whose names were on the indictment. In his opening he had stated some remarks made by Col. Loring to a person below stairs, a few minutes before the death, threatening the accused. Having alluded to this in his opening, it was his duty to produce the witness. He would, he thought, be like a high minded manner for the District Attorney to make any statement in his opening which he did not produce a witness to prove.

Mr. Shepard replied that, in old times, when the prisoner was not allowed counsel, there was a rule obliging the public prosecutor to produce all witnesses. But then the public prosecutor was supposed to be counsel for the defence also. Now the prisoner was represented by able counsel, who examined his case, and it was in their power to produce any witnesses whose evidence they considered would be favorable to the prisoner.

Mr. O'Conor cited some recent decisions in the *Nisi Prius* Courts of England, where the rule required the public prosecutor to produce all witnesses whose names were on the back of the indictment.

Mr. Shepard said, that undoubtedly the English rule obliged the District Attorney to produce all witnesses entered on the back of the indictment, but such was not the American law, and the matter was one within his discretion. He could not be called upon to produce witnesses whom he considered mistaken.

The District Attorney (seeing Mr. Wilson, book-keeper at the St. Nicholas, in court,) said that he had no objection to put him upon the stand, but his objection would remain against bringing forward John Conahan.

Mr. R. Wilson sworn. Examined by Mr. Shepard. On the 23d of August last I was book-keeper at the St. Nicholas Hotel; I saw Mr. Graham on that morning, about 6¼ or 6½; he was coming down the main staircase from the first landing; he had a sword-cane in his hand, (identified the one produced;) he had only the blade in his hand; he stopped aside from the foot of the stairs a few minutes, and I saw him throw the sword into a closet at the right; I had heard a noise previously; when I heard the noise I was at the book-keeper's desk, inside of a counter in the office; when I met Dr. Graham, I was about ascending the stairs; upon meeting the Doctor I asked him what had occurred—what was the matter; he replied he did not know.

Q. Did he say any thing else? A. He said he had been struck or knocked down (I don't recollect the exact word—he said he was "knocked down") by a man, and he had stabbed him, he believed.

Q. What happened then? A. He threw the cane into the pantry, which is about eight feet from the stairs; he took a pock-ny arm and walked along the passage towards Broadway; then towards the barroom; I said to him: "Doctor, you should never drink;" He said: "I am not drunk; but no! but damnel hell this would have never happened;" he then went into one of the water-closets and I left him; I had seen Col. Loring that morning before I saw Dr. Graham; about three minutes before he came down stairs at the outside of the counter; after he left maybe wind up the stairs.

Q. As he left you, or about the time, did he make any remark against anyone, and if so, what was it?

Mr. Shepard objected as the question misleading.

Question allowed.

A. He said that if I, or we, did not take Dr. Graham away, or to persons we spoke of, he would shoot him dead as his door.

Q. Is what tone of voice was that said? A. He was excited and angry; and spoke in a loud voice.

Q. Was his voice naturally loud? A. His voice was full toned.

Q. Was there any swearing in connection with the threat? A. He said he would be damned if he would not shoot him at the door.

Q. When he left you did he go away rapidly? A. That I cannot say.

Mr. Shepard. State all the conversation between you and Col. Loring. A. When he came down first, he asked who it was that was ringing or banging at a bell before the door; I then asked him what was the number of his room, or where he was situated; and, reflecting a moment, I came to the conclusion that it must be Dr. Graham; I then told Col. Loring that I knew the gentleman—and knew him to be a gentleman—and endeavored to excuse him, telling that I would go up and see him, and remove the difficulty; he then replied: "Well, sir, you must take him away. I'll shoot him dead at the door, I'll be damned if I don't!" as then left me.

Q. How soon after did you hear the noise? A. About half a minute.

Q. How far is the book-keeper's room from the stairs? A. About twenty feet from the foot of the stairs.

Q. Do you think the conversation you mentioned could have been heard by a person walking in the hall above? A. No, sir.

Q. But, standing at the head of the stairs, on the second floor, could it be heard? A. I heard the noise of the quarrel above at that distance, when below, but could not say if any one above could have heard our conversation; a person at the head of the stairs would have likely heard it, but could not say if he could distinguish the words.

As a Juror. The Colonel spoke in a tone much louder than ordinary conversation; he was facing me in the act of receiving away, his right side towards the stairs.

To Mr. Whiting. (Looking at the diagram.) The distance of the place from where Col. Loring stood to the foot of the stairs must have been more than thirty-six feet; I have paced it, and it is fourteen or fifteen paces; the distance marked indicated on the diagram is that where Dr. Graham threw that sword-cane; I was with him at the time and saw him throw it in; I could at the time have put my hand on his shoulder.

Q. Did he go into the room and kick any thing over? A. I saw that I saw.

Q. Could he do it without your seeing it? A. I should think not; there was no attempt at concealment.

Q. What was the rubbish there? A. It was the sweepings of the hall which had been in there in the morning.

Mr. Shepard. Did you notice any motion of his foot after throwing it in there? A. I did not, sir.

