The Pittsburgh Gazette.

TUESDAY, NOVEMBER 7, 1865.

TRAVELERS' GUIDE.

Arrival and Departure of Trains.

Pennsylvania Central Railroad.

Departs.		Arrives
Day Express.....	2:50 a m	Mail..... 1:20 a m
Altoona Accm'n	8:50 a m	Fast Line..... 2:30 a m
Pitts & Erie Mail	7:50 a m	1st Wall Accom. 8:25 a m
Mail.....	11:50 a m	Penn Accom'n. 2:30 a m
Phila. Express..	4:25 p m	2d Wall Accom.. 8:50 a m
Johnstown Ac'n	4:45 p m	Johnst'n Accm'n. 10:05 a m
Fast Line.....	9:30 p m	Pitts Erie Mail. 1:30 p m
1st Wall Accom.	6:30 a m	Baltimore Exp's 1:50 p m
" "	9:40 a m	2d Wall Accom.. 2:05 p m
" "	2:05 p m	Phila. Express.. 8:30 p m
4th "	6:05 p m	4th Wall Accom 6:00 p m
Penn Accom'n.	10:20 p m	Altoona Ac'n'a and Emigr Tr'n. 10:35 p m

The church train leaves Wall's Station every Sunday at 9:05 a. m.; returning, leaves Pittsburgh at 12:20 p. m.

Pittsburgh, Columbus and Cincinnati.

Departs.		Arrives.
Mail.....	7:40 a m	Express..... 2:25 a m
Express.....	1:30 p m	Mail..... 2:00 p m
Express.....	7:20 p m	Express..... 12:15 p m
Express.....	2:45 p m	Steubenville Accommodation. 10:00 a m
Steubenville Accommodation.	4:30 p m	Accommodation..... 9:30 a m

Pittsburgh, Fort Wayne and Chicago.

Departs.		Arrives.
Express.....	1:20 a m	Express..... 3:20 a m
Express.....	3:00 p m	Express..... 3:20 p m
Express.....	8:00 p m	Express..... 8:00 p m
Mail.....	7:50 a m	Mail..... 7:50 p m
N. Castle Exp.	8:40 a m	N. Castle Exp.	9:30 p m

New Brighton Accommodation leaves Allegheny depot at 9 a. m., 11:50 a. m., 4:45 p. m., and 9:30 p. m. Rochester, 2:15 p. m.; New Castle, 4:2 p. m.; Economy, 11:30 p. m.

Pittsburgh, Cleveland and Wheeling.

Departs.		Arrives.
Express.....	2:10 a m	Express..... 2:10 a m
Express.....	2:45 p m	Express..... 2:30 p m
Mail.....	6:10 a m	Mail..... 9:30 p m
Steubenville Accommodation leaves Allegheny at 2:00 p m.		

Pittsburgh and Connellsville.

Departs.		Arrives.
Mail.....	7:55 a m	Mail..... 5:30 p m
Express.....	3:00 p m	Express..... 10:30 a m
1st McKeesport	11:30 a m	1st McKeesport 6:30 a m
2d "	4:15 p m	2d " 2:00 p m
1st Braddock's	7:55 a m	1st Braddock's 8:30 a m
2d "	4:10 p m	2d " 5:15 p m

Allegheny Valley Railroad.

Departs.		Arrives.
Mail.....	7:00 a m	Express..... 9:30 a m
Express.....	4:30 p m	Mail..... 7:00 p m
Accomodation	2:00 p m	Accommodation 8:00 a m

CITY AND SUBURBAN.

THE FAULKNER-MADDEN HOMICIDE.

Trial of Frederick Faulkner for the Murder of Thomas Madden.

COURT OF OYER AND TERMINER—Before Hon. J. P. Sterrett, Hon. F. H. Stowe, and Hon. John Brown.

Monday, Nov. 6.—At eleven o'clock John M. Kirkpatrick, Esq., called up the Faulkner-Madden homicide case, and it was immediately proceeded with. The defendant, Frederick Faulkner, who is under bail in the sum of $10,000, is indicted for killing Thomas Madden, at Hays' Coal Works, in Baldwin township, by shooting him with a pistol, on the night of the eighth of September last. The defendant was employed as watchman at the coal works, and was the successor of the deceased, who had been discharged from the position. At the time of the shooting, between nine and ten o'clock p. m., the deceased was observed by the defendant riding along the road on a horse belonging to the proprietors of the coal works, and refusing to stop after being repeatedly hailed, the defendant discharged his pistol with fatal effect in the back of Madden. Death resulted from the wound in a day or two afterward.

