that ordinarily, where prisoners were indicted jointly they were tried jointly, but a severance was discretionary with the court. It was necessary for the District Attorney to give a reason for his motion, as it was presumed that officer's motives in asking a severance were for the best interests of the Commonwealth.

After a brief consultation, the court made an order allowing a separate trial, when the District Attorney elected to try Marchall first. Frecke was then remanded.

THE TRIAL PROCEEDS.

The clerk, Mr. Petty, now said: "Prisoner, stand up. How will you be tried?" Marchall responded: "By God and my country." The clerk then said: "May you have a safe deliverance."

The list of jurors having been called over, the prisoner was informed that the persons whose names had been called were those who were to pass between him and the commonwealth in his trial upon the charge of murder, and also that he had a right to twenty peremptory challenges and as many more as he could show cause for.

EMPANNELING THE JURY.

The empanneling of the jury was commenced. The first juror called, Alexander J. Edmundson, had conscientious scruples as to rendering a verdict, the consequences of which would be death, and was challenged "for cause" by the commonwealth.

John Gemmer, when asked whether he had formed or expressed an opinion as to the guilt or innocence of Marchall, said "I don't talk English very well, and don't know." Challenged "for cause" by *defense*.

Robert Inder, of Pitt township, had formed no opinion about the case, and was sworn as the first juror.

William Kennedy, of the Sixth ward, had formed no decided opinion. Accepted and sworn.

Alexander Speer, of the city, had read all the morning papers containing accounts of the murder, and believed that this might influence his judgment, but the opinion he had formed would not interfere with his action as a juror. Challenge for cause by defense not sustained. He had no conscientious scruples about the death penalty. Sworn, as third juror.

William Binkey and David Yarnell, of Allegheny, were accepted and qualified, making five jurors in the box.

Richard Perry, of Monongahela borough, was called, but did not answer.

John Young, of Wilkins township, had formed an opinion that the prisoner was guilty, and would base a verdict upon what he had read of the murder. Challenge for cause sustained.

Henry Bristenstein, of Marshall township, and John Sill of Versailles, were chosen as the sixth and seventh jurors.*

Henry Johns, of Pitt township, had formed an opinion which would interfere with him in rendering a verdict. Challenged for cause.

William Morrow, of Allegheny, had not formed an opinion, and had no conscientious scruples about hanging. His look his seat as juror number eight.

Joseph Lippincott, seventh Ward, "dodged the draft" for jurors.

A. A. Jones, 7th ward, had formed no opinion but had expressed one. Challenged peremptorily.

John F. McKnight was accepted as the ninth juror.

Ralph W. Means, Pitt township, had read the newspaper accounts of the murder, but could go into the jury box unprejudiced. Sworn.

James Kennedy, Fawn township, was opposed to the death penalty, but would render a verdict according to the law and the evidence uninfluenced by such opposition. The court decided the juror competent. Challenged peremptorily by the District Attorney.

David Hamilton, of Birmingham, was peremptorily challenged by the defense.

Nicholas Voeghley, of Reserve township, was excused on account of ill-health.

Robert Ellis, of Lawrenceville, was qualified as the eleventh juror.

Wm. Bagaley, of Allegheny, had formed no positive opinion, and had none which would influence him in the jury box. He was sworn, and took his twelfth seat at five minutes to eleven o'clock.

THE INDICTMENT READ.

The clerk called over the names of the jurors, and after directing them to "hearken to the cause of the prisoner," read the indictment, which is in the usual form, covering three pages.

OPENING TO THE JURY.

District Attorney Kirkpatrick opened the case to the jury, detailing at length all the circumstances of the murder, and announcing the nature of the testimony and the order in which it would be presented. The murdered man was a German emigrant, whom Marchall and Frecke fell in with at New York and induced to come to this city. He had a gold watch, and the murderers believed, considerable money, which it was determined to deprive him of. The murderous design was formed by the prisoner and Frecke on the cars between Harrisburg and Altoona, whilst traveling in company with their victim. They arrived in the city on the emigrant train, between ten and eleven o'clock on the evening of the 23d of August, and in pursuance of their design the murderers at once proceeded over the hill through the Third and Sixth to the Eighth ward, and on to the elevated ground at the head of Magee street known as Boyd's Hill, committed the deed, Frecke using the knife and Marchall a piece of iron. After the deed had been perpetrated, the parties robbed the body and left it lying on the ground, where it was discovered about daylight. The circumstances attending the arrest of Marchall and Frecke were also narrated to the jury.

THE EVIDENCE.