Mr. Whiting. It was after I had addressed him the sword-cane, and after he had answered it, that Dr. Graham threw the cane in? It was after he told me that the man had knocked him down, and that he had stabbed him.

THE DEFENCE.

Mr. A. O. Hall opened the case for the defence, as follows:

Mr. Foreman and Gentlemen of the Jury—The responsibility of appearing in a capital case of this kind, whether for the prosecution or the defence, is a duty neither to be courted nor to be shunned. I say neither for the prosecution nor for the defence. We are here in the investigation of truth—the illustration and not the elimination of truth. One spirit actuates both the prosecution (as we feel here to-day it does) and the defence, and that feeling is in the words I have just used—the illustration of truth, and not its elimination. In that spirit we are bound to concede that the prosecution have so far conducted their case and unfolded such theory; and you, gentlemen of the jury, need not be assured, as you must have already seen it indicated by the progress of the evidence in this case, that the same course of duty and the same feeling has actuated the counsel for the defence. I myself, being a very humble party in this investigation, gentlemen, have felt very much the responsibility, slight as mine may be. The responsibility of any counsel is great, and how much greater that of yours, to which I may come presently to advert; and the very discussion which we have just had this afternoon, in regard to the practice of prosecution or of defence, in certain matters affecting the life or death of those who are arraigned in Court, suggests to my mind a glancing back to the history of cases of this kind, whether capital or otherwise, not many years ago; for it is not many years ago when a prisoner stood in Court without counsel, and more than that, he could not have his counsel; while at the same time, the crown (as it was called in those days) was represented by the most eloquent advocates in the world. The crown had every opportunity afforded itself of preparation—it had every incentive toward prosecution. In these days, thank God! it is not so.

Now, no prosecution becomes a persecution. There was a time when there could have arisen no dispute whether the defence were entitled to have the names of the witnesses given to them, or when the names of the witnesses were given to them, whether they should be called, because there was a positive prohibition; and the defendant came into court very often upon the day succeeding the crime for which he was arraigned, and was studiously kept in ignorance of the witnesses, however important they might be, until they came upon the stand. Time went on, and, as in other things, so in that. Time ameliorated the hard rules of society and justice, and the prisoner was allowed to know, a certain time before his trial, the names of the witnesses who would be called against him, and he was allowed to have counsel to stand beside and advise him, but not to open his mouth against the eloquence of the District Attorney or of the Attorney-General for the Crown, as he was called in those days. The prisoner might say what he pleased. Time went on, and the rule was still more ameliorated, and by the side of the prisoner counsel might stand and argue the questions of law which might be presented to the case, but he could not sum up the facts and present them to the jury. Finally, however, as it is now, the counsel took the place of the client in every respect. He was allowed to enter into the feelings of the client, as an honorable man might. He was, in every respect, the mouth-piece of his client. It was his duty to stand in the place of his client, as an honorable man might, and speak for his client.

In that spirit, gentlemen, I have come before you to-day. It is a pleasure, I have no doubt, Sir, for Dr. Graham, so far as I am concerned, to know that the heart of his friend prompts, to-day, and at all times, to utterances that which the head of the advocate may have conceived. For very agitating thoughts have passed through my mind's eye during the time I have stood here in the progress of this cause, and I should depart from the record if I allowed myself to recur to the thoughts which these agitations have made. Shall I go back to the time when I knew Robert M. Graham, not as now, an alleged malefactor, but as you have heard from one of the witnesses for the prosecution to-day—a gentleman in every respect? As I stand here to-day, I remember him as a man of high chivalrous bearing—the resident of a distant State; and he thinks with me at this time of that far distant home. And I trust, gentlemen, that, so far as the justice of this case will allow you, you will do well to think of his position; for, as upon the one hand, the Jury are rightfully to be appealed to by the sympathy which has been exhibited, (and most natural and creditable they were to every instinct of the human heart,) so you will remember that the living—that the living, gentleman—have those same instincts of affection to remember and to preserve. And I look forward to that distant city, I know far beyond the confines of this Court-room, and those who are within hearing of my humble voice, that there are not only hundreds but thousands watching day by day the deliberations of this case—watching day by day the unfolding of evidence that comes from the learned prosecutor—watching the path the defence will take in the case—and they will watch your deliberations with the same anxiety. Perhaps it is wrong I should refer to these things. Perhaps it was rather a part of prudence that I should not allude to them. But, gentlemen, we are not only judges; we are not only counsel; we are not only jurors—we are men.