The defendant is a single man, and returned from the army a short time before the occurrence. The deceased was a married man, of about middle age, and served on the city police for some years.

The empannelment was conducted by Mr. Petty, deputy clerk. After the reading of the indictment, to which Faulkner pleaded "not guilty," the following jury was empannelled:

Charles Baum.	John S. Hamilton.
Thomas Harper.	Hiram Gamble.
William Davis.	Robert Bell.
Allen Cowden.	Henry Highby.
Geo. W. Hubley.	William Ramage.
William Carson.	Joseph Bero.

Mr. Kirkpatrick opened the case to the jury, briefly detailing the circumstances. The first witness called was

Mrs. Sarah Madden, wife of the deceased, proved the fact of his decease, at six Mile Ferry, on September 10th.

Dr. George McCook, sworn—On Friday night, 8th September last, was called to go to Six Mile Ferry, and saw a Mr. Madden, who was said to have been shot. I found him languishing from a wound from which I said he must necessarily die. The wound was on the right side of the spine; the bullet passed through the abdomen to the left side, and there I found it upon making the post mortem. This was the cause of his death. I made the post mortem at a house in the near the point.

Cross-examined—I was paid my fee for going to see Madden, the deceased, cannot remember who paid me.

Mrs. Madden re-called—I had a conversation with Faulkner before my husband died; it was just after the man had gone after Dr. McCook. I took notice to Faulkner standing by the body and went to him and asked him if he was the man that killed my husband and he answered "yes." Then I ordered him out.

Cross-examined—I had heard before from some one that Faulkner had shot my husband; I did not ask him why he did so. He went on, when I told him to go. There were a great many people—Faulkner was smoking a cigar, and standing a little distance from the bed on which my husband was lying, in my own house. Don't know how long it was after my husband had been brought in that I spoke to Faulkner, think it was after Dr. Miller had been there, and after the man had gone for Dr. McCook. Miller or no one to Faulkner other than I have stated; can't say whether any of the men made remarks to him.

Mrs. Ellen Martin sworn—I saw Thos. Madden in his life-time. Saw him dead. Heard a conversation between Faulkner and Mrs. Madden, while Madden was lying in bed. Faulkner was standing close by the foot of the bed; Mrs. Madden went to him (Faulkner) and asked him if he was the man who shot her husband. He said "yes."

Cross-examined—Heard Mrs. Madden tell Faulkner to go out of the house. He did go out. Nothing else was said in my presence. Several persons were present; they were men. Was not at the house when Madden was brought in. I had been there a quarter of an hour before the conversation took place Faulkner came in after I did. I think the Doctors were there when Faulkner was.

This closed the evidence for the Commonwealth, Mr. Kirkpatrick so saying.

J. W. F. White, Esq., opened for the defence, expressing surprise at the commonwealth closing their case after proving simply the fact of the shooting and the admission of Faulkner that he had done it. Nothing appeared to show whether the killing was intentional or accidental. The counsel (Mr. W.) thought something further should be shown, and he asked of the court permission to go further into the evidence. He then detailed the nature of the evidence he desired to present. The citizens in the vicinity of Six Mile Ferry had suffered from the stealing of their horses and burning of their barns, &c., and measures for protection were adopted. The defendant, Faulkner, was employed as watchman at Hays' Coal Works. Madden, the deceased, had been similarly employed, but was discharged, having been convicted, as was supposed, in the destruction of a barn or stable belonging to the coal works. On the night of the shooting Faulkner discovered a horse belonging to his employers passing from the stable, and also noticed the missing from the stable, and also noticed the gate open. He concluded that the horse had been improperly taken, and whilst deliberating what to do in the matter, heard him coming down the road, the deceased riding him. Faulkner called to the deceased to stop, and this demand being disregarded, he fired the pistol with the result stated. After the shooting Faulkner took the horse and proceeded to Birmingham to procure the attendance of Dr. Miller, and in the meantime deceased had been conveyed to his residence, where Faulkner arrived soon after with the physician. Mr. White detailed other circumstances, and said that in order to get the evidence before the court, it would be necessary to prove declarations of the defendant and also of deceased. Pending the decision of the court, the hour for recess arrived.

