THE TRIBUNE.

SATURDAY MORNING, NOVEMBER 26.

FOR PRESIDENT,

HENRY CLAY,

OF KENTUCKY

☞ The Editor of The Tribune is obliged to request those who wish to see him personally to call between the hours 8 and 9 A. M. or 5 and 6 P. M. if they can conveniently do so. The absolute necessity of devoting some hours uninterruptedly to his duties constrains him to make this request.

☞ Copies of the Weekly Tribune of last week, containing the first two Lectures of *Dr. Smith on Geology, Governor Seward's* opinion in the case of John C. Colt, and *General Hamilton's* celebrated *Letter to John C. Calhoun*, may still be obtained at the office of The Tribune. Price, 6¼ cents.

☞ Advertisers will bear in mind that advertisements intended for Monday's paper must be sent in by 10 o'clock this evening, as our publication office is not open on Sundays. The rates for advertising, in view of the extensive circulation of this paper, are very reasonable, and in all cases are payable in advance.

☞ THE LIFE AND SPEECHES OF HENRY CLAY, Vol. I., (Swain's Edition) containing a spirited original Memoir of 200 pages, the Speeches of Mr. C. from 1810 to 1829, inclusive, his Portrait on steel by Prudhomme, and a view of his Birth-place by Gimbrede—all forming a large and beautiful octavo of 535 pages, is first published this day at the office of The Tribune. Price (bound in muslin) $1 50. It is a rich treasury of American Genius, Statesmanship and Patriotism. See notice on our First Page.

The Exchanges.

Since *The Morning Post* is determined not to see that one man could transfer a million dollars to St. Louis more easily and cheaply than one thousand men, acting in independence and perhaps in ignorance of each other's movements and wants, could transfer the same amount in a thousand unequal sums, we will adduce a few more facts of general notoriety:

1. While the U. S. Bank was in operation, or at least for several years before its close, the notes of any Branch were kept at not more than ½ per cent discount in the neighborhood of all other Branches. Thus a man at St. Louis who had a sum to pay in New-York or Boston need only exchange his money for the issues of the Branch at St. Louis or any other Branch, and these would, when remitted here, be worth their face in Specie, less 25 cents on each $100. Finally, the notes of each Branch were made receivable at all Branches, and thus even this slight discrepancy disappeared. He who had par funds in Missouri need only to procure with them notes of the U. S. Bank or any of its Branches, and these would pay the value expressed on their face in any part of the Union.—Thus we received payment for newspapers from sections which now take none of us simply because they have no remittible money which will be money to us;

2. When the Government Deposites were removed from the U. S. Bank and Branches to State Banks, *the discount in New-York on the notes of some if not all of these very State Banks immediately increased.* We recollect especially that the notes of the Planters' Bank and Agricultural Bank at Natchez, Miss. were thus depreciated in value here by the very act which filled their vaults with coin, and this long before any doubt existed of their impregnable solvency.

3. The Post thinks the cost of Exchanges "must be paid by somebody."—It is hard that we cannot bring our opponents even to *see* our position on this subject, when we take all possible pains to write intelligibly. We maintain that there need *be* no cost, or next to none, in the premises. While a thousand different men or firms in Missouri have money to pay in the Atlantic cities, and as many here have money to collect in the West and to pay in the West, with no common channel or focus, there must be expense in effecting all these separate, unconnected, perhaps conflicting operations. But one capitalist, one firm, one Bank, could richly afford to make *all* the transfers of funds required in the United States for one-fourth of one per cent., and a Bank of issue, with its rates every where receivable for public dues, could well afford to do it for nothing. We believe a well constructed, well managed National Bank could effect an immense saving in the mere cost of transporting specie, which is now unavoidably incurred, by vastly reducing the amount of such transportation. One man sends $1,000 from St. Louis to Philadelphia in specie to-day, and another sends $1,000 from New-York to St. Louis to-morrow, and a third $1,000 from Philadelphia to St. Louis the next day; and the three operations, which together just balance each other, shall cost those who make them a considerable sum, while they would cost a National Bank with Branches just nothing at all, but would benefit it by the amount of interest on the three several sums while in a state of transition. We have no doubt a National Bank would readily undertake to transfer specie funds from any commercial point in the Union to any other for one half per cent. and would do it with profit in most cases for nothing—a reasonable time being allowed for the transfer.

☞ The *Albany Argus* publishes several nicely culled extracts from our columns prior to the Election, showing that we hoped and looked for a better result in several Counties than has been obtained. On the strength of these, the writer meanly insinuates charges of "wholesale fabrications," "wilfully attempting to mislead People," &c. against us. The Argus knows better than this. We gave just such advices as we had from these Counties, inducing us to believe that the Whigs were at length aroused, and would come out and triumph. The returns prove that our informants were mistaken—much to our regret and disappointment. We feared the State was lost, but we *did* think Cayuga, Onondaga, Rensselaer and the Saratoga District would elect Whigs to Congress. That they did not, is not the fault of the gallant Whigs who proved their faith by their works, but their misfortune. We dare the Argus, which so prates of *our* "attempts to mislead the People," and asks that they be remembered, to republish *its own* estimate in 1840 of the prospective vote of each State for President, with the *actual* result in parallel columns. We will cheerfully pay for the space it occupies, if fairly presented.

☞ EVACUATION DAY—or the fifty-ninth anniversary of the evacuation of New-York by the British troops after the Pacification of Paris and the reluctant recognition by Great Britain of our Country's Independence—was appropriately honored yesterday. The Military parade was very large and imposing; the Stars and Stripes were displayed from our principal public and other buildings; and the evening was honored by the usual demonstrations. The day was very fine, and its festivities enjoyed by large numbers of citizens.