We have not only brains and mind to hear and sift evidence, but we have hearts to feel, and the heart and the head should always go together when they can. I remember some particularly, among those, the watchers of these deliberations, and I might, if I chose, individualize them, but I will not trust myself to that; and I could not help thinking when that stricken widow upon the stand (with her, as you all saw, we sympatized deeply, at the same time that we gave our respect and attention to the living) when she went upon that stand in weeds of woe and told her story, what she could tell of the events of that morning, which are of graver importance to be determined hereafter, I could not help remembering that there was one who sat behind me and shared in all the feelings that she could have, but whose mouth, by the inexorable rules of law, was closed. We do not complain of the rule of law—we do not arraign the rule of law. We bow to and respect the law. We know that it has hardships, and of those hardships certainly is that, perhaps, the only mouth in the world that could unravel the direful mystery of that morning, and could give to you the key to this whole transaction, by that irreconcilable rule of law is closed, so far as this case is concerned, for ever. As counsel in this case, as the evidence progresses word by word through the mouths of the witnesses, I can not describe, although I may feel, the anxiety of removing from the mind by myself, or the counsel associated with me, the clouds of prejudice which settled upon this case, and which had shadowed many of the jurors who had come up here to be sworn, and whom we were compelled against our own feelings to turn away. But those clouds which have shadowed so much prejudice have passed away. The sunshine is breaking—that sunshine which it is to be hoped will deepen as the case now proceeds—will deepen (if I may be allowed the expression) in brilliancy, until my client, represented here today, underneath that sunshine shall walk forth to the brighter sunshine of liberty, under your favor and your justice.

Oh! the privilege of cross-examination! I never have respected it so much as within the last three or four days. In yonder hotel this direful tragedy—this calamity, which my client to-day regrets as much as any man, and would give his heart's best blood if he could bring that man back to life, who in the moment of misadventure lost it; and as I remember that Coroner's inquest—the witnesses honest, no doubt, but excited—(and there is the danger of all immediate investigations upon calamities of this kind, bringing to mind the strong points of the affair against the accused, while those in his favor are not allowed to appear)—as I saw those matters of prejudice—as we all saw them rolling away—it increased my respect for the right of cross-examination. And as you are sworn in that box, before that anxiety was removed, you might, perhaps, have shared in it. As each juror rose in his place, and the prisoner rose in his place, and the words were spoken through the lips of the clerk, "Juror, look upon the prisoner—prisoner look upon the Juror," and the oath was administered, more than one of us thought of the olden time when the crier came in with his prayer—which may yet be breathed in secret, and should be breathed in secret in every investigation of this kind—as he, too, looked upon the prisoner, "God send you a safe deliverance!"

The duty of opening a case, gentlemen, is one of the most difficult that can be assigned to counsel. There is so much to avoid in encroaching upon the time of the jury and upon the time of the Court. It is rather the preface to the volume of the testimony which may be taken, as the summing up may possibly be a criticism. As a preface it should be terse. It should be terse, and should be to the point. Therefore, I now desire to bring to your minds, as we proceed with this case, the circumstances under which we stand—the circumstances under which we are to proceed, and to shadow forth to you, gentlemen, to skeletonize, so to speak, the evidence which shall be fully given and developed to you hereafter by more competent and skillful hands than mine; and I am doubly reminded of the delicacy of the opening of the case, when I refer to the opening of the learned District Attorney, and find so much in it different from the evidence. It is so easy, with the kindest motives in the world—it is so easy with the kindest amount of human charity (which does, I know, belong to my friend upon the other side)—to color this matter. Yet, while upon the one hand we claim that it does, in the eye of the law, bear against the prosecution, we do not propose to overcolor the testimony for the defense. It is ten times worse, for it would bear against the prisoner.

I might, if I chose, allude to several matters in the learned District Attorney's opening which have been wholly contradicted by the testimony as developed, by our cross-examination. That, however, belongs to another part of the case, and I only mention it as an illustration of the position of the delicate task of opening a cause. Hereafter we are to go over in detail the evidence which has been presented by the prosecution down to this time, and we are to associate it with the evidence for the defence. We are to follow Col. Loring that morning. We are to follow him as he went through the hall in search of a servant, met one on the way, speaking to him, going to the office, and having a conversation with the book-keeper, with his proceeding up the stairs; that altercation with another of some kind, which it will be for us hereafter to determine the character of. There, in a very brief space of time, coupled with other circumstances, the life of one man, unknown to the other, was taken. We are to follow the witnesses, one by one, in their agitation, as they saw the matter; and their remembrances therafter of that circumstance, and of the effect which that agitation had upon their after remembrance. The character of it we are hereafter to determine ourselves.

Mr. Hall continued to say that they would show how greatly the District Attorney had mistaken the real circumstances of the case in his opening, when he had spoken of the accused as following the path of the deceased "with the instrument of death in his hand." That cane was the daily, hourly companion of Dr. Graham. It was as a part of his dress, which he never went without; and on leaving his room that morning, he took it in his hand by the same natural impulse that he took his hat. True, it was an instrument of death; but, under the mysterious providence of God, any thing might become at some time an instrument of death. They would be able to show—what had not yet been shown—the beginning of the quarrel at the head of the stairs. They would show that Col. Loring had struck the accused; and they should judge what the effect of that blow would be upon the hot and thirsty brain of the accused, just coming from his bed, and under the excitement of travel. The blow, he might say, was that of a giant, given upon a vital part, and staggered the accused. They would judge of its effect upon his brain. He called upon the Jury to scrutinize the evidence closely. It was truth they were after; for his client dreaded the breath of suspicion more than any consequences of the verdict.