AFTERNOON SESSION.

Court re-assembled at two o'clock, when the defense called

Robert Wilson, who was sworn and testified: That he knew the defendant; that he had been employed at the coal works of H. B. Hays & Bros., for some three months previous to the 8th of September last; that he was on watch on the night of September 8th; that his principal business was to keep watch over the stock in the stables, and also to keep an eye on the boats at the river—at the coal ripple; that there were in the stable about ten head of horses and mules; that he was called out on the night of Sept. 8th, a little after nine o'clock, by the defendant.

Mr. White proposed to give declarations of the defendant. Mr. Kirkpatrick objected, and the Court suggested that witness first tell all that he knew of his own knowledge about the transaction, before the question as to declarations be raised.

Witness continued—I went down the road with Faulkner, and saw a man lying on the road; supposed he was dead; took his mouth as a bit, and this horse of clothes line we used, saddle; got a saddle, and bridle and sent the defendant for a doctor. The horse belonged to Capt. J. B. Hays; and was kept in the stable, in the back stall, (looks at a plat of the premises) road, stable, house of witness (so by, &c., and explains it.) The horse was hitched in the road near my house, 100 feet from the stable, towards Pittsburgh; the halter belongs to the coal company; the clothes line was not with it in the stable. I got a canteen after Faulkner had gone for a physician in order to examine the wounded man more closely; he was lying upon his face; discovered on the seat of his pantaloons, and also on the inner side of the back part of the legs that white powdery substance which adheres to clothing when it comes in contact with the barrack or a horse; turned him over on his side and then recognized him as Thomas Madden. I commenced hunting for the wound, and was unable to discover any other hole in his coat; slipped my hand down between his coat and shirt; pulled it out and it was covered with blood; also rubbed his hand with the back of my hand; then cut the back of his shirt open with my knife and discovered the bullet hole; about this time there was some men from Pittsburgh came along, and we made arrangements to take him home; he was taken home in a spring wagon by a number of men, perhaps a dozen; went up to the house soon after; was there when Dr. Miller came; before the Doctor arrived the Priest came, and those who were in the room were asked to retire, the Priest was the room were asked to retire, the Priest was with deceased some twenty minutes; Dr. Miller probed the wound and endeavored to extract the ball; John Watson, foreman of the coat works, went for Dr. McCook; I understood it was a Catholic Priest, brought from the college across the river. (Described clothing of deceased.) Deceased had on dark cloth pants, and gray knit roundabout. Went to the gate where the horse was alleged to have been taken out; discovered horse tracks. We had a barn, with some seven mules, and a horse, burned on the night of the 14th of May, and on the night of the 23d of May a stable was burned; the rope of the incline was also cut about the same time. For the reason a watchman was employed. Have known the defendant since he returned from the army about a year since; his character is good, quiet and orderly. As watchman he was furnished with firearms by the firm.

The defendant's counsel offered to prove that immediately after the shooting, the defendant came to the house of witness, three hundred and fifty feet distant, and the nearest house to the scene of the occurrence, and told him he had shot a man who was stealing one of Mr. Hays' horses, (which were under his care as watchman) and detailed to him all the circumstances of the case, and requested witness to go with him to see who it was and to assist in attending to him.

District Attorney Kirkpatrick, objected: 1st, Because there was no proof when the shooting did take place, and hence the expression "immediately after the shooting of the deceased," had nothing on which it could be predicated; 2d, Because the declarations of defendant were not evidence; 3d, Because there had not been satisfactory proof that these declarations were part of the *res gestæ*; 4th, The testimony offered by the declarations of defendant was not part of the *res gestæ*; 5th, That the evidence, if admissible, involved another distinct felony, the stealing of a horse, which should be first tried, before it can even a possible justification for the act.

The point was argued at some length by Mr. White and Mr. Kirkpatrick, Esq., (chiefly by the latter, who produced a number of authorities bearing directly upon the question. The court said they had grave doubts about the matter, and therefore concluded to admit the testimony, and let it go to the jury for what it was worth.