☞ Hon. JOHN MCKINLEY, one of the Justices of the U. S. Supreme Court, has been stricken with paralysis, and lies dangerously ill at his residence, Florence, Ala. He is not expected to recover. He was one of the last Judges appointed by Gen. Jackson, and very unfit for the station.

RHODE ISLAND.—The new Constitution has been adopted by about 6,000 votes to 30 or 40. Providence gives it 1606, and Newport 484. An imperfect return from most of the towns, (some of them including but the second, and a few only the first day's vote,) gives 5,112 for and 21 in all against the Constitution. For allowing colored men to vote the same as whites, 3,157; against it 1,004.

The Agricultural towns, which are most decided in their opposition to Dorrism, gave but a light vote, considering it needless, many liking the Old Charter Government best; and more protesting against voting Constitution after Constitution to extend the Right of Suffrage to men who oppose every step taken to extend it legally, and insist on 'helping themselves.' Even the Providence Journal, which has fought manfully for the new Constitution, pronounces the following eulogium on the Old Charter:

"It is singular with what attachment the people of this State cling to their old form of government; and yet we can hardly call it singular, for there is every thing about it to create attachment. The oppression of the government, which has been talked so much of, is a modern discovery, and cannot be pointed out, for oppression is a practical thing. Under the old government, the people had grown up happy and contented, and have increased until the State surpasses all but one in the Union in density of population, and is second to none in wealth, intelligence and enlightened enterprise.—No where has the government been *less felt;* no where in the civilized world have the taxes been so light; and yet notwithstanding this cheapness, the government has been well administered in all its departments, and in times of difficulty has always been creditably and honorably conducted; while the institutions of learning and benevolence, and of religion, have been liberally fostered. Whatever may be her future fate, Rhode Island will always have cause to be grateful to the *Old Charter.*

"And now, when this, the oldest written form of government in the world, is about to be abrogated, we should be wanting in sincerity did we not say, that we have no expectation that the State will ever be better governed, or the people ever better contented. We yield cheerfully to the will of the People which ordains a change, and we look upon the Constitution now adopted, as well calculated to secure and protect the liberties of the people, to guard the rights of property, and to promote the general happiness. May the next two centuries leave the people of Rhode Island as well governed as they have been for the last two, and they will have no reason to complain."

The Punishment of Death Virtually Abolished in Vermont.

By the following from the Montpelier Vermont Watchman of last Saturday, it appears that the bill to abolish in effect the Punishment of Death, though once defeated, as we some time since stated, has finally become a law. We rejoice that VERMONT has been the first to take this important step. The Watchman says:

"The present Legislature of Vermont has passed an act abolishing capital punishment and substituting therefor imprisonment during life in the Pentientiary, unless the Governor shall, after one year, issue a warrant directing the criminal to be executed. This bill has received the signature of the Governor of this State, and has consequently become the law of the Commonwealth. We regard this measure as the most important one perfected by our Legislature during its present session. It is a measure that receives our hearty approbation. We consider it as a virtual abolition of capital punishment, and as such believe the experiment is well worthy of a fair trial by the people of this State. We know that many theories which appear beautiful, and seem to promise great and good results, work badly when carried into practice. We say, give this law a fair trial, and if it turns out that crimes increase in our land, and that the lives of our citizens are less secure than under the old law, then, we say, repeal it; but at present we entertain no fears of the result. We believe that a law is useless and generally mischievous in any social compact, where such law is not approbated and sustained by a general public sentiment. The feeling had become very general in this State that capital punishment is a relic of a barbarous age. Indeed it was difficult to select a jury who would convict of murder, knowing the inevitable consequence. We believe the present law will operate beneficially, because it exhibits the humanity and Christian feeling of the Legislature; and, secondly, because there will now exist a much greater certainty of convicting the suppposed criminal than did exist when death was the certain penalty of the law. Less positive proof will now convince a jury 'beyond a rational doubt' of the guilt of a prisoner than was required under the former law. We humbly hope and trust that the experiment will work well, and the necessity for a return to the old practice of taking life for life may never exist."

NORTH CAROLINA.—The Legislature of North Carolina met on Monday the 21st, at Raleigh. The election of officers consumed the day. In the Senate, L. D. WILSON, (Loco-Foco,) from Edgecombe Co., was elected Speaker, receiving 28 out of 47 votes; and in the House, Calvin Graves of Caswell, also Loco, received 64 out of 112 votes for Speaker, and was therefore elected.

ARKANSAS.—The Legislature of this State commenced at Little Rock on Monday the 7th instant. Gen. Samuel Adams of Johnson Co. was chosen President of the Senate, John Widgery Secretary. In the House, Col. W. S. Oldham was chosen Speaker and S. S. Tucker Clerk.

☞ Hon. AMBROSE H. SEVIER has been re-elected a Senator of the U. States from Arkansas for six years from the 4th of March next. [So says the Journal of Commerce—we think premature].

☞ RHODE ISLAND is full of Banks, yet not one has failed since 1837. Some of them are sustained in villages which have hardly a dozen houses. They must be very cheaply managed.

ELOPEMENT.—The Commercial says that Capt. D'Eymar, a Frenchman from Louisiana, recently eloped with a lady from Porto Rico who has been spending the summer in this city—and was married to her at Philadelphia. The two have met each other for about three months past, but never except in the presence of third persons, at least so far as is known.