John Conahan called and sworn by the defence, examined by Mr. Whiting:

Q. What was your business, and where were you engaged on the 23 of August last? A. In the St. Nicholas Hotel, Rotunda-room, attending the bells.

Q. After the occurrence between Dr. Graham and Col. Loring, were you examined before the Coroner? A. Yes, Sir. I was subpoenaed before the Grand Jury, and gave my testimony before them.

Q. Did you see any part of the affray between Dr. Graham and Col. Loring? A. I did; I stood on the stairs, about six or seven steps above the floor on which they were standing; I was on my way to answer a bell on the Spring street side of the house, and when I got up to the first floor, I saw Dr. Graham and Col. Loring standing at the head of the stairs; I passed within about a foot of them; they were talking angry; as I passed I looked into their faces; Dr. Graham looked at me; I walked fast up for six or seven steps of the next stairs, when Dr. Graham called Col. Loring a "liar;" at the same moment Col. Loring struck him on the side of the head, and Dr. Graham came near losing his balance; at the same time Dr. Graham had his left hand up at his breast as if buttoning up his coat; he had the cane in his right hand; Dr. Graham tried to draw his cane, when Col. Loring caught his hands with one of his, and his right hand caught the cane; they had a struggle for the cane for about a second or so, the sheath fell from Col. Loring's right hand, and they parted about two feet; Dr. Graham caught Loring with his hand, and instantly I heard Col. Loring let a scream; Dr. Graham let go of him, and he turned round and fell; Dr. Graham went forward and looked at him and then walked down stairs slowly; I went over and lifted the sheath off the mat; I then looked at Col. Loring, and saw blood coming from under his left shoulder.

Q. While they were struggling for the mastery of the cane, where were Col. Loring's hands? A. He had his left hand between the Doctor's two, and his right hand on the sheath of the cane.

Q. How soon after did the sheath come off? A. In a second or two; it came off in Col. Loring's hands; when the sheath fell Dr. Graham stepped back about two feet, and then closed on him; it was done so quick I could not say where Col. Loring then put his hands; the blow given by Col. Loring was with his open hand; Dr. Graham on getting it stepped a couple of steps towards the mirror; it was the force of the blow knocked him there; I did not see Col. Loring's hands over Dr. Graham's shoulders; I was a good deal alarmed; I stepped on the stairs to see how the quarrel would come out; I picked up the sheath after Col. Loring fell; could not say how near it was to where Col. Loring fell; I gave it to one of the policemen.

Q. Did you see Dr. Graham lift up the stick between him and Col. Loring? A. Yes, across his chest, not so high as his face; he had hold of it with his two hands, and Col. Loring had hold of it with one hand, when they were struggling for the cane.

Mr. Shepard: I understood you to say Dr. Graham made an effort to draw the cane; in what manner was that? A. When I passed them, Dr. Graham had the cane in his right hand; when I looked from the stairs he had it in both hands; when Col. Loring struck him he caught the cane in the centre with his left hand, and held the handle with his right; Col. Loring caught the centre of the cane with his right hand.

Q. Which side of the stairs did you take in going up? A. The side east, towards Broadway; Col. Loring stood on the mat, nearest the wall towards Broadway; the cane fell from Col. Loring's hand almost as soon as he caught hold of it; Dr. Graham then went back about two feet and instantly closed on him again.

Q. Did you see any thing in Dr. Graham's hand when he closed on Col. Loring? A. I could not see well, but I thought I did; his left side was towards me; he closed Col. Loring near the shoulder with his hand.

Q. What alarmed you? A. I said I was alarmed, or excited.

Q. What frightened you? A. I was afraid they were going to use deadly weapons; gentlemen are apt to do so when they fall out.

Q. Where did Col. Loring strike Dr. Graham? A. On the left cheek; there was not half a foot, as I could see, between them.

Q. Did Dr. Graham move back his feet when going back, or only one of them? A. I could not say; my fright was not so great as to cause me to doubt the accuracy of any thing I have stated; I am sure the blow was given; Col. Loring struck Dr. Graham instantly when Dr. Graham called him a liar.

To a Juror. They both talked loud, but could not distinguish what they said; I heard nothing about "my wife" or "lady;" I was on the sixth or seventh step of the stairs as you go from the second to the third floor; I stood on the east side of the staircase; I had hold of the east railing; looking down.

To a Juror. The blow given by Col. Loring was strong enough to make him go back two or three feet, and Dr Graham came near losing his balance. When Dr Graham closed in with Col. Loring they were standing face to face. When they wrestled they went back towards the mirror. They stood fronting each other.

The Court then adjourned.

DAILY CRESCENT.

SATURDAY MORNING, OCTOBER 14, 1854.

☞ The Proprietors of the Crescent will pay no bills contracted by any person except Mr. J. O. NIXON or his written authority.