Witness continued—When Faulkner called me, he said he wanted me to get up, that he had shot a man who was stealing a horse. I got up and came on as quick as I could, and asked where the man was. Faulkner said, down near the turn of the road. I asked him the circumstances under which he shot the man. He said after he came on to watch, he went down to the river to look after the boats, came back to his usual place of watching, beside my garden gate; went to the pump and got a drink; went to his seat, and then discovered the stable gate open; he discovered that some person might have been in the stable during the evening; cleared the gate and then discovered a horse was coming; saw tracks through the gate; inferred from one hat found in the horse, which he was considering what he would do he heard the step of a horse coming down the road, and thought it might be time enough then; remained at the gate until the horse came—saw that he recognized him; the horse manifested a disposition to turn into the stable gate, and this satisfied him that his suspicion as to the identity of the horse was correct. He said to the man, "What are you doing there with that horse?" there was no reply; he then said to the man, "You have stolen that horse;" the man then kicked the horse with his heels and urged him forward. Faulkner followed and ordered him to halt for as much as five times; stopped and then related what else he would about the immediately coincided that it would never do to allow the man to ride the horse away and he fired (described position of witness.) The man had got ahead, and he ran after him, gaining upon him on foot, and was so close with the twenty yards he ordered him to hold or he would fire. The man on the horse made no reply, but continued to urge him forward, kicking and jerking him. Faulkner said he then drew and the man on the horse fell off; he said he had given him the last shot—that he could set him letting him get away with the horse; as the man fell off, the horse sprang forward, and he ran after the horse, but he whirled round and ran to the stable, he threw aught and hitched him; he did not say who it was that he shot; went immediately to the man and looked at him. Had no idea who he was. Deceased lived a good one-quarter of a mile from the spot. Had a conversation with the deceased that night; appeared rational; was suffering a great deal; did not talk much. Faulkner said the horse was just breaking into a gallop as he fired at the man who was riding.

Cross-examined—Madden had been employed as watchman at the coal works for about eight days; was employed immediately after the fires in May.

Dr. McCook was recalled to testify to the dying declarations of the deceased, but the objections of the commonwealth was sustained.

Dr. W. L. Miller was called for a similar purpose, but the objection was again pressed and sustained.

John S. Hays (of the firm of H. B. Hays & Bro.,) testified that he had employed Faulkner; his character was that of a peaceable man.

Daniel Campbell testified that he saw the defendant on the night of the 8th of September, and told him of having seen a strange man sitting on the roadside, with a white coat or white shirt. This was about nine o'clock. Defendant then went down the road towards the stable; soon after he came back, said that he had shot the man and was going for a doctor. Defendant's character for peace is good.

Captain C. Ross, residing at Six Mile Ferry, was called to testify to having conveyed Madden, the deceased, in a wagon, to his (Madden's) house, in the night of the occurrence, but the evidence was not deemed material.

Frederick Frick, in the employ of H. B. Hays & Bros., was called to prove that on the morning before the shooting Madden had remarked as to the qualities of the horse which he took from the stable and was in possession when shot.

Ann a Martin (colored), residing near the house of Robert Wilson (examined as a witness) testified that she was at home on the evening of the 8th of September; that on that evening she heard trampling and two or three times calling; and after the calling a shot; the calling was for a man.

Robert Kennedy, an elderly man, said he and known Faulkner for five or six years, and that his character for peace was good.

James Kennedy testified that he was at the house of Madden on the evening of the shooting; had heard of it before going there. Faulkner is known as a peaceable, quiet man.

Adam Zepfass and Orchard, (colored) known defendant since October, 1864; was in the army with him for three years; his character for peace was good.

John S. Willock also testified to good character, and this closed the evidence in the case.

Mr. White submitted the following points and requested the Court to affirm them:

1st. If the jury believed from the evidence that the deceased, at the time he was shot, was stealing a horse from Mr. Hays, which was under the care of the prisoner, as watchman, that he was ordered by the prisoner to stop, and that if he did not, he (the prisoner) would shoot, and that the prisoner had no other means of preventing the consummation of the felony, he was justified in shooting.