☞ **The Weekly Tribune** for Saturday, November 26, is for sale This Morning. Price 6¼ cents. For the convenience of those wishing to send it to their friends in the country, it may be obtained in wrappers ready for mailing, at the same price.

This number is more than usually interesting. It contains the Editorial article which appeared in the Daily on the Closing Scene of John C. Colt, Governor Seward's last Letter on Colt's Case, the Proceedings of the Coroner's Jury on the Body of Colt, and Rev. Dr. Anthon's Notes, taken in his interview with Colt; Parker's Fourth Discourse; The Science of Neurology; The Punishment of Death Defended, and Reply thereto; Trial of Sullivan, McCleester and others on Indictments for causing the Death of Thomas McCoy; The Case of Col. Webb; Foreign News; numerous Reviews and Literary Notices; The Third and Fourth Lectures of Dr. Smith on Geology; Official Election Returns; Poetry; An Editorial article on the Action of the Whig Party while in the Ascendancy in the State of New-York; several other Editorials on various topics; full account of the Great Gale on Lake Erie; A List of all good Banks in the United States, with the Rates of Discount, &c. &c. &c.

☞ THE WEEKLY TRIBUNE is one of the largest Newspapers printed in the United States, containing 42 columns of closely printed matter. Price 6¼ cents, or $2 a year.

GREELEY & McELRATH,
n24 Tribune Buildings, 160 Nassau-street.

Correspondence of The Tribune.

Trial of the Prize-Fighters Continued—Evidence for both sides closed.

WHITE PLAINS, Friday, 4 P. M.

The Court rose last night at about 7 o'clock, when the District Attorney said that he rested his case, and Judge Ruggles called on the prisoners' Counsel to open their case; but at their earnest request for time for consultation, his Honor consented to adjourn until 9 this morning. At that time the case appeared very favorable for the prisoners; but, to the surprise of every body, when the jury was called over, the Attorney General called one Michael Lawler to the stand, who went into a long statement of facts, which, if not rebutted, will certainly tend to prove Sullivan guilty; as the witness swears to his having taken such a part in the preliminary arrangements as shows that he had a very great interest in the success of Lilly. The witness underwent a long cross-examination, which did not produce much effect, so far as I could judge by the appearance of the jury.

With this witness the Prosecution rested their case, and Mr. Lyon rose to open the Defence. At the outset of his observations he took a review of the decisions of the English Courts with respect to prize-fights, and the construction which they had put on the Common Law with relation to the offence when death should ensue. He then went on to contend that, as neither the English Courts nor our own had construed such death to be murder at Common Law, it could not by our statutes be construed into manslaughter. The learned gentleman then went on to compare the offence with which the prisoners stood charged with the offence of dueling, which was not made manslaughter under our statutes; although it was to be presumed that the Legislature were quite conscious of the practice, for a prize-fight had been enacted in this State last February, while our State Legislature were in session; and if they did not think proper to pass a statute making it manslaughter, surely the jury were not called upon to place the men at the bar in the same category with thieves and murderers. The learned gentleman also contended that the people had sought out the battle-ground as a place of amusement, and that the parties were no more liable for manslaughter than the spectators of a legalized horse-race would be if one of the jockeys had been thrown from his horse while passing with the speed of lightning round the course. After a few other observations with respect to the particular facts proved against Sullivan and McCleester, the learned gentleman concluded by confidently anticipating a favorable issue, from the justice and impartiality of the jury.

From present appearances, I do not anticipate a verdict until a late hour to-morrow night.

COURT OF OYER AND TERMINER.

Before Judge RUGGLES, Hon. CALEB TOMPKINS, Hon. WILLIAM JAY and Associates.

Examination of George Lansing continued.—Kensett trained McCoy for the fight at Hoboken. The match was made in consequence of a squabble which McCoy and Lilly got into at a boxing match about a week before. McCoy and Cheshire Bob had a fight for the same reason. McCoy was considered a smart fellow and at a boxing match Lilly struck him, which was the origin of the fight. I do not know where it was, but believe it was at some large room in the Bowery.

Counsel.—Who were McCoy's backers?

Witness.—I do not know that that is a fair question.

The Court ruled that the witness need not answer.

Counsel.—How do you get your living?

Witness.—Why, I live on my money, and make it as other people do. I bet on almost every thing, and play cards and dice as I just please. I stood at McCoy's corner during the fight

Counsel.—Were you not pecuniarily interested in the result

Witness.—That is one of those peculiar questions.—[Laugh]

Counsel.—How much did you lose that day?

Witness.—All I had. I believe.

Counsel—Well how much had you?

Witness—Perhaps none at all.

Wm. Harrington, examined.—Was at the fight the day McCoy was killed. Heard Sullivan say that it was a great shame, they had better take him out of the ring that he was whipped. "You forgot what I told you," he said to Lilly, "its getting dry." Its hard to tell what a man means, by what he says. At times I think he said something about "the old spot." He sang out "Lilly, the old spot's getting dry." He added "what have I told you."

Cross-Examined. The ring only contained six persons; from my knowledge of the art of fighting I do not think a heavy blow was struck from first to last. I saw no knock down blow struck. I did not see either one knocked down fairly.

Court. What do you call a fair knock down?

Witness. Why one that puts him on his back and stays there. I think it was a fair fight in regard to blows, although it had end; but it was severe from the number of throws—After McCoy fell Lilly often lay upon him. I cannot say that I heard Sullivan say "Chris lay on him." Sullivan and McCleester begged of them to take him away. I said to McCoy myself, "Why don't you give this up? You can't beat him." He only said "it's a long day before me."