Dr. George McCook, sworn—I was called upon by the Coroner on the 24th of August, to make an examination of the body of a man murdered on Boyd's Hill. I made the examination at Devore's undertaking establishment, on Grant street. I found four wounds, either of which were fatal in their character. I found one wound on the right side, which passed through the liver. Also another, lower down on the same side, through which I passed my finger and could touch the bone of the hips. This wound would have killed any man. There was a wound also upon the opposite side, inflicted also with a knife. I also found an extensive wound, inflicted with a blunt instrument, upon the upper and front part of the head and face. The bones of the nose and upper jaw were broken in, fractured. No one could recover from such a wound. The man's throat was cut to the bones of the neck, an illustration of barbarism itself. I only examined four wounds.

Cross Examined—I think the murder was committed about twelve o'clock, or middle of the night. Judged this from the appearance of the body. The large wound in the back or side, tended upward. If no other wound was inflicted, the cutting of the throat was sufficient.

MAYOR LOWRY'S EVIDENCE.

James Lowry, Jr., sworn—I am Mayor of the city. On the morning of the 24th of August, I discovered the body of a murdered man on Boyd's Hill, at the head of Magee street. There were but four or five persons present. It was removed by my order to Devore's, where I witnessed Dr. McCook's examination.

Cross-examined—I first saw the [illegible] about half-past five o'clock [illegible] the dead body. Wm. Cl[illegible]son, Coroner, testified to seeing the [illegible] at Devore's and Dr. McCook examined it.

MARCHALL'S CONFESSION.

S. F. Vonbonhorst, sworn—I am postmaster of the city. I was at the Mayor's office on Sunday morning, Sept. 24th. Frecke was brought in while I was there. I speak German. Frecke was also brought in. Marchall was cautioned not to say anything which would criminate himself. What Marchall said was afterwards taken down in writing. Marchall was cautioned at your (District Attorney's) request, and I repeated it to him in German. The statement was reduced to writing by Mr. Snowden, the Mayor's clerk.

District Attorney—I now propose to ask witness what Marschall said previous to the statement which was reduced to writing.

Mr. Ewing—We object. Defense was allowed to cross-examine witness at this point.

Cross-examined—I saw Marchall on the previous day, in his cell in the tombs. I did not speak to him then. The talk with Marschall on Sunday, was had in the Mayor's back office. The Mayor, his clerk, Mr. Snowden, Mr. Herries, reporter of *Commercial*, John W. Riddell, Esq. Ass't. District Attorney, Mr. Kennedy, of the firm of Gracey and Kennedy, Mr. Reese, engine builder, and a gentleman connected with the *Dispatch*, were present. No counsel or adviser of Marschall was there. He was brought in by two policemen. He made his statement so that Frecke could hear. I propounded to him questions in German. Previous to being cautioned, he may have been questioned and made statements. I think he was in the room about four hours. I am not aware that there was a previous statement, and that he (prisoner) was asked to repeat it. He would make statements and then be questioned by the Mayor, and others. Mr. Biddle, I now recollect, was not present; it was on Saturday that he was there. I asked Marchall some questions of my own volition. There were no questions asked Marchall until he had made a narrative statement. After his narrative, such questions were asked as were suggested by it. I understood that Marschall had made a confession on Saturday. The confession on Saturday was first made generally, then repeated and reduced to writing.

The District Attorney proposed to interrogate witness as to a statement made by Marschall distinct from his confession, and prior thereto.

The Court did not see the necessity, as witness had testified that the confession had been reduced to writing.

The direct examination was resumed: The first statement was in German, and interpreted by me to Mr. Snowdon, who reduced it to writing in English. It was read to Marschall, and he said it was correct.

Joseph Snowdon, sworn—I am Mayor's clerk. I reduced Mr. Marschell's confession to writing (interpreted by Mr. Von Bonnhorst. (Confession produced.) This is the paper, my own hand writing.

Mr. Ewing—Was Marschall sworn?

Witness—No sir.

Dist. Attorney—If he had been sworn, we could not have offered the confession.

Cross-examined—The Mayor principally conducted the examination of Marschall. Ex-Mayor Weaver was also present, but not at the first. When about to commence his statement the Mayor said: "Now Ben. (Marchall) go on." When the paper was read to Marchall he suggested alterations, and some interlineations were made.

The District Attorney now offered the confession.

Mr Ewing suggested that it was adjourning time. He had some objections to offer, and desired a little time.

Court took a recess till half past one o'clock.

EVIDENCE AND ARGUMENT CONCERNING THE CONFESSION.

The court re-assembled at half past one o'clock, but in consequence of the non-appearance of Judge Mellon, the case was not resumed until his arrival. It is required by law that two of the law Judges shall preside in homicide cases.

We do not wish to Jenkins-ize, but will venture a description of Marchall's appearance, and thus employ the leisure time occasioned by official tardiness.