2d. If the jury believed from the evidence that the deceased had stolen the horse from Mr. Hays, and was riding him away; that the prisoner tried to arrest him, and ordered him to stop, and was escaping with the property, the prisoner was justified in shooting.

Capt. Slagle, associate counsel for the defence, addressed the Court at some length upon the questions of law as presented, after which the Court adjourned till this morning at nine o'clock.

The Mayoralty.—As yet the Union City Executive Committee have taken no action concerning the nomination of the next candidate for the Mayoralty. Whether it will be done by a direct vote, or as heretofore, by delegates, is the question now at issue.

Progressing.—The grading and paving of the new extension of Fifth street (or Pennsylvania Avenue) and contiguous streets, torn up in the construction of the railroad tunnel, is progressing, and the early completion of the work is much desired.

For Disorderly Conduct.—Justice Michael Krebs, of Duquesne borough, yesterday committed Henry Auchtiller to prison for disorderly

The Opera Last Evening.

The Theatre was crowded last night from pit to dome with the beauty and fashion of Pittsburgh, to witness the first performance of Manager Strakosch's Grand, and Sudini's Italian Opera Troupe. The opera chosen was Verdi's masterpiece *Ernani*. Mme Ghioni as Elvira made at once a decided impression, and we perfectly agree with our cotemporaries that she is an exceedingly fine singer and a brilliant actress. The great Aria in the first act was a most perfect piece of vocalization. Signor Meaferri is a good Ernani. He has sung the part frequently in New York and other cities, and always received high encomiums from the entire press, and we can only join them.

Signor Susini was evidently laboring under an indisposition, but yet showed in his acting and singing, the great artiste. Signor Meneuse, as the King, was excellent, and was frequently applauded for his rendition of this fine part. Chorus and Orchestra went well, and, as a whole, the performance was a success. The whole finale of the third act had to be repeated. To-night "Martha" will be performed with a very strong cast.

Dinner to the Grand Jury by the District Attorney.

A handsome entertainment to members of the late Grand Jury (being the last during his term of office) was given by the retiring District Attorney, J. M. Kirkpatrick, Esq., at the excellent cuisine of Judge Gilfillan, Fifth street. The dinner was excellent, and the occasion a very pleasant one. After the eatables had been fully discussed, the foreman of the Jury, Columbus Coleman, Esq., was called to the chair, and brief speeches and a pleasant chat of a social character filled up the balance of the time. Resolutions of a highly complimentary character to the retiring prosecuting officer, and his assistant, J. W. Riddell, Esq., were, on motion of John H. Hare, Esq., unanimously adopted, and a kindly expression to Capt. McKinley for his excellent dinner was also communicated by Mr. Coleman.

Executors' Sale of a Valuable Farm.

T. A. McClelland, auctioneer, will sell on the premises, in Ross township, on the 16th inst., at twelve o'clock, the very fine farm of Gideon Leighcap, dec'd, at executors' sale. The farm contains fifty-one acres and has been subdivided into twelve lots of from two to eleven acres each. Two of the lots have good and substantial buildings erected thereon. The property is located but four miles from the city, on the Perrysville Plank road, has the advantage of two roads near by all the way, and adjoins the private residences of Cattalus Hodgens and Evans. Further particulars can be obtained of S. B. Wilson, Esq., attorney for the executors, at No. 59 Fifth street.

A Question Mooted.

The control of the jail, or rather the responsibility of the charge of the prisoners therein, having been taken away by the act of Assembly creating the Board of Prison Inspectors the question is mooted whether, in case the execution of the death sentence should become necessary, there may not be a legal difficulty in the way. The act says that no two trouble, the law in regard to the execution of criminals remaining unchanged. On referring to Sher iff "Local," who's control seats the news is given, we should know for a certainty, and to determine whether there is possibility of a conflict as to whose duty it may be to do the hanging.

The Boyd's Hill Murderers.

It is not certain when the cases of Marshall and Freche, the Boyd's Hill Murderers, will be disposed of, as far as the Court is concerned. Marshall will doubtless not be sentenced at the present session of the court, as the record of judgment, and for a new trial in the case of Freche has been denied him in court. Freche continues to have a high opinion of, and to retain as Marshall of having found true was a spirit bird. Marshall sends his love to the people of the city, and requests that they will do his utmost to get a new trial