By the District Attorney.—I saw some one open the eye of McCoy with a lancet; I did not see McCoy's eyes so closed at any part of the fight but what I should suppose he could have seen out of them. He asked to have his eyes lanced, and a man stepped up and did it.

William McCoy examined—I live in New-York; was at the fight at Hastings in September last; Tom McCoy was my brother. I never saw Sullivan before that day; he was bottle-holder for Lilly on that side of the ring; I saw him attending on Lilly; I heard him *whisper* to Lilly how to take the advantage of my brother so as to hit him; I don't recollect any of his expressions, but he was making a great noise in the ring and blustering there. My brother was thrown many times by a heave; Lilly would lay on him as hard as he could, and most generally with his elbow on his neck. I cannot say how many times I have heard my brother tell Lilly to keep his heart up, as he lay on the ground McCleester was one of the seconds for Lilly, but he never interfered during the whole fight. He always kept at his corner of the ring until Lilly was down; one of the seconds always keeps at his corner while the other accompanies the man into the ring. I went up with my brother in the Saratoga; Kensett went up with us; I believe he came back with us. He acted as bottle-holder for my brother, with the aid of Richard Fagan, my brother-in-law. He was to wash the sponges out just as the seconds needed them. They had ground rosin to put in the palms of the hands when they got sweaty; it was used more at Lilly's side than at my brother's. Once a little stuck on my brother's knuckles, when Sullivan said, "That's foul; Sandford, if you rosin your man so, I'll rosin my man up to the elbows." At the last round they said he was dead, and I jumped into the ring and said, "Tom, how do you feel?" I raised his head between my legs, and the blood was pouring out of his mouth. They had all run away, thinking my brother was dead, when McCleester cut off my brother's drawers, and stripped himself, so that my brother could have his dry ones put on.

My brother never spoke after I got to him; we cut the ropes so as not to strain him, and several of them took off their great coats and pea jackets to put under him as he lay on the bank; we washed him on board the steamboat, but he was very much bruised; the bridge of his nose was broken; he was taken to my mother's house, at the corner of Water and Dover streets, No. 14; the body was opened there by the doctors; they wanted to take him to the Dead House, but my mother and sisters were opposed to it, so they left him locked up in a body; there was a good deal of blood on the neck; they overhauled his intestines and found them all in good order, but below the belt he had received an injury.

Cross examined by Price—I did not see Sullivan with in the inner ring. I can't recollect all the expressions he used, but he said many times "hit him in the face." I was always 15 feet off from Sullivan and sometimes 30 feet. I do not mean to say that I heard him whispering to Lilly, but I heard him say what I have said. My brother was on the ground when he told Lilly "to keep his heart up." I have seen many street fights and fought a little myself, but I never went to a fight like that before, and I had no right to interfere. I suppose I was present when he died. A gentleman felt his pulse and said he had no pulse. I broke a bottle of water that day but was not drunk. I drank a couple of glasses after the fight and taken two before. I was not intoxicated during the fight, nor was I intoxicated at the inquest on my brother. I have said that I wished Sullivan would go to State prison.

By Price.—I said several times he ought to be taken out of the ring, but my brother-in-law said it was of no use. I did not see the magistrate there, and I was ignorant of the whole business. I've no recollection of saying that my brother could win after he had fought two hours.

FRIDAY MORNING.

Michael Lawler examined—I was at the fight between McCoy and Lilly; saw Sullivan there on that occasion, first saw him on the wharf at Hastings. Lilly and his two seconds were there—McCleester and Ford. It was about half past 9 or 10 o'clock that I saw them. They inquired for a stable where they could put up their horses. I told them where to go, and went with them. They then returned to Mr. Archard's house and went into a room over his workshop. There was another man with them who said he was an express or a reporter. Lilly changed his shirt and went to bed. The two seconds staid in the room with him. Sullivan came out and went with me down to the wharf. He told us there were steamboats coming up which were to land at the wharf. We returned to the house before the fight. Sullivan then told Lilly to prepare him elf to go down to the ground.

It was then nearly 12 o'clock; Lilly then got up and dressed himself, Sullivan and the seconds assisting him; I saw Sullivan put some of the clothes on Lilly which he was to fight in, and tie the ribbon round his waist; he only wore white cotton stockings, shirt small clothes, and an overcoat; Sullivan went with him in the wagon up to the fighting ground; the other two went on foot; this house was about three quarters of a mile from the fighting ground; I walked up to see the fight; as we came up to the ground another wagon met us about half a mile from the house; we met another wagon with two in it; they told us that the magistrate was on the ground, going to prevent the fight; Sullivan said it makes no odds—we 'll go the ground; neither of the parties got out there; before the wagon came to the ring, Lilly and Sullivan got out of it; Sullivan came over to me and told me to walk alongside of Lilly, so that there might be no notice taken of Lilly; Sullivan went on ahead of us until we came to the ground.

As soon as we arrived there two pea coats were spread on the ground for Lilly to lie down and rest himself. This was outside the ropes altogether. I think Lilly lay down for 20 minutes or half an hour. Sullivan and some others were with him. McCoy came in from the steamboat 20 or 30 minutes after this; it was announced that McCoy had arrived. Lilly then put on his fighting shoes which were in my charge. He then took his hat and threw it into the air first. Tom McCoy then threw in his hat. Sullivan accompanied Lilly to the ring. The first thing which struck my attention was to see the Magistrate who said the people must disperse and so on, but there was such a confused noise and Mr. Sullivan cried to the mob to be silent while the Magistrate is doing duty. That's all I heard. The bottle then commenced; I saw Sullivan sponge Lilly's back during the fight; I suppose he did that 5 or 6 times. I heard Sullivan cry out for them to take away McCoy for he was a whipped man. This was the 30th round. After that I did not see him nurse Lilly, nor did I hear him say where to plant his blows. Sullivan said he was a ruined man if Lilly lost the battle for he laid all the money he had on the result. When McCoy gave in there was a shout from Lilly's side of the ring. Sullivan said Lilly had done very well, but that he expected he could have whipped McCoy in half the time. I did not hear of McCoy's death till we got back to the house.