The prisoner is a man about six feet one inch high; a powerful and well knit frame, indicating of great muscular strength. His eyes are small but very black and piercing, forehead medium, hair black, eyebrows slightly protruding, broad, square jaws, neck very thick and massive, ears very large; the lips and mouth indicate great firmness and determination. The *foul ensemble* of the prisoner produces the impression upon the mind of the spectator that the animal passion and determination revealed in his features would render him a very formidable and dangerous man, if his resentment was aroused, or if he had made up his mind to do anything.

At five minutes before two o'clock, Judge Mellon took his place on the bench.

District Attorney—I now renew the offer made at the close of the morning session, the "confession" of the prisoner.

Mr. Ewing—We desire to examine Mayor Lowry and others.

District Attorney temporarily withdrew his offer, and called

James Kennedy, who testified that he was present when Marchall confessed. The first thing said was the caution of the Mayor, to the prisoner, not to say anything that would criminate himself.

Cross examined by Mr. Slagle—The exact words said to Marchall, as near as I can recollect, were: You need not make any statement that will convict yourself. This was said by the Mayor, and repeated by Mr. Von Bonnhorst in German.

Mr. Slagle—What was said about his statement, or what was said of its subject?

Witness—The Boyd's Hill murder was spoken of. There were some twelve or fifteen persons present.

Jos. A. Butler, Alderman of the 6th ward, was next called—Was present when the confession was made. Mayor Lowry said: "Now Marschall, you have already made a statement in this matter, and I want you to make it in the presence of Frecke." Mr. Von Bonnhorst then came in, and the Mayor requested him to tell Marschall in German, not to say anything to criminate himself, unless he chose. The Mayor had previously said that Marschall and Frecke were about to be brought in, and desired us, (those who were present) to remain.

Cross-examined by Mr. Slagle—I have given the Mayor's exact words as near as I can. There was some conversation about a previous statement having been made by Marchall, and I recollect of his being asked whether it was correct or not.

J. P. Mercer, sworn—I am a German, and one of the Mayor's police. Was present when Marchall was brought into the Mayor's office and made his confession. After he was before the Mayor, he (Marchall) said, "Now Mr. Marchall I want you to tell all you know about the Boyd's Hill murder, in the presence of these gentlemen, and I don't want you to say anything to criminate yourself." He said this three or four times. Mr. Von Bonnhorst repeated in German what the Mayor said.

Cross-examined—There was no reference made, as far as I know, to a previous statement. Marchall was arrested on the Tuesday night previous to the Sunday on which he confessed to the murder. Part of the time he was in jail, and the remainder in the tombs. I had no talk with him, and the Mayor would not allow any of the officers to interfere with him.

Seth Wilmot, sworn—I am a member of the Mayor's police. I assisted to bring Marchall from the tombs to the Mayor's office on the morning of the 24th of September, for the purpose of telling his story about the Boyd's Hill murder. The Mayor said to him: "Ben, I want you to tell all you know about this murder, I don't want you to say anything to criminate yourself." The Mayor repeated this several times, and then told Mr. Von Bonnhorst to repeat it in German, so that he (Marchall) would understand it distinctly. Mr. Von Bonnhorst then spoke to Marchall.

Cross-examined—On Saturday evening Marchall requested me to tell the Mayor, that he (Marchall) wished to speak with him. He did not say about what. I had no conversation with Marchall about the murder, and up to this time had conversed with him only about stolen goods. I had told him of the arrest of Frecke before he sent for the Mayor. I believe I was the first officer Marchall spoke to about stolen goods.

THE CONFESSION AGAIN OFFERED.

The District Attorney offered the confession of Marchall in evidence again.

Defendant's counsel objected and proposed to prove by Mayor Lowry and others, that the defendant had been arrested some ten days previous to the time of the alleged confession on charges of burglary; that after examination he was sent to jail, and returned to, and held and kept in the lock-up at the Mayor's office, and after some days confinement, he was charged with the murder now in question—that he was repeatedly examined and pressed by the Mayor and officers to state what he had to do with the crime—that he was, by those in charge of him, told that Frecke had, and one Miller had testified that he, Marchall, had committed the murder, and that he might as well confess—that they had proof on him, and they would send him to jail for it, and other matters to the same import—and that under the pressure of intimidation and inducements, and under these circumstances, Marchall was induced to make a statement or confession to Mayor Lowry, and this previous to the time that the written confession now offered by the Commonwealth was given—and that this written confession or statement was given in pursuance of the previous confession formerly obtained in the illegal manner aforesaid—and they offered to show other facts and circumstances tending to show that the alleged confession was obtained by intimidation and improper and illegal means.

