## By Telegraph to the New-York Tribune.

TWO WEEKS

# LATER FROM CALIFORNIA.

**Arrival of the steamer Mexico at New-Orleans**

NEW DISCOVERIES IN GOLD, &c.

NEW-ORLEANS, Friday, Feb. 14.

The steamship Mexico has arrived with San Francisco dates to the 15th ultimo. She brings 334 passengers.

The California Legislature assembled on the 6th of Jan.

Gov. BURNETT had resigned, and Mr. McDOUGALL had been inaugurated in his stead.

DAVID BRODERICK was elected President of the Senate.

Thos Butler King had arrived at San Francisco.

There was great excitement on account of new discoveries of Gold in the beach sands on the coast, of wonderful richness. Other rich discoveries have also recently been made and the miners generally are doing well.

American Flour is selling at $12 50, not paying the cost. Coffee is at 14c.

The ships Lebanon and White Squall from New-York had arrived at San Francisco.

The steamer Crescent City was to leave Chagres on the 7th inst, and the Prometheus on the 8th. The Ohio, from New-York, was spoken on the 8th inst.

The City of Concepcion, in Chili, has been destroyed by an earthquake.

**Arrival of the Prometheus.**

NEW-ORLEANS, Friday, Feb. 14.

The steamship Prometheus arrived to day, in five days from Chagres, with 270 passengers.

**Sailing of the Falcon—Trial of General Henderson.**

NEW-ORLEANS, Thursday, Feb. 13.

The steamship Falcon sailed to day, with 20 passengers for New-York, 36 for Havana, and 100 for Chagres.

Gen. Henderson's third trial begins to-morrow.

**From the Rio Grande.**

BOSTON, Monday, Feb. 17.

The bark Wyman, arrived at Salem from Rio Grande, reports that great preparations were making for the expected outbreak with Rosas. A large force had already been concentrated at Rio Grande, and Capt. W. passed on the bar two vessels bound in with troops.

**Virginia Legislature—Washington Items.**

WASHINGTON, Monday, Feb. 17.

The Virginia Legislature have a proposition pending to postpone the election of Congressmen and Members of the Legislature from April to October next, in order that a new Constitution may first be submitted to the People.

The census of Iowa has been completed, and the population amounts to 192,204.

The Treasury Department has received through our Consul at Guyaquil, a small sum of money belonging to a man drowned at Guyaquil, on his way to California. His name was supposed to be Charles Shaw of New-York. This information is given for the benefit of any relatives, or heirs of the said Shaw, having legal claim to his effects.

**The Fugitive Affair at Boston.**

BOSTON, Monday, Feb. 17.

The statement of P. Hiley, Chief U. S. Deputy Marshal, at the head of affairs in the absence of Mr. Devens, appears this morning. He states that he applied to Commodore Downs for leave to place the prisoner at the Navy Yard for safe keeping, but the Commodore declined to take the responsibility. He also applied to the Mayor and City Marshal for aid to keep the prisoner, but received none. No knowledge of the whereabouts of the fugitive has yet been ascertained. He is supposed to be on his way to Canada via Burlington. No arrests of any of the rioters have yet been made.

**Interesting Items from the South.**

BALTIMORE, Monday, Feb. 17.

The mails from New-Orleans from the 6th to the 9th inst. have been received. The papers contain flaming accounts of Jenny Lind's reception. The excitement is tremendous.

Gov. Quitman's proclamation and address to the people is published on resigning his office. He denies having violated the laws, and declares his readiness at all times to meet any charge, and considers the dignity and honor of his State outraged, and adds: Resistance by the organized force of the State, while the Federal Administration is in the hands of men who appear to seek some accession to test the strength of that Government, would result in violent contests much to be regretted in the present critical condition of the country. For these and other causes he considers his resignation the only alternative, and remarks "It is not for me to complain; you are the aggrieved party; my course in this matter meets the approval of some of the most patriotic citizens near me, and I sincerely hope, as it was dictated alone by my sense of duty to the State, it may meet the approbation of my fellow-citizens.

The South California Convention election is all on one side. All conversatism repudiated, "Secession, and nothing but Secession" is the cry. The Jenny Lind Auction at New-Orleans exceeds anything before seen. From $10 to $30 premium per ticket was cheerfully paid.

A new election has been ordered for Governor of Mississippi. Quitman has been re-nominated.

**Late and Interesting from Cuba.**

BALTIMORE, Monday, Feb. 17.

By the steamer Isabel, arrived at Savannah with Havana dates to the 8th, we learn that the health of Havana was good.

An Edict had been issued citing Don Francisco Castro and Don Lucas Castro, two wealthy citizens of Trinidad, who have gone to the United States for the purpose of cooperating with conspirators who are forming plans to revolutionize Cuba, to deliver themselves up to the Commission Militaire for trial; otherwise, to be declared rebels and their property confiscated.

**Pennsylvania Legislature.**

HARRISBURGH, Monday, Feb. 17.

In the SENATE joint resolutions, offering the thanks of the Legislature to Hon. Daniel Webster for his able vindication of the principles of the American Government, in his letter to Mr. Hulsemann, the Austrian Minister at Washington, were laid on the table. Joint resolutions in relation to the granting of additional bounty lands to the officers and soldiers who served in the war of 1812, were passed.

In the HOUSE various petitions were presented and referred.

On Saturday night last four men were arrested near this place, charged with being concerned in the murder of a rich old farmer, at his house. They are now in jail awaiting examination.

**Markets**....NEW-ORLEANS, Feb. 13.

The COTTON market is heavy; strictly Middling selling at 11½ cents. Sight Exchange on New-York 1 ⅜ cent discount. Cotton Freight to Liverpool ⅝.