This witness was subjected to a long cross-examination relating mainly to conversation he had previously had about the fight with Justice Golding, and to testimony he had before given to the Grand Jury, when it seems he did not state all the particulars, as he said he was not asked about them. Nothing material was elicited.

The prosecution here rested.

Evidence for the Defence.

Edward Carpenter, examined.—Went to the fight in the steamboat Indiana; the prisoner, McCleester, kept the bar on board *that* steamboat. We arrived there at 11 o'clock. A. M.; the fight commenced about 12 o'clock; I did not think McCoy was beaten until the last twenty rounds; previous to that he came up very firm, and I should say very stubborn; Sanford asked him how he felt after the hundredth round, and he said "he could win yet;" this might be about the one hundred and fourth round; it was a fair fight, and conducted as I have seen other battles fought in England; the parties are at liberty to strike above the belt; it is foul to strike a man when he is down, or to strike below the belt; biting is foul; the hair is always cut short before going into the ring, to prevent the opponent getting hold of it; it is the duty of a second to announce a foul blow, and if so decided, it is the duty of the second to take the man who has received it out of the ring, and the party giving the blow loses the fight; there were judges appointed; I think Somerindyke was one, and perhaps De Forrest was the umpire; if the man, after a foul blow, stands up again, the fight goes on; I did not see any foul blow struck, or hear any question raised; a round may last three or four, or only one minute; at times there is a great deal of skill used in the parrying of blows; the bottle-holder usually stands outside the ring; I saw nothing to indicate that the fight would terminate fatally until the last round; then McCoy asked for a doctor to lance his eye, which was done; he came up pretty stiff, but not so strong as previously; he put his hand up to open his eye and wipe out the blood; I did not think he would die, but was sure that he would lose the fight; I thought that from the ninetieth round; heard Sullivan say often, "the man is beat," "take your man away," "if I had any thing to do with it, I would take him away;" he was standing then at Lilly's corner of the ring, outside the ropes; McCleester said to Sandford, "why don't you take your man away?" to which Sandford replied, "you go to h—ll—you'll get licked too, if you don't mind;" Sullivan told them to take him away five or six times before McCoy gave in; he also said it was a shame to let them fight any longer; McCleester also said it was a shame to bring him to the scratch any more; when Sullivan said it was a shame to bring McCoy up, the seconds of the deceased said it was not time—that he could fight an hour longer yet; never saw Kensett in my life until I saw him in this Court; I was one of McCoy's friends, but as I wanted to know what was said all round, I often went over to Lilly's corner; I saw McCoy's brother on board the steamboat, but did not know who he was; I saw him also at the fight; he was a little bit raised, and in my opinion he was not sober; he was a little spiteful; he was asked for a bottle of wine, which he broke, and was then pushed out of the ring, and considered to be drunk; when he got on board the steamboat, he (Bill McCoy) was drunk; saw him at the bank where Tom lay, and he was fretting like; he could not be sober, for he was drunk on board the boat when we were washing the body of Tom; McCleester, the prisoner, got into the water up to his waist to get the body of Tom into the little boat; Somerindyke asked me if Tom was dead, and I said yes, we then put a clean shirt on the body, and I took it home in a coach to the house of his mother; Bill McCoy was not sober.

Cross examined by the Attorney General—First heard of the fight in Albany. I do not know whether McCleester was the regular bar-keeper of that boat or not. I do not know if the boat was chartered for that particular purpose or not. I did not speak to McCleester all the time I was on board. I think McCleester's bar was not the regular bar of the boat, but a temporary one fitted up for the occasion During the fight Sullivan may have gone up to Lilly's corner 20 or 30 times; after the 100th round I did not observe him go up. At prize fights it is customary for a little 'brag' to be used on each side; not only the seconds do this, but the bystanders. I think I heard McCleester say once to Lilly, "By Jove, Chris this looks an awkward business; we may get into a bad scrape;" he said it to Ford, who said "We are here;" he afterwards said, "Chris, don't hit him any more—he's throwing his blood away and must lick himself." I think if McCleester had left the ring then, those who were backers of Lilly would have attacked him. I would not swear that I ever heard McCleester or Sullivan advise Lilly to give up whipped and leave the ring. McCleester lay down in the corner of the ring towards the close of the fight, but did not leave the ring; when his man fell down, of course he picked him up.

By the Court—He helped to carry his man back when he fell, towards the close

By the Attorney General—First saw Bill McCoy when he was turned out of the ring as drunk. Saw him drink out of the bottles in the baskets; I wont swear to more than twice. When we were going home in the coach with the body, heard expressions which satisfied me that he was drunk. At the fight I am certain he was not sober, for he didn't want to have his brother come out licked any how. He kept jawing with his brother-in-law, and being in a mob of people, it is impossible for me to say what he said. I cannot say what colour the liquor was which he drank. I may have drank twice, but was not drunk for all that. I think I drank three times as I came home with the body. I will swear Bill drank oftener than I did. I was sober when I got to New-York. Bill would pat his dead brother on the cheek, and went on cursing about Sullivan. He has told me in this Court that he did not know me; yet if any man had done such a thing for a brother of mine, I should have remembered him for ten years. I am employed in the American Navigation Line, shipping passengers from that city out West; it takes me up the river very often. For the last three weeks I have not been doing much. I am what is vulgarly called out West, a runner.