Weekly Crescent.

The Weekly Crescent published this morning contains an unusually large amount of foreign and domestic news of interest: fifteen days later intelligence from California and the Pacific; several days later from Europe, from Havana, Mexico and Texas; a full and accurate telegraphic account of the loss of the U. S. M. S. "Arctic," and the entire proceedings in the trial of Dr. Robert M. Graham at New York. It has, also, much interesting and amusing literary matter and information by mail and telegraph from all parts of the country, to which may be added our usual editorial matter, local news, and so forth.

The Weekly Crescent, done up in strong wrappers for mailing, can be had at our counter or at J. C. Morgan's Bookstore near the Post Office.

LIST OF LETTERS.—We shall publish the list of uncalled for letters remaining in this Post-office up to October 14, in our Monday morning's paper.

Superabundant News.

It is an unpleasant fact that the news received here come all at once and together, crowding our columns, and making the scissors move like a high-pressure engine, or fail entirely. Some days there is no Telegraph, no Eastern, or River, or Texas—no Mexican or California mails. We are shut out of the exterior world, and compelled to rely upon original matter, and what may be selected from old exchanges. The reverse of this state of things is a plethora of mail matter, and enough telegraphic news to create a journalistic apoplexy. During the Summer we frequently suffered from the former; just as at present we are suffering from the latter evil. Our columns this morning bear evidence to the justice of our statement as strongly as they did yesterday. We have crowded upon us two mails from New York, bringing late European intelligence, and two days' proceedings in the case of Dr. Graham. We have, also, news from Mexico, and a great deal of general information from the East and North.

It is against our usual custom to yield our columns, altogether, to the news received from other places; but, in the present instance, we have concluded to give up all our space, and reduce the size of type, in order to present to our readers, as fully as possible, the latest and most interesting information we are in receipt of. To secure that end we omit, entirely, our usual editorial matter, and present our columns with news exclusively. The report of Dr. Graham's trial is from the New York Times, and is full and complete. The entire proceedings, as far as heard from, will be found in our Weekly of this morning.

LARGE BUSINESS.—It will be seen by our commercial record that *twenty thousand bales* of Cotton have been sold this week at full prices. This, we believe, is the largest week's business so far this season.

VALUABLE COMMERCIAL STATEMENT.—We are enabled, by the courtesy of Mr. Thomas J. Burke, of the Collector's office in this city, to lay before our readers a very valuable statement of the exports from this port during the last three months. A tabular statement, showing the amount of monthly exports, in American or foreign vessels, and to what countries, will be found under our commercial head, on the third page. It is our intention, hereafter, to embody in our commercial columns all the latest and most interesting information of this description, and to furnish the most recent and reliable news to our business men and merchants.

FOREIGN AND AMERICAN DRY GOODS.—The particular attention of buyers is called to the extensive sale of Foreign and American Dry Goods, this day, at 10 o'clock, by Vincent & Co., comprising an extensive variety of freshly imported seasonable dry goods.

Quite a large fire occurred in Brooklyn on the 6th inst., consuming several dwellings, besides numerous stables. The total loss, however, is set down at but about $10,000.

By Telegraph to the Daily Crescent.

(By the National Line.)

STEAMBOATS PASSING.—*Vicksburg*, October 13.—The following steamboats have passed here during the last twenty-four hours, bound for New Orleans: the P. F. Kimball at 12 o'clock yesterday, the L. M. Kennett at 2, and the Naomi at 9 this morning.

Later from Mexico.

ARRIVAL OF THE STEAMSHIP ORIZABA.

The steamship Orizaba, Capt. Forbes, due since the 11th inst., arrived yesterday morning, bringing dates from Vera Cruz to the 10th, and from the City of Mexico to the 5th. The Orizaba had been detained at Vera Cruz till the morning of the 10th inst., by a heavy norther, which prevented her from getting out. She left at 10 A. M. of that day.

She brings the following passengers:

Madame Vietti, Mr Wildsmith and lady, Signor Oropesa and 2 daughters, Geo Hazen, Thos C Salter, D B Hodskins, J J Pease, E Steffanoni, Baldwin, Heine, and 12 in the steerage.

The Orizaba brings only $1260 in specie, and five horses, consigned as follows:

J M Caballero, $500; Salvador Fernandez, $460; A D Grieff & Co, $300; Geo Hasin, 5 horses.

Capt. Forbes reports having left in port at Vera Cruz the American brig Nemephar, Capt. Marthchock. She was to leave an the 10th inst.

The news by this arrival presents little of interest or importance, the principal features being the usual accounts of festivities, crimes, Indian depredations, etc.

A grand ball was to have taken place in Mexico on the 27th ult., the anniversary of Mexican independence, but in consequence of some misunderstanding between the Government and the *Corps Diplomatique* it was postponed. We have received the first numbers of a new weekly journal, called the Mexican Economist, published in the English language, in the city of Mexico. In this paper of the 30th ult., we find the following account of the postponement of the anniversary ball:

"In our number of the 9th inst., we mentioned that a splendid ball was to be given at the Lonja, on the 27th inst., anniversary of the victorious army of the Independence having entered the capital. This ball, however, did not take place. It was suspended on the evening of the same day, in consequence of some disagreeable occurrences, by which the families invited and the members of the Lonja were the sufferers.

