THE CITY POST.

MONDAY MORNING.....NOVEMBER 16.

Circuit Court of the United States.—Trial for murder continued—Before Judges Grier and Irwin.

The examination of witnesses for the defence was recommenced.

James K. Kennedy sworn.—Was foreman of the Coroner's jury; was at the house of Mr. Richardson on the morning the boy was killed. The Doctor was making a post mortem examination of the body of deceased at that time.

[A discussion here arose between the counsel of the United States and for the defence, as to the propriety of admitting testimony rebutting the testimony of Mrs. Burgess, as to what Mr. Richardson stated, as soon as he heard of the death of his child; and also as to his subsequent declarations in relation to the death of the boy, and the innocence of his wife from all wilful actions towards the boy. The Judge decided that testimony in relation to what Mr. Richardson said, immediately after the occurrence, was admissible.]

Col. Black then offered as testimony, the evidence of John H. Richardson, before the Coroner's Jury.

Mr. Sweitzer objected, on the ground that husband and wife were not competent witnesses, either for or against each other—on the ground, parity of policy, and again of identity of interest. The gentleman read from Roscoe' criminal evidence in support of his position; also from first Greenlea's, and referred the Court to Archbald's criminal pleading.

Col. Black said that the offer was extraordinary, but it must also be remembered that there never had been a case parallel with this, either in England or America. He said the rule that a husband should not give evidence either for or against a wife, was a general rule, and had its exceptions—it was not unbending. It yields at all general rules yield to the necessities of the case. The Colonel argued the point in an able and eloquent manner.

Judge Grier stated, in refusing the admission of Mr. Richardson's evidence before the Coroner's Jury, that the law, like the gospel, recognizes husband and wife as one person; and in the absolute enforcement of that relation, are found principles which form the very basis of human society—The law that attempts to depart from the usage that they are one person, tends to demoralize the community. The unity is invariably considered absolute, except where broke by the parties themselves, by one person oppressing another. He would like to hear the testimony, but could not be the one who would make the first opening in this great rule of evidence. It is a principle of policy, and the exceptions are as well established as the rule itself. "We are, therefore," the Judge concluded, "compelled to refuse the evidence."

Mr. Kennedy continued—Was on the ground about an hour and a half after the death; was there while the post mortem examination was going on. Did not know any of the parties present. There seemed to be from half a dozen to a dozen persons present. Did not hear anything said directly to defendant; but persons said that she was a murderess, that she should be hung. The witness was stopped there, and further evidence declared inadmissible.]

Major John B. Butler sworn.—Am stationed at the Allegheny Arsenal; am Military Storekeeper and Pay Master. Recollect the occurrence on the 7th of May. The Park is separated from the place where the men work. The upper Park; in the inside of which the boy was killed, is about a quarter of a mile from the place where I was at work. Heard shots; the father of the boy worked. He was at my office the morning the boy was killed. On that morning, said prisoner to the father of the lad, the father of the boy came to me in great agitation from his home, and asked me to go up there. I asked him what was the matter. He said "my boy has been killed." I told him to compose himself, and tell me the circumstances before I went up. When I got up there the boy was dead. This was about two hours before the assembling of the inquest, and at nine o'clock in the morning.

[Objection was made by Mr. Swoitzer to further testimony of this kind, in relation to what Richardson said after the boy was dead. The objection was overruled by the Court.]

Major Butler, continued.—After I told him to tell me the circumstances of the case, he said, "yesterday, the boy came home, and threw a brickbat, or a stone, at his mother, and wounded her; and she bled terribly. I told her that this conduct must be put a stop to, and that I would lead the son