By Graham—McCoy was trained in Albany, and I saw him set to with a young man named Ottington. Jim Sandford trained him.

Here the Court took a recess.

John Peele examined by Graham—I was at the fight at Hastings, and up to the 85th round the chances appeared to be equal. After that the day appeared to be going against McCoy. He seemed to be of good courage, and did not want to be backed as he came up to meet his antagonist. I stood on the top of the Aqueduct, and although I could not hear what was said, I could see every thing that passed. I saw every blow and every fall. A blow below the belt is deemed foul, and also for a man to use his knee in a wrestle. I saw one foul blow given by Lilly; it was just below the belt. I did not see either of the parties use his knee in the result. There was something said about the foul blow, which resulted in both the men being brought to the scratch. There were two judges appointed at the commencement of the fight to decide that a blow is foul. I heard Sullivan tell the other party to take McCoy out of the ring for there was no chance for him to win. I saw Sullivan throw up his hands and say "Gentlemen, I wish you to take notice I've got nothing to do with this fight." After these declarations on the part of Sullivan, McCoy was regularly taken to his corner. I did not see the brother of McCoy there. After Sullivan had made the declaration he came up as fresh as ever, but about the 85th round he had a severe fall. The first intimation I had that the fight was over was by seeing Lilly leave the ring, while the body lay on the ground. I also saw the body on the bank.

Cross-examined.—I live in New York, and did not see Sullivan after he threw up his hands as I've described. McCleester continued in the ring until the fight terminated. I knew Sullivan first about a year ago. Only know him by sight. Saw Sullivan also at the top of the Aqueduct after the fight was closed. Did not have any conversation with him. I did not bet a cent on that battle. I know that one foul blow was struck and referred to the judges, but how the question was settled I cannot tell. I am a butcher by occupation.

Wm. Harrington recalled—I saw Bill McCoy at the fight. He was drunk, and it affected his gait a considerable. He was staggering about the ring. He said his brother was game to the back bone and he could lick Lilly, he knew he could. I did not notice the brother of the deceased after the fourth round.

Enoch E. Camp examined—I saw Bill McCoy on the ground the morning of the fight. When I first saw him I asked who he was, and was told the brother of McCoy. I said, "why he is corn'd" I was at the Coroner's inquest the next day and he was not sober then.

Cross-examined—His manner was excited at the fight. At the inquest he gave his testimony with some clearness, but it was remarked that he was not sober. I am acquainted with Irish character and have been at wakes. He told a pretty straight story, but nevertheless he was not sober. Heard his testimony here and at the Coroner's. He said many things here yesterday which he did not say there. He swore to a remark of this kind, that either Lilly or McCleester said his brother must be taken away; he's got enough. He also swore most positively that his brother told him that he never would come out of the ring alive if he did not whip his man.

James Hagan examined—I was at the fight at Hastings. Heard Sullivan say to McCoy's seconds "You had better take your man away," to which his seconds replied in angry terms, and Shanfroid replied "You go to —;" Ned Sprague also replied very angrily and was very noisy. I heard McCleester say very often "Take your man away." When Lilly attempted to get on his feet at one time, his seconds tried to prevent him, and I thought they were going to stop the fight; he got up and went towards the scratch. I noticed this particularly because I was disgusted with the conduct of the seconds of McCoy, and thought Lilly's seconds acted much better. Towards the end of the fight, McCleester appeared to neglect his duty, and not to feel much interest in Lilly's success. I heard Sullivan say to McCoy's seconds, "What do you mean?—to get the man killed?" This was about the 104th round. I thought McCoy's seconds appeared to desert him, and that McCleester was the only man who stood by him.

[Here a discussion arose as to the admissibility of testimony in favor of McCleester's humane conduct towards the deceased.]

The cross-examination elicited nothing new.

Enoch E. Camp, recalled—I was at the inquest, and took particular notice of the post mortem examination, and was very careful to get the testimony of the physicians. From my personal examination of the body there was no injury below the place where the belt was placed. There was no appearance of injury. The inquest was held at the Alms House, but the dissection was at the house of McCoy's mother. The throat was much inflamed, there was considerable blood in the windpipe, the nose was broke, the eyes closed and much inflamed.

[Here the witness reiterated his former testimony as to the foul blow which had been struck by Lilly.]

Mr. Graham here offered a letter in proof of the good character of McCleester.

The Attorney General opposed the reception of such testimony.

Judge Ruggles said that although the Court had great doubt as to whether evidence of this kind could be made to influence the Jury in the present case, yet that the Court would not take upon themselves to reject it, as the accused had offered it.

A letter was then read from Aldermen Hatfield, Purdy and Crolius certifying that they believed McCleester to be a 'good natured, inoffensive and harmless person—rather more than usual.' They thought be would not be likely to join in any disturbance.

The Counsel for the prisoners rested their case, and it was understood that the testimony closed on both sides.

Dr. Smith's Lectures on Geology.

No. V.