"The *Corps Diplomatique* having been invited, were expected to attend in uniform, but having refused to do so, the Government declined to attend the ball, and it was suspended.

"In the mean time we only mention what is said in public, and what will astonish our European readers; that an old coat is at the bottom of the whole story!"

The *Diario Oficial* says in regard to the matter:

"Public attention has been much occupied with the current circumstance of the ball not having taken place, which was to have been given by the proprietors of the Lonja, to celebrate the entry of the victorious army of the Independence into the capital. We are informed that H. E. the Minister of Foreign Affairs intends to publish all that has passed on the matter. In the mean time, wishing that there may be no misunderstanding relative to it, we shall state that only a feeling of honor and national decorum, which undoubtedly by a mistake on the part of the Corps Diplomatique was not reciprocated by them, obliged H. S. H. the General President to refrain from being present at the said ball, and consequently their Excellencies the Ministers and the other employees of the Supreme Government could not attend either. This being known by the Directing Committee of the Lonja, they resolved at the last hour that the ball should not take place. This prudent measure deserves praise, as well as the manner in which the Government has comported itself in this matter, which, on being fully made known to the public, they will judge of the case according to its merits, and will approve of the prudent and dignified conduct of the Government, which, above all, wishes that Mexico should be considered as a sovereign nation, independent, and in every thing equal to those of the civilized world."

The Economist thus describes the ceremonies of the anniversary celebration:

"In the morning a solemn mass was celebrated in the Cathedral, assisted by all the civil and military authorities. Divine service finished, the authorities proceeded in procession to the Alameda, where an oration was pronounced by Mr Tagle. After this the regiments of the guards marched out to Chapultepec, where a military breakfast was laid out, attended by H. S. H. the General President, his Ministers, and other authorities. In the evening the whole city was brilliantly illuminated, and presented a splendid appearance."

There was a rumor that a plan had been formed to make of the ball an occasion to declare Santa Anna Emperor. It was also said that one of the regiments had already proclaimed him Emperor, but were prevented from carrying out their plans by the double operation of a shower of rain and the refusal of the other regiments to join them.

The New York Cronica has been prohibited from entering the Republic, and it is ordered to be burnt wherever found.

The Convention of the Native American party of Delaware, met at Dover on Wednesday, the 4th inst., and nominated Peter F. Causey for the Governorship, and Elisha D. Cullam for Congress.

The Whig Convention of the Second Congressional District of New Jersey, (Mr. Skelton's,) assembled at Hightstown on the 6th inst., and was organized by appointing Dr. J. T. Woodhull, of Monmouth, as President. Dr. Geo. R. Robbins, of Mercer county, was nominated for Congress on the first ballot, by a vote of seventy-three to forty-five.

The American war-steam frigate San Jacinto arrived at Southampton, England, for the purpose of coaling, on the 20th September, in which port she saluted the English flag, the compliment being returned from the platform battery. The S. J. is *en route* for the Baltic Sea, when she intends to make a short cruise.

The Germans of Williamsburg, N. Y., have resolved never to vote for either a Know-Nothing or a Temperance man, and appointed a committee of ten to aid foreigners in becoming naturalized.

Mr. W. C. Beeman, who has been for some months in custody on the charge of robbing the mails, died in the jail at Savannah on the 5th inst. of yellow fever. He was to have been tried at the November term of the U. S. District Court of Georgia.

Lieut. J. D. Bulloch, of the Navy, who commanded the mail steamer Georgia, resigned on the 6th inst.

On the night of the 4th instant, a printer named D. N. Thomas committed suicide in New York by taking strychnine. It was supposed his mind had been affected by spiritual manifestations.

A young man named Post was stabbed in New York on the evening of the 4th by a man named King. He died the next morning, and King was arrested. It appeared at the Coroner's inquest that the fatal blows were given in self-defense.

During the month of September there arrived at New York, from foreign countries, 26,808 immigrants; making a grand total, from the 1st of January, (nine months,) of $250,000.

It is understood that the Provincial Parliament will immediately be called together, to take such legislative action as is necessary before the Reciprocity Treaty can go into effect.

Prof. Bache, of the Coast Survey, announces the discovery of a very dangerous sunken ledge, in the neighborhood of the "Minot Ledges," in the approaches to Boston Bay, which has only ten feet of water on it at low water, spring tides. The rule for avoiding it, is not to pass to the southward of the "light-boat," where strangers have no excuse for going at any time.

On the afternoon of the 5th inst., at the Relay House, on the Baltimore and Ohio Railroad, a man named John Duncan attempted to jump aboard the train while under way, missing his hold, fell upon the track and had his right leg so badly crushed that he died the next day.