The court approved this offer.

HOW THE CONFESSION WAS MADE.

Mayor Lowry recalled and [illegible] MADE. for defense—Cannot [illegible] examined by counsel the arrest of Fr[illegible] remember the exact date of a charge a[illegible] prisoner. He was arrested on the [illegible] burglary, and committed for a hearing. He was in jail a few hours, I believe, and then removed to the lock up. When he was brought back I had a number of persons, whose houses had been broken into, see him. I thinks I permitted but two to see him, with myself, in the tombs. Others came, but were not admitted. Nothing particular occurred when the persons went to see Marchall. I questioned him. I was concerning a burglary that had been committed at the wholesale house of Mr. Baker on Liberty street some weeks previous; he acknowledged his guilt of this, and did not attempt a denial. I made no statement as to him or assumed to charge him with being the murderer. He closely had been seen lurking about the premises. I had him in my office twice previous to the Sunday morning referred to. Saturday afternoon, Sept. 23d. Previous conversations with him took place in my private room. First charged him with the murder on Friday afternoon, Sept. 22d—it may have been next morning. I do not know that I charged him directly with the murder. I do not think Marchall himself first gave indications of guilt, or circumstances tending that way were developed. Next conversed with him about the murder on Saturday evening. The information for murder I think was made on the Thursday following, probably later. I introduced the subject to him by saying that there was a more serious charge against him, and that the charge of burglary, compared with it, would sink into insignificance. Did not ask him then, to say what he knew about the murder, and did not at that time ask him about the murder. I had proof against him. Did not charge him with the murder on Saturday evening. Did not then say that I had proof to convict him. About eight in the evening I sent an officer to the tombs to see if Frecke and Marchall and his wife had their suppers. The officer who returned the keys to me said that Marchall wished to see me. I immediately went out, opened the lock-up and shut myself in with Marchall and his wife, who occupied separate cells. I did not go into the cells, but remained outside. Marchall seemed to be quite communicative, and in a much more softened mood than he was on the day previous. He asked to have his wife removed, and said that he wished to talk with me. After his wife was removed, I said, "Marchall what do you wish to say to me?" I told him that we had arrested the man Frecke—that we had been hunting for him in New York, but had found him at McKeesport—that he (Frecke) had made a statement to me that he had been to New York since the (Marchall) was a stranger, answering the description of the murdered man, and that Marchall had murdered him. I told Marchall that Frecke had said to me, I asked Marchall what time it was. I told him from New York. He said about ten o'clock. Did not tell him that I was going to send him to jail. After telling him what Frecke had said, he burst into tears, and said Frecke was a liar, he had men. I said, now Marchall, I know of, and I want you to tell me. If you will, all about himself. I said that a young man had been murdered, that we did not know who he was, that we had found his clothing and property in his (Marchall's) and Frecke's possession. I stated further that we were endeavoring to learn the name of the man who rode with him from New York, and that I would be glad to know his name, that I might write to his friends in Germany, and let them know what had become of him. Before he answered a word, and was about to speak, I said to him that although his statement might be taken against himself as well as friends of deceased that he need make no statement unless he would voluntarily do so. He asked if I would go to Frecke, and I told him what he had said. He then remarked that Frecke was a vile, bad man, and that he had got him into all his difficulties, and that he had done all the cutting. I told him that Frecke had told me that he (Marchall) had come from New York with the murdered man, and that he (Marchall) had kept him drunk. Don't recollect of telling Marchall that the statement of Frecke and Miller were sufficient to convict him. Think I did tell him that I believed him to be guilty. I thought of from the second day of his arrest. I put Marchall's wife in the cell intentionally. I believed her to be an honest woman. Marchall was placed in the lock up on the second day after his arrest. He was arrested for attempting to conceal a gold watch, which we have since ascertained belonged to the murdered man. Marchall was brought over to Marshal. On Sunday morning, about nine o'clock, I told Marchall, in my office, that I had brought him out to have talk with him. It is proper to do so voluntarily, repeat the statement he had made to me on Saturday evening, face to face with Frecke, who had also been brought in and was seated by his side. No compulsion. Were permitted to see Marchall and none asked to see him until Oct. 5. C. Childs did ask admission, but not professionally. Mayor refused. There was no great noise or excitement during the time Marchall was making his confession.

Cross-examined—Did not at any time threaten or endeavor to intimidate Marchall into making a confession. Before commencing his statement, on Saturday night, he burst into tears, and said, "I know I'll be hanged; I deserve to be hanged," and said that Frecke had done it. He was very much overcome. The only inducement I asked him about the murder before he confessed, was as to the name of the murdered man.

