TRIAL OF DANIEL E. SICKLES

EIGHTEENTH DAY.

At the opening of the Court on Saturday Mr Carlisle made a statement in reference to the serving of the subpœna on Richard Brodhead as a witness for whom an attachment was subsequently issued, which was afterwards repeated in substance by the witness himself.

RICHARD BRODHEAD *sworn and examined by Mr. Carlisle*—I am acquainted with Mr. Daniel E. Sickles, intimately. I was him on the day of the death of Mr Key. On the day of the homicide I was walking in Washington in company with my friend, Mr Haldeman, of Harrisburg. As we approached the house of Judge Black he suggested that we should go in and see him, as neither of us had been there since we arrived in Washington. We did so. The servant showed us into the back parlor, which is on the second story. We were seated for a minute or two upon a sofa together, when Mr. Sickles came in. After shaking hands with him myself I introduced him to Mr. Haldeman, who was then the editor of a Democratic party paper in Harrisburg.

Cross-examined—I believe I was introduced to Mr Haldeman.

WITNESS YES, sir; a highly respectable family.

The COURT. I know all about it.

WITNESS. A few words passed between Mr. Haldeman and Mr. Sickles upon the subject of Pennsylvania and New York politics—but few, however; which commenced I do not remember. There is nothing to be observed that there was some mud upon Mr. Sickles's shoes. I called his attention to the fact, saying that he had been unfortunate in crossing the street. He said "yes," and in a moment he stepped down and he said he take it off, and walked out. When he stepped out Mr. Haldeman conversed.

Mr. BRADLEY; leave that out. State nothing of what occurred after Mr. Sickles left the room.

WITNESS. Mr Sickles returned in a short time. He had scarcely taken a seat when I heard a noise upon the stairs. He immediately rose and walked out apparently to meet the person who was coming up. I supposed it was Judge Black.

Mr. BRADY Never mind giving your suppositions

Mr. CARLISLE. How long out did he remain before he returned?

WITNESS. He remained out for some time. In a moment or two Judge Black returned very much excited I asked him what was the matter.

Mr Bradley. Asked whom? Was Mr Sickles there?

WITNESS No; Mr. Sickles was not there.

Mr CARLISLE. Do not state what passed or what was said by any one but Mr Sickles and himself.

WITNESS Mr. Sickles was out for some time. Where he was, in what part of the building I do not know. After some time he came back and I heard the door of the front parlor through the folding doors Mr Haldeman and myself stepped up to him, Mr. Haldeman acting as spokesman, stated that he was very much pleased to meet for his friends from New York had not arrived—and tendered our services to go with him to the magistrate's office. He replied "no, I do not think it would be tenable evidence" He said he did not know, but if all the facts were known he thought it would be. He then added, "for God knows I would be justified, or at I could not help it." Nothing more was said I came home now remember. By this time I think Mr. Gillet came in I think Mr. Butterworth arrived about that time Some one asked Mr Sickles if he had seen Mr Key. Butterworth said "yes" I do not recollect who asked the question. Mr. Sickles then muttered something about there being a few words passed between the parties considerably excited. His carriage having been sent for, his New York friends having arrived, the carriage came of course full of people, I was then asked to accompany friends, and Mr. Haldeman and myself remained That was the last I saw of him I believe I have stated all the facts within my knowledge that now occurs to my mind.

The witness then, with the consent of the Court, stated that on each occasion the summons of the Court reached him three days after the service of the subpœna in the summons for his appearance here in Washington He intended no disrespect to the Court, and submitted that his absence was due to the hurry of his departure.

Mr. CARLISLE remarked that the facts as stated by the witness corresponded with his own information He thought the witness had acted properly in the matter, and moved that the witness be discharged from the attachment.

The Court granted the motion

The DISTRICT ATTORNEY stated that Mr. Haldeman did not yet appear; but he would not ask the Court to wait for her, if the gentleman declared the testimony upon the part of the United States closed.

Mr. BRADY said the defence had closed theirs

Mr CARLISLE remarked that his friend, the District Attorney, left for his home in Pennsylvania last night Gentlemen were much indisposed He did not receive a copy of the counter propositions of the defence until after the school last night. They were not in the form of instructions to the jury, but in the form of propositions of law, but he would not comment on them just now.

Mr. CARLISLE then read the instructions to the jury prayed for by the prosecution—the following additional ones having been presented by the District Attorney since the Court adjourned yesterday:

If the jury feel one from all the evidence that the deceased was killed by the prisoner, they must find the prisoner discharged from a quick, such killing implies malice in law, and is murder. That the burden of rebutting all presumptions of malice, by showing circumstances of extenuation, excuse, or justification, rests on the prisoner, and it is incumbent on him to make out such circumstances to the satisfaction of this jury, and to do so beyond a reasonable doubt.

It is the jury's province, if on the evidence that the deceased was killed by the prisoner, to find the fact of adultery with the wife of the prisoner, and further that the deceased on the day of his death, *actually believe* the prisoner left his home, and was pursuing, or in the act of pursuing, the wife of his injury, which and circumstances a portion of them were seen by the prisoner, and that, influenced by such provocation, the prisoner killed the deceased, such provocation does not justify the act, or reduce such killing from murder to manslaughter.

Mr. BRADY remarked that, although the prosecution were entitled under the rule to open and close the argument under the instructions, yet, by an agreement with the counsel on the other side, the defence had consented to take the closing argument on the part of the prosecution, the defence was to have the privilege of reply.

Mr. CARLISLE read the counter propositions on the part of the defence, as follows:

1st. There is no presumption of malice in this case, if any proof of alteration, crime, or provocation arises out of the evidence for the prosecution, (State against Johnson, 65 Conner, 268; McManus against State, 35 and M., 481; Day's Case, 2 Lewis's Crown Cases, 381)

2d. The existence of malice is not presumable in this case, if a jury rational the evidence with all the evidence, the homicide was justifiable, excusable, or at most only manslaughter. (Same cases as above cited; United States agt. Minges, 2 Cartes; Commonwealth against New York, 2 Pen and Watt; Lord's Lessee against Clarkson, 365)

3d. If on the whole evidence presented by the prosecution there is a reasonable doubt, or a reasonable doubt, or a reasonable doubt the homicide was just liable or excusable, the defendant cannot be convicted.

4th If the jury believe, that Sickles, when the homicide occurred, intended to kill Key, he (Sickles) cannot be convicted of manslaughter.

5th If in the jury's judgment, under all the circumstances of the case, whether the act charged upon Sickles is murder or justifiable homicide. (Rex's case, 2 Wheeler's Criminal Cases, 34)

6th If the jury find that Sickles killed Key while the latter was in the act of adultery with the wife of the former, Sickles cannot be convicted of either murder or