FATAL EXPLOSION.—The boiler of the Montour Rolling Mills, in Danville, Pa., exploded on the morning of the 6th inst and was carried 100 feet from its foundation. It demolished a frame dwelling and stable, and tore away 40 feet of the mill, burying several people in the ruins, and killing and wounding sixteen or eighteen persons.

RAILROAD ACCIDENT.—On the 6th inst., the emigrant train from Albany to Buffalo ran over a horse near Newark, throwing the engine, tender, and one car off the track. The fireman jumped off the tender to save himself, when it fell upon him and crushed him to death. No others were injured.

A terrible railroad accident occurred on the 4th inst., on the road near Lynchburg, Va. Just as the train was approaching the bridge it was discovered that the draw was up, and the locomotive dashed over. There were three persons killed, all of whom were hands connected with the train. The passengers suffered no injury.

[Communicated.

Our Council.

Messrs. Editors—The proceedings of the Board of Aldermen and of Assistant Aldermen, in joint assembly on Tuesday last, insomuch as touched their attempt to elect a Recorder for the First District, were happily broken up by the technicalities of their parliamentary rules.

Upon the question whether or not Mr. Alderman Bloomfield had the legal right to vote, neither the hasty decision of the President nor the nearly unanimous sustaining of that decision by the Board of Assistants, has satisfied the constituents of Mr. Alderman Bloomfield that they were legally disfranchised. On the contrary, they are satisfied that it is they, and not Mr. Bloomfield, who are "personally interested" in the choice of their rulers; and it sounds very like an anomaly to them. In their construction of our municipal government organization, that it should be decreed by either Board of the Council that any of their number, or any one whomsoever, should pretend to lay a claim and "personal interest" or right in any public office whatsoever. The vote of Mr. Bloomfield belonged to his constituents, and until it be made manifest that the willingness of a good citizen to accept and perform the duties of an office, to which he may be called, is of itself a matter of such "personal interest" as to shut up his judgment upon his own honesty and capacity. Then, very certain it is that Mr. Bloomfield will be justified by the course which, contrary to his own dictates of good taste, he was earnestly solicited to take.

However, this matter is only important inasmuch as it has led to the careful investigation of the acts creating the present structure of our city government, and brought home to us clearly and distinctly in advance of definite action upon an election, such construction of the municipal law as will happily save us from a vexatious and litigious suit in court under application for writs of *mandamus* and *quo warranto*, which proceedings, all know, have of late been too scandalously frequent.

And now to the law. It appears by the official records of the journal of the present City Council, acting under the requirements of the consolidation act, that under date of 11th May, 1851, "*William Bloomfield, Sr.*, was *unanimously elected as Assistant Recorder*." Under what law? To what end? Here are the answers to these questions. The 28th section of the act of consolidation reads the following:

"The Common Council shall, in joint meeting, elect *viva voce, from their own number*, four persons who shall *act* as Recorders *pro tempore* in the case of sickness or absence of any one or more of the Recorders, and they *alone* shall have power of acting as examining or committing magistrates, and of receiving any persons arrested for crime or misdemeanor, upon bond and security given."

Under this section, which governed and overrode the preceding 13th section, so far, and so far only, as the vacancies touching the office of Recorder are affected, the Common Council, on the 11th of May, 1854, took action, and the result of their work still lives. That which they then did, remains, and must remain until the end of the unexpired term of ex-Recorder Summers, and until the next "city election," whenever or whatsoever that designation may be.

The words of the 28th section are clear and free from ambiguity, and, the construction here given is in careful accord, not only with the rules of the common law maxim, *expressio unius est exclusio alterius*, but of the rules laid down in our own code for the construction of statutes.

The 13th section, already acted upon, and ever-ridden by the 28th section, reads as follows:

"Whenever a vacancy shall occur, by death or *otherwise*, in the office of the Mayor, Recorder, Treasurer, Controller, Surveyor or Street Commissioner, it shall be the duty of the Boards of Aldermen in joint meeting to elect, *viva voce*, a person qualified to serve in the office so vacated, who shall continue in office until the Monday succeeding the next city election, and until his successor shall have been duly elected and qualified."

It is clear that after this was written, and later down the statute, it was corrected, and wisely too, by the 28th *section*, which took off and away from the Council the right to elect a *Recorder*, save from out their own body. This officer only is touched by the 28th section, and it is he *alone*, who being already a member of the Council, and so *ex officio* a Justice of the Peace, is to be taken from out of the Council, while the Mayor, Treasurer, Street Commissioner, Surveyor and Controller, are left as they were, and left as they should be, for choice from the people at large. Thus, the only person "qualified" for election *viva voce*, to fill a vacancy in the Recorder's office, is some member of the Council.

From all time, the office of Recorder has been with us closely connected with the duties of the Alderman; the Recorder has been *ex officio* President of the Council, and Aldermen have under their commissions as Justices of the Peace exercised all the rights of the Recorder.