Mr. Ewing—We object to the admission of the confession or confessions. The receiving of such is a matter of discretion, as in this case, is disapproved by the law, and particularly discouraged in capital cases. He believed that the confession of Marchal was obtained by undue influence. Such was the natural presumption, upon the principle that a man is more likely to voluntarily make admissions which will take away his life. He cited a case in 4th Barr, as in point.

District Attorney—In all candor, I ask whether a magistrate could have acted in a more discreet and proper manner than Mayor Lowry had in this case?

The Court intimated that no argument was necessary, and decided to admit the confession. An exception was taken.

THE CONFESSION READ.

The District Attorney then proceeded to read the written confession. Its publication is so recent that a reproduction now is not necessary. It was listened to with breathless attention, and the prisoner was visibly affected.

ANOTHER CONFESSION.

The District Attorney called Mayor Lowry, and proposed to give, through him, the verbal confession made in the tombs by Marchall on Saturday evening, Sept. 23d.

The defense objected, holding that the written confession already in evidence, and that now offered, were one and the same, or in other words, that in the written instrument was embraced all that had been told the Mayor by the party the prisoner on the Saturday evening. The court overruled the objection, and sealed an exception.

The Mayor proceeded: Marchall made a statement to me about eight o'clock. He had been in and wanted to talk with me. He burst into tears and said that his wife be removed, as she was an honest woman, and he did not want her to hear what he had to say to me. He said Frecke suggested the murder in the cars, and represented that the deceased had thousands of dollars. He believed that Frecke had murdered a man in Germany and fled to this country in consequence. He said that Frecke had induced him to go into the house breaking and stealing business. Frecke suggested that they had better not sit together in the cars, as they might excite suspicion. One or the other had kept the stranger company all the way from Philadelphia, remaining in the same car. Upon arriving in this city, after getting a drink at a saloon, they immediately started up Washington street, went along that street to Pennsylvania Avenue, up Chestnut to Gibbon street, and along Gibbon some distance and thence in an angular direction to the spot where the murder was committed. Marchall picked up a piece of iron at the brick yard, having left his company for a moment for the purpose of securing it. While walking along, Frecke struck the stranger in the back with a knife, and shoved him violently towards Marchall, which was the signal for him (Marchall) to strike. Marchall did strike. The man did not fall, but staggered, and his cap came over his face. He struck him a second time over the head which caused him to fall to the ground. Frecke was all the time cutting with a knife. After falling, Frecke caught the man, and dragging him some distance along the ground, cut his throat, and then rifled his pockets, turning them inside out. Something over $100 and a gold watch were found on him. The Mayor further detailed the statement of the prisoner, substantially the same as his written confession.

The murdered man's effects, two trunks and clothing, including the bloody coat and vest, were exhibited and identified. One of the trunks contained moulders' tools, and the other a considerable amount of clothing and other articles, some of which belonged to Frecke. Shirts were marked "H. F." in German letters.

MURDERED MAN'S NAME.

One of the jurors, William Biskey, in examining the moulder's tools, discovered stamped upon one of them the name "*Henry Freymann*," which is doubtless that of the deceased.

Mayor Lowry was cross-examined at considerable length, but nothing important was elicited.

Mrs. Margaret Weaver, sworn—I know the prisoner, Marchall. His wife gave me this gold watch (the murdered man's) on the morning of his arrest. I gave it to officer Wray.

At six o'clock the court took a recess for three quarters of an hour.

EVENING SESSION.

Court re-assembled at seven o'clock, and the evidence proceeded with

Lewis Stocker, sworn—(Ring shown.) I first saw the ring on Pennsylvania avenue, in Dist- [illegible] Marchall [illegible] that it was his, and day night. I [illegible] on the 24 of September, on Satur- the prisoner [illegible] gave it back to him. (This ring [illegible] acknowledged belonged to the de- S. M. and there are also the figures 1864. Mar- chall was looking around for the ring, and com- plained of losing it.

Cross examined—Marchall did not describe the ring to me. I had it in my possession for three days. Prisoner hunted for it on the evening he lost it.

Mrs. Elizabeth Dittler, sworn—Recollect of Marchall and Frecke being at our house on the night of the 23 or 24 of September, and of Marchal. I saw the ring, but did not look at it particularly. It was like the one shown.

George Strain, sworn—I am one of the Mayor's police. (Two books, one a prayer book, the other a catechism, both German, were shown.) These I got at Marchall's house. I assisted in bringing the trunk, (containing moulder's tools,) from the prisoner's house to the Mayor's office.

Ernest Miller, sworn—I live on Pro[illegible] street. I know Marchall. Recollect of his coming to my house on the night of the murder. He came about six o'clock. Saw him cleaning his shoes. Did not hear him ask for anything. Did not notice his appearance particularly. Frecke came to my house on the night before about eleven o'clock, from New York, I understood.