DR. SMITH opened his Lecture last evening by briefly explaining why the climate is colder in Europe than it is here under the same latitude. He said it was because we are on the eastern edge of one continent, while Europe is on the western edge of the other. The western edge of our continent and the eastern of the other would be found to be of the same temperature. There is another change going on, Dr. S. said, which may produce considerable alteration in the channels of trade. The Ohio must become lower in summer, and the floods of spring must become, in process of time, more disastrous. This will necessarily ensue as the country gradually becomes cleared up. It is known that in some parts of the country the streams are now gradually diminishing; and this is perfectly in accordance with what would be expected. The snow melts much more rapidly, and therefore the floods will be much heavier, when the forests are swept away than now when the country is new.

The process of filling up lakes, Dr. S. said, is sometimes effected in a different manner from that mentioned last evening. The usual way is for floods to wash alluvium into them—carrying with it bones, shells, earth, &c. But at the battle of Austerlitz 2,000 Russians attempted to pass a frozen lake. The French fired bombs upon the ice and broke it; so that these 2,000 men, with a fearful shriek, sunk to the bottom. These will become fossilized in time, precisely as the remains have been which we now have from other ages. In 1544 the Scotch army was defeated by the English, and a troop of horse seeking to escape sunk into the Solway bog—and there they remain even to this day. Now in the course of time, when the Austrian lake is drained, the lake deposit will be cut through by streams, and these bones will be exposed to the view of future generations. The number of human bones, &c., now deposited beneath the ocean and other waters of the earth must be enormous. The number of ships lost yearly at sea is about 1,000—so that the bed of the ocean must be strewed with the bones and works of men. At any upheaval of the ocean's bed these must be exposed.

The streams are constantly cutting away the soil; and whenever a pebble gets into a whirling current a cavity is soon formed as is now seen at Trenton Falls. Of Niagara the same thing is true. There was a period when this continent was under the water: this we know because the limestone at Niagara could have been formed in no other way. And at Lake Champlain are also to be found shells precisely like those now existing in Boston harbor. After the lapse of a great period the first upheaval of the Earth took place, leaving a wall guarding the sea coast as is now observed upon the coast of France. There was then no Niagara river—the sea covering entirely Lake Erie and what is now the river. But soon there came a second upheaval which threw up the Niagara limestone. Lake Erie then extended to the level of the present fall—for Mr. LYELL found upon that level Lacustrine shells which must have grown there. The quantity of water discharged is said to be fifteen millions of cubic feet a minute; and it then fell 300 feet, whereas it is now but 164. Thus in the progress of time as the falls recede from the lake they have been growing less and less in hight, for the dip of the strata backward is about 25 feet a mile and the distance to which they have receded is seven miles. As to the fact of recession there can be no doubt, for it must have resulted from the nature of the case.

If we could tell the rate of recession, we could fix the period of the second upheaval; but this cannot well be done, though the common calculation is, that it has taken 35,000 years to recede to its present position. This Dr. S. thought too long a time, for it seems evident that the recession now goes on faster than it did at the early period of its existence; for the rock is much softer. It is proved that the upper stratum has tumbled down at different periods, as that below it has been worn away; for on sounding with a line, immense beds of rock have been found in the river below.

The order of the strata at the Falls is as follows:

Niagara Limestone	20 feet thick
Shale	80 " "
Limestone	20 " "
Red Marl and Sandstone	
Sandstone	20 " "
Red Marl	

The shale being soft, is now being washed away; when it recedes to a certain distance, the harder rock above becomes deprived of its support and falls away. But when the shale has been washed away to a certain point, the Fall can recede no faster than it can wear away the hard limestone; and then the process will be extremely slow.

But there is another circumstance which will tend to accelerate the process; it is this—that the dip inclines from the American shore to the other. Thus the river runs, in effect, on a side hill; so it will gradually encroach upon the Canada shore faster than it does upon ours—Goat Island, in the end, becoming attached to the American side.

There is another reason for supposing that less than 35,000 years have elapsed since the Fall was at Lake Erie. The river began to run upon the first upheaval of the Continent; and since that time the banks of these rivers have been gradually washed away. Dr. S. said that within forty or forty-five years the rivers had worn away some ten or twelve feet; and this would give a much less time for the whole recession, which he therefore thought could have occupied only some 10,000 or 12,000 years.

But water produces other effects than these.—The velocity of currents and their power of transportation have been measured by geologists, and it is found that when the current runs at the rate of two miles an hour fine sand, or mud will be transported; when it runs 4 miles coarse and gravel will be carried along; when 5½ moderate round pebbles, and at 8 we have angular pebbles. But when water rushes with violence, rocks of great magnitude are swept along in its course. In Switzerland and Scotland this has often happened. Mr. Lyell sought to calculate how long mud might be suspended in water, and thus to determine how far it could have been carried along. But Dr. S. thought no reliance could be placed on these calculations, as no parallel in this respect could be drawn between water in a state of rest and of violent motion. Still it is evident that fine sand may thus be carried to a great distance; for we knew that this has been the case with rocks that have thus been ground to impalpable powder. It has been found that the mouth of the Mississippi has by the process of filling up been pushed some 50 feet into the Gulf of Mexico since the discovery of the Continent, and 30 since New Orleans was settled. But there is this circumstance in such cases: the higher artificial levees are built, the higher they must be built, for the river soon attains their level, whatever it is, and then it will overflow the surrounding country. The mouth of the river must be pushed farther and farther, until the alluvium reaches the Gulf stream, and then it will be stopped. This has already happened to the Nile: where the Delta is now found to be carried off laterally instead of being pushed farther into the sea; and so it must be eventually to the Mississippi.

It is found that wherever there is a bar in a river the water just above will remain stagnant for a distance up the river, until a line drawn from the top of the bar will strike the bottom of the river.—This explains the fact—that when a person is drowned from our wharf in the fall, it so happens that the body is not found till spring, and then it is found to have floated no farther than Governor's Island—because the tide is not as strong as usual, by reason of the bar.