It has been seen that on the 11th of May, 1854, the Council acted upon the requirements of the whole Consolidation Act, and unanimously elected to service *as Recorder*, in cases of the absence of the Recorder already elect, Mr. Wm. Bloomfield, Sr. They provided then for the case foreseen by the law, and which is the contingency now present, to wit: the office of Recorder, made vacant by the abandonment and absence, or resignation of Mr. Summers.

This is made to appear as the certain construction by the put case of, if to-day Mr. Bloomfield, who is certainly now in office till his successor be made, should himself be absent, could the Council go out from their own number for one who should be elected to serve as *ex Recorder*? Clearly not.

For the exhausting of the panel of the members of the City Council, "the Monday succeeding the next city election," is the only contingency. What a "city election" is and where it takes place, are questions of little moment now—for, at all events, it is clear that until such "city election" does take place William Bloomfield, senior, is the only elected Recorder of the First District. He must insist upon the post. He must protest against any election by the Council which may oust him. All acts and decrees made by another than by the officer who holds under the proceedings of the 11th of May, 1854, will be nullities, and so the guilty will be freed from their bonds, and the innocent will distrust justice, and a harvest-field will be opened, wherein little can be left for law, so trampled upon will it have been by lawyers, unless Mr. Recorder Bloomfield shall insist upon the rules of law, touching himself, with the same vigor and integrity with which he has given them execution where others were.

Gentlemen of the City Council, it is a good rule to let well enough alone, especially where a change, made merely for change, may bring a train of trouble with it. LEX.

☞ STATE LEGISLATURE.—Capt. JOHN A. JAQUESS is a candidate to represent the First Representative District in the State Legislature, made vacant by the resignation of Hon. H. M. Summers. o11

☞ JULES LAVERGNE, Esq., is a Candidate for the State Senate, to fill the vacancy created by the resignation of the Hon. J. A. Broad. o5 td

CANCERS CURED.—Dr. Frazee has the honor to inform the public that he is prepared to treat all cases of this fatal disease; and he will GUARANTEE A CURE IN EVERY CASE, except when some vital organ may be seriously affected. Even then, the sufferer may obtain much relief. Those afflicted with Cancerous affections are invited to visit Dr. F. Consultations and advice free. As an evidence of his sincerity and his confidence in his system of treatment, Dr. F. will undertake to cure every case of Cancer presented, and make no charge until the patient is cured. Patients cured without pain or the use of the knife. Twenty Dollars sent by mail will secure a package of the CANCER SPECIFIC, with full directions for use. Address DR. FRAZEE, Office, 88 St. Charles-st. sp11 2ply

☞ HIGHLY IMPORTANT DISCOVERY.—Under this caption will be found on the fourth page of to-day's paper the advertisement of Dr. James. The Doctor's reputation is so well established in this city, that it is useless for us to do more than call the attention of the afflicted to his Card. His Office is at No. 82 Customhouse street. o4 2plm

RUPTURES CURED.—Sherman's Curative Patent Truss and Rupture Remedy is a relief and comfort and certain guarantee in the cure of all Ruptures. To secure a good fit, apply to the proprietor's establishment, 70 St. Charles street, and inquire for Dr. Sherman. For further particulars, see advertisement on third page, or apply to the store for a descriptive pamphlet. feb26 1y

NOTICE—POST-OFFICE NOTICE.—The person who addressed a letter to G., Box W 125, will please address again, as the box has been lost. Address letter G., Box W 125, Post office. o14 2t

BANKING HOUSE, 61 Camp street.—CHECKS ON BOSTON, ST. LOUIS, NEW YORK, LOUISVILLE, PHILADELPHIA, CINCINNATI, BALTIMORE, NASHVILLE, SAN FRANCISCO, ☞ Purchased and sold by MATTHEWS, FINLEY & CO. o14

Late Publications,

FOR SALE BY

J. B. STEEL, No. 60 Camp street.

ILLUSTRATIONS OF GENIUS. By Henry Giles.
MEMORABLE WOMEN. By Mrs. Newton Crosland.
POEMS. By Thos. Williams Parsons.
LOST HEIRESS. By Emma D. Southworth.
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Store for Rent.

☞ THE STORE 76 ST. CHARLES STREET, one of the best business stands in the city for a Clothing, Hatter or dealer in Gentlemen's Furnishing Goods—in fact for any business—to be rent from the 1st of November. For day and evening sales, it is in the most crowded thoroughfare in the city, and has the largest and best Show Windows for display of articles in trade of any store in the South.

.... ALSO ....

☞ FOR RENT—THE SECOND AND THIRD STORIES of that magnificent building CORNER OF ST. CHARLES AND GRAVIER STREETS. The Second Story is one of the finest and best lighted rooms in the city. The Great Floria is to be used for commercial purposes after the 1st of November.

.... ALSO ....

☞ AN OFFICE ON THE GROUND FLOOR TO LET. Apply to DR. A. SHERMAN, 76 St. Charles street. o14 2dplt

New Music,

JUST RECEIVED AND FOR SALE BY

H. D. HEWITT, Agent,