Cross-examined—Marchall did not come to my house often. Saw him a good many times. Frecke lived with me, and Marchall came to see him.

Mrs. Christina Miller, (wife of previous witness,) sworn—Know the prisoner. He came to our house about six o'clock on the morning of the murder. He called for Frecke, and asked him for some clean shirts. Frecke said he had none. He asked me for one also, but I had none either. I noticed spots of blood on his shirt. He went and talked with Frecke.

Cross-examined—I had not heard of the murder when Marchall came. I do not remember what day of the week it was. Can't say what kind of a coat Marchall had on. It looked dirty. His pants were brown. I believe his shirt was a white one.

Samuel Longe, sworn—I am Chief of Police of the city. I got a trunk at the house of a German on Webster street, and was present when Marchall stated that it belonged to the murdered man. (Two rings shown.) One of these, the prisoner said, belonged to deceased, and the other he said Frecke had given him, and that he believed it also was the deceased's.

Jared M. Brush, sworn—Was in the Mayor's office when the prisoners identified the trunk of the murdered man.

Cross-examined—I saw prisoner in the room of the Chief of Police.

The Commonwealth here rested their case.

THE DEFENSE.

Mr. Ewing, taking up the prayer book of deceased, called the court interpreter, and requested him to state what the name was in the front page. He said it was "Catharine Feiler." It was written in German.

Mr. Ewing—Mr. Slagle and myself were assigned as counsel for the prisoner, a very delicate and responsible position. We have endeavored to protect his legal rights. The only vital one in the case, in regard to the confession, was overruled by the court. The case of the prisoner depended upon this confession. Upon consultation we have concluded not to take up the time of the court in making speeches, and will now leave the case. It was a most melancholy one, and science had felt that they had discharged their duty.

District Attorney Kirkpatrick—I take pleasure in bearing testimony to the ability and earnestness with which the prisoner has been defended by the learned counsel, Messrs. Slagle and Ewing. He differed, however, as to the admissibility of the prisoner's confession. Abundant corroborative testimony was before the court, and without the confession the guilt of the prisoner was established. The case was now in the hands of the Court.

CHARGE OF THE COURT.

Judge Sterrit—The counsel on both sides believing they had discharged their obligations, it will be given to you under the instructions which we will give you. If we were wrong in admitting the confession of the prisoner, an opportunity is afforded to remedy the error. If we were right, no harm has been done. The Judge then proceeded to read his charge, explaining most clearly and explicitly the law of homicide.

THE VERDICT.

The jury retired at twenty-five minutes after eight o'clock, and after an absence of precisely ten minutes, returned to the Court-room having agreed upon a verdict. After their arrival, and before the clerk called the jury, the crowd in the room which had burnt through the flooring boards and several of the joists before being extinguished by a watchman gave the alarm, and the fire was put out by the use of hose. The steamers were on the ground, but it was not necessary for them to go into service, and from the manner in which the job office of Messrs. Walker & Seibert, and the large stock of goods belonging to Messrs. Love & Co., were saved from serious damage by water. As it was, the loss is but trifling. Messrs. Love were compelled to close their store until noon, and incurred more loss in closing than they sustained by the fire. The building is owned by E. W. H. Schenley, Esq. The parties are all insured.

Boots and Shoes.

We call the attention of our readers to the advertisement of our friend, James Robb Esq., which will be found in this day's paper. The boot and shoe establishment of Mr. Robb, now located at 89 Market street, is one of the oldest in the city, being in existance, we believe, for more than a quarter of a century. Mr. Robb has had over thirty years experience in the boot and shoe trade, so that he is familiar with the business, and can exercise a mature judgment in selecting the goods to meet the wants of his great success in the trade and the extensive patronage which he receives, both in the wholesale and retail trade, are sufficient evidence of the skill exercised in making his purchases.

Mr. Robb has just returned from the East where he has purchased on the most favorable terms, a large stock of boots and shoes suitable for fall and winter. Everything can be found in his establishment from the finest opera boots to the heaviest brogan, and from the most exquisite polish and Balmoral, to the plainest calf gaiter. Mens' women's, and children's boots shoes, and gaiters in every variety. From our personal acquaintance with Mr. Robb we can cheerfully recommend him to our readers as an honest and upright merchant, who will sell on the lowest terms.

Amusements.

At the Opera House, "Uncle Tom's Cabin" will constitute the performance for the matinee, this afternoon. In the evening, a repetition of the "Female Detective," which succeeded admirably on its first production last night, together with the "Female Poisoner," (not Mrs. Mc Mahon's Susan Denis, after a successful engagement of two weeks, makes her adieu tonight. The attraction for next week is a double one. Miss Mollie Williams and Mr. Felix Vincent, both comedy artistes of merit, make their appearance on Monday.