This alluvium increases greatly in amount by cultivation: so that as the country is settled, more must be swept off, and the Mississippi fills up faster than before.

At some antecedent period, though it is not known when, there swept over the north part of this Continent and Europe a tremendous torrent from the north. Mr. Lyell stated that it had transported rocks from the north of Europe to the southern portion; and here we observe evidences of the same fact, for one great rock at least was swept from the north and lodged upon Mr. Pierpont's garden in Brooklyn. There is no doubt of this, because, under these *boulders* as they are called, is found alluvium. In digging a well, moreover, on the Island not long ago, one of these boulders had to be blasted; and beneath it was found a beautiful sea-beach, covered with pebbles, and affording indubitable evidence that such a torrent has occurred. The direction of the torrent is found to have been always the same; and as their original position is approached, the rocks are found to be more and more angular.

Now there is but one power known that could have transported these rocks, and that is *ice*. The power seems too enormous for water to have possessed; but it is found that in large icebergs there are rocks of the same size in the process of being thus transported. Glaciers are found to have been pushed forward, carrying with them *morain*, as it is called, containing rocks as large as these. But it still seems wonderful what could have caused such a process—such a freezing and thawing as would have been necessary for it. It has been supposed that the Sun once gave us less heat than it does now; we see, indeed, other stars growing less bright and finally disappearing; and it may be that our Sun was once thus deficient in fuel, though even then it is not easy to see how the *water* could have got to the North, to be there frozen.

The direction of this current is also established, by observing, as may be done even on this island, grooves in the rocks, all extending in the same direction, and this, too, independent of the cleavage of the rock. Capt. Basil Hall first discovered this fact upon this island, and pointed it out to the Lyceum. This seems to establish the fact that the rocks were thus transported by great icebergs from the North, and the groves thus cut upon them.

The subject of glaciers is now undergoing investigation in Europe. No distinct *morain*, as Dr. S. knew, had been discovered in this country, though they have been seen upon the Grampian Hills.

The springs which run into rivers often sap mountains and thus cause them to tumble down. A geologist once warned the dwellers under a mountain in Switzerland that it would fall before many years. They disregarded his warning and were soon after crushed by its downfall.

Valleys are usually formed by rivers; but they are also formed otherwise. The valley at Lancaster, Pa. exhibits the strange appearance of a river coming out of a mountain, crossing a valley and again going into a mountainous country. This is a puzzling fact, and Dr. S. said he could explain it only by supposing that the valley was one of depression, having sunk after the river had cut its course.

The manner in which rivers cut their way through mountains is sometimes inexplicable, as is the case with the Hudson at the Highlands. The same thing may be observed at Harper's Ferry in Virginia.

Beyond all doubt, Dr. S. said in closing, the time must come when all these highlands at the North, and near the head waters of the Mississippi, would be worn away, by the action of the atmosphere and other agents. How long this would require of course no one could tell.

The subject of his next lecture will be Earthquakes, Volcanoes, &c.

GENERAL SCOTT.—To an invitation to attend the Frankfort Barbecue, given to the Kentucky Whig members of Congress, General Scott returned the following answer:—

DETROIT, September 22d, 1842.

GENTLEMEN: Your letter of the 7th instant, addressed to me at Washington, has followed me to this distant region.

With your invitation requesting my presence at the entertainment about to be given by the Whigs of Ohio to the Whigs of Kentucky, who, in 1840, so magnanimously postponed their first choice for the Presidency, I am highly honored; and if it were compatible with my position as a federal officer, I should certainly be in the midst of you on the interesting occasion.

With one candidate for the Presidency, and the best interests of the country at heart, it ought not to be doubted that the Whigs, appealing to the virtue and intelligence of the people, will be as successful in 1844, as they were in 1840.—Whether that one candidate be, as all indications seem to determine, Kentucky's illustrious son, or any one of hundreds of his followers, my prayers for a Whig triumph will be ardent and unceasing.

I have the honor to remain, gentlemen, with high consideration, your friend and fellow citizen,

WINFIELD SCOTT,

Messrs. J. H. Crane, S. Forrer, H. G. Phillips, R. Green, D. A. Haynes and Charles Anderson, Corresponding Committee.

☞ THE ERIE CANAL beyond Rochester was closed, the Rochester papers saying that boats have entirely ceased running. East of that city, though much obstructed with ice, navigation is still continued. At Utica, however, the Commercial says, on Thursday more than 100 boats were laid up, and the probability is that the Canal is now closed. The Albany Journal says that great complaints are made against Mr. McClarey, the Canal Superintendent, for vexatious and unnecessary delays of boats at Fultonville, just at a time when expedition is of the utmost importance. On the Northern Canal, the Troy Whig says, navigation is effectually closed. About sixty boats are frozen in near that city and some hundreds upon the whole Canal.

The Oswego Herald of Tuesday says that the steamboats on Lake Ontario except two between that place and Ogdensburg, had stopped running. They had heard of no serious accident on that lake. The Montreal Transcript of Tuesday says that the Lachine canal was greatly impeded by ice. The same paper adds that at River-du-Loup, writing under date of Nov. 20th, says:

"It is quite current here that a batteau, loaded with hay, &c. for Mr. Hough, of Quebec, capsized in Lake St. Peter, on Saturday, the 19th instant, during the heavy wind, and it is feared the hands on board perished."

☞ The wooden Theatre of Messrs. Ludlow & Smith at Mobile was destroyed by fire a few days since.