Miss Ince had a fine reception last evening at the Pittsburgh Theatre, on the occasion of her benefit, appearing as "Ion." The rendition of the character was a triumph for her, a knowledge of its true conception. This evening she makes her first appearance. It is also the occasion of Mr. A. Taylor's farewell benefit and last appearance. The beautiful play of "Mary Queen of Scots," and the tragedy of "Lucretia Borgia," will be presented.

City Mortality.

Dr. George L. McCook, Physician to the Board of Health, reports the following deaths in the city, from September 24th, to September 29th, 1865.

Males.....9	White.....9	Total.....11	
Females.....2	Colored.....2		

The diseases in the above cases were:

Asthma, 1; Atrophy, 1, Delirium Tremens, 1; Unknown, 1, Consumption, 1; Peritonitis, 1; Still Born, 2, Exhaustion, 1; Cyanosis, 1; Meningitis, 1.

Of the above there were:

Under 1 year..... 4	From 40 to 50..... 3		
From 2 to 5..... 1	" 50 to 60..... 1		
" 30 to 40..... 3			

The Mass Meeting To-night.

Our readers should bear in mind the mass meeting to be held this evening at the Custom House. The State election is now close at hand, and it behooves every loyal man to be well posted on the issues involved in the coming contest. The meeting will be addressed by a number of our most prominent champions in the cause of Republicanism. Among those invited to speak are Thomas M. Marshall, Esq., Thomas Howard, Hon T. B. Bigham and Major A. M. Brown. Let there be a grand outpouring of the people to-night followed up by the ballots of all good and true men on Tuesday next, and the result will be an overwhelming majority for Hartranft and Campbell.

The Criminal Court.—In consequence of the State election occuring on Tuesday next, the jurors in attendance at the Criminal Court have been dismissed until Wednesday. The Court will meet on Monday for the disposition of surety and desertion cases.

The Grand Jury has adjourned until Wednesday at ten o'clock.

John P. Hunt & Co. 59 Fifth street, Masonic Hall, have received The Family Pholios, The Round Table, The Nation, Frank Leslie's Illustrated Newspaper, The Chimney Corner, and Harpers Weekly. A variety, sufficient to gratify the tastes of many, however diversified.

Rector Elected.—The Vestry of Trinity Episcopal Church, Washington, Pa., have elected Rev. James A. Brown, at present assistant minister of Trinity church in this city, as rector of that parish.

Another Commitment.—Another commitment for murder was lodged against Mrs. Grinder, yesterday morning. This charge is for the murder of Samuel Grinder, her brother-in-law.

Court of Common Pleas.

Before Judge E. H. Stowe:

Alice Potter, widow of Phillip, and others, by Cleveland and Pittsburgh Railroad Company. Action for damages sustained to the family of Phillip Potter, an employee on the said railroad, who was killed by being caught between the bumpers of the cars, about a year since, at the depot in this city. Pending the trial, counsel took a non-suit, and the jury was discharged.

Ralph Rockwell vs. Capt. George Kim, et al, owners of the steamboat Alex. Chambers, Breach of contract. Marshall and Brown for plaintiffs; Robert Woods and T. B. Hamilton for defense. It appears from the testimony in this case that plaintiffs had made a written contract with defendants to tow a barge of coal the point designated, for two hundred and fifty dollars. The barge was taken in tow, and when arriving about half the distance to Oil City, the barge sprung a leak, and after working a considerable time to pump the water out, was tied to a tree and abandoned, and the steamer continued on its way to Oil City, having also in tow a barge for another party. The disabled barge with its contents, (some two thousand bushels of coal,) was negligently allowed to remain where it had been left, and in the meantime was freshet in the Allegheny. The case is being contested inch by inch by the opposing counsel. Nearly the entire time of the court yesterday was occupied with it, and a great portion of today will probably be consumed in its disposal.

District Court.—In this Court yesterday no cases were taken up. In the case of Peter Klaus vs. Samuel McPherson, an action of ejectment for seven acres and a half of land in Indiana township, the jury returned a verdict in favor of the defendant. The Court then adjourned.

False Pretences.—William Gebhart was before Alderman Strain, charged on oath of Mary Ann Ward, with obtaining board under false pretences. He was committed to answer in default of bail.

From Yesterday's Evening Gazette.

A Female Pickpocket.

This morning, as Mrs. Eliza Edgar, of Allegheny, was attending market, she had her pocket book taken from her pocket, but was so fortunate as to detect the thief and recover the money. She was in the act of leaning over and "tassling butter," when she felt some one at her pocket. On looking around she discovered her pocket hanging inside out, and saw a woman making off in a suspicious manner. She followed and caught hold of her, saying: "You have robbed me—give up my pocket book and money." The woman answered in German, "Nein, Nein." Mrs. Edgar still held on to her, and demanded that she give up the stolen property. The woman then walked back with the pocket book, which she had been standing, and pushing back the hoops of some ladies who were there, stooped down, and on raising up produced the missing pocket book, saying "I not steal—you lose him." This was a very queer dodge, but it didn't work. It was evident that the pocket book did not jump out, and at the same time turn the pocket inside out—and knew just where to put her hand on it. She evidently had the pocket book in her hand or concealed in her stooped down. She was handed into the custody of an officer, and taken before Mayor Morrison, when she gave the name of Margaret Kinsler, and was recognized as an old offender, having been once before arrested on a similar charge. She is about forty years of age, and took her arrest very coolly. She was required to give bail, or go to jail for trial.

Incendiary Fire on Market Street.

About three o'clock this morning, fire was discovered issuing from the fourth story of the building located on the northeast corner of Fourth and Market streets, the first and second floors of which are occupied by C. Hanson Love & Co., the well known dry goods merchants, and the third by Messrs. Walker & Seibert, job printers. The fourth story was unoccupied, and it is evident, from an examination of the premises, that the fire was the work of an incendiary. The room had been entered during the day, stairway on Fourth street, and a fire kindled on the floor which had burnt through the flooring boards and several of the joists before being extinguished by a watchman gave the alarm, and the fire was put out by the use of hose. The steamers were on the ground, but it was not necessary for them to go into service, and from the manner in which the job office of Messrs. Walker & Seibert, and the large stock of goods belonging to Messrs. Love & Co., were saved from serious damage by water. As it was, the loss is but trifling. Messrs. Love were compelled to close their store until noon, and incurred more loss in closing than they sustained by the fire. The building is owned by E. W. H. Schenley, Esq. The parties are all insured.

Board of Trade.

The annual election of the Pittsburgh Board of Trade was held yesterday, at their rooms, over the Third National Bank, Wood street, corner of Virgin alley, and the following ticket was unanimously chosen: President—George H. Thurston; Vice Presidents—1st, John Shipton, 2d, J. R. Hunter; Directors—Wm. Means, William McCreary, J. B. Anjer, B. F. Jones, J. P. Tanner, W. M. Gormley, Geo. H. Anderson, J. Home, Foster, Sam'l Richardson, Joseph Knap, J. J. Gillespie, David McCandless, Wm. F. Lang, D. G. Bingham, Edward Gregg, Philip Dorsey, David Robinson, Geo. H. Holzman, Solomon Stein, Robert J. Anderson, S. M. Wickersham; Secretary—W. W. Ward; Treasurer—Nathaniel Holmes.

Admitted.—To-day, on motion of John H. Hampton, Esq., Mr. John W. Milligan, Esq., was admitted to practice in the courts of this county. Mr. Milligan is a graduate of Yale College, and has read law with Messrs. Hampton and Moreland. We understand that he passed a highly creditable examination before the committee, and we predict for him an honorable position in his profession.

Drowned.—The steamboat Gallatin, bound up the Monongahela river, struck a raft one night last week, and shattered it into fragments. One of the men aboard the raft, named McKinley, was thrown into the water and drowned. His body was recovered next morning.

MEETING IN MANCHESTER.—A Union meeting will be held in Manchester, on Saturday evening, at the corner of Beaver and Locust sts. Several good speakers will be present. Let there be an old fashioned turn out in the borough.

Another Rally in Allegheny.—Another mass meeting will be held in Allegheny, at City Hall, on Monday evening. A number of popular speakers will be present.

The Young Man's Friend.—Warranted to cure Private Diseases. For sale by druggists. Ask for the (Young Man's Friend. A pamphlet giving the symptoms and treatment of private diseases accompanies each Box, or can be had by addressing Young Man's Friend, Box 95, Cincinnati, with a three cent stamp enclosed. Joseph Fleming, Charles Superr, J. J. Pilson, or S. W. Fox & Co., Allegheny. 2d1t&m.

R. R. REEVES,

UNDERTAKER

88 Smithfield Street, near Fifth Street

☞ COFFINS of every description. GRAPE GLOVES and FURNISHING FOR FUNERALS generally. ☞ FINE HEARSE and CARRIAGES furnished. 1yw

McCORD & CO.,

Wholesale Dealers in

Hats, Caps and Straw Goods

Have now in store the largest and most complete stock of

GOODS FOR S