NEW-ORLEANS, Feb. 14.

COTTON unchanged. Sales of the week 20,000 bales. Stock on hand 280,000 bales.

**Weather Items.**

*By Morse's Line, 16 Wall-st]*

MONDAY, Feb. 17—8 A. M.

AUBURN—A cold but pleasant morning; wind W; ther. 22.

SYRACUSE—Clear and cold morning; some snow fell last night; wind SSW; ther 26.

OSWEGO—Cloudy and cold morning; wind W; ther 16; bar. 30.65.

UTICA—Cloudy and unpleasant; wind NW; ther. 35; bar. 30.70.

ALBANY—Cloudy but pleasant; wind NE; ther. 27½; mercury in bar. 67; bar. 30.65.

MONDAY, Feb 17—9 A. M.

TROY—Weather hazy but pleasant; wind light from NW; ther. 28. River subsided three feet, but still high and clear of ice.

DANGEROUS EXPERIMENT.—We learn from the *Boston Journal*, that a young lady in Chelsea, a subject of Mr. Cutter, was thrown into a trance by an amateur professor of the "science" of Mesmerism, on Sunday last, and became uncontrollable. She rushed out of the house in a delirious state, ran down upon a wharf, and had it not been for the timely interference of two young men, would probably have thrown herself overboard. She was taken back to the house, and a physician sent for, whose daily attendance has since been necessary.

**Appointments by the Governor and Senate.**

ISSUED FEB. 11, 1851.—*Managers of the Western House of Refuge for Juvenile Delinquents.*—Frederick F. Backus, Samuel W. D. Moore, Elijah F. Smith, Moses Chapin, Aristarchus Champion, of Rochester; John Greig, of Canandaigua, George W. Horton, of Westchester, Hell-Gate Pilot.

## CITY ITEMS.

PARODI'S BENEFIT.—The benefit of Parodi, on Friday evening last, was not only a triumph for herself, but for Maretzek. The superb prima donna was received with the most enthusiastic demonstrations on the part of the audience. At the close of the first act, a shower of complimentary verses, printed on satin, and adorned with the Italian tri-color, was thrown upon the stage, with a laurel wreath, and enough boquets to stock an ordinary florist. Parodi was also presented by a number of her admirers with a bracelet of pearls and diamonds, valued at $500, with which she made her appearance in the second act. Maretzek was warmly applauded in his appeal to the audience to bear him out in refusing Novelli's absurd demand of the proceeds of his benefit in advance, under pain of throwing up his part. Giubilei took Novelli's place, and, with Beneventano's help, filled up the gap to the satisfaction of the audience. Patti, as Arsace, was more charming than ever.

The receipts of the evening were $1,967, of which Parodi received $1,200, dividing the balance with Maretzek, according to a previous agreement. On leaving the Opera House she was serenaded by the Orchestra, which afterward proceeded to her residence in Twenty-first st., and played a number of choice Operatic airs. Parodi left the City on Saturday afternoon, for Boston, where she is to sing six times, appearing last-night, for the first time, in Lucrezia Borgia.

A NOVELTY.—Saturday's *Express* says:

She, (Parodi) Madame Anna Bishop, Maretzek, (who lends the Opera House) Bochsa, Strakosch, and others, high in reputation, are to sing, voluntarily, at a concert to be given, soon, for the benefit of the American Musical Fund Society.

This will, indeed, be a novelty. A trio sung "voluntarily" by Maretzek, Strakosch and Bochsa will draw crowds to the benefit of the Musical Fund Society. Strakosch, we suppose, will be the tenore, Maretzek the barytone, and Bochsa—who weighs quite as much as Lablache—the basso.

BENEFIT TO GEORGE LODER.—The Complimentary Testimonial to George Loder, at Tripler Hall, on the 4th of March next, promises to be one of the bumpers of our musical season. Mr. Loder has been with us, and associated with all our musical enterprises, for several years, and, now that he is about to be absent for a time, such an acknowledgment of his talent and services is exceedingly appropriate. The list of names which appear on the Committee is sufficient to show that there can be no such thing as a failure.

"HENRY CLAY YOUNG GUARD."—The Seventh Annual Ball of the Henry Clay Young Guard, of this City, will be given at Niblo's on Monday evening, the 24th. The annual festivities of this Association are among the most delightful reunions of the season.

THE GARDES LAFAYETTES.—The Gardes Lafayettes of our City will commemorate the Third Anniversary of the Revolution of 1848, Monday evening, 24th inst., by a banquet at the Coliseum.

THE CHURCH OF THE NATIVITY.—*Mr. Editor:* In your notice of the breakage of glass in the windows of the Church of the Nativity, you say the outside cannot be protected. With one or two exceptions, they can be protected with wire screens outside. These windows were obtained with great exertion, through the liberality of some friends who, admiring the interior construction of the church, did not wish to see common plain glass windows, which would have been in keeping with the limited means of the congregation, but not in accordance with the style of architecture. We were thus enabled to procure windows with stained glass, which have been generally admired for their simplicity and neatness. The seats in this church are free, and it is supported by weekly offerings; consequently our finances will not justify our undertaking to screen the windows without knowing where the money is to come from to pay for it. I have already received a contribution for this purpose, and I am in hopes we have friends enough to help us in protecting them from further outrage. "Announce of prevention is worth a pound of cure."

JAMES DE VOSE, Treasurer, 338 Sixth-st.

LABOR MEETINGS.—We are again indebted to the officers of the House Carpenters for a report of the public meeting held by these Industrials last Friday evening, which we are obliged to sum up in a very short space, by the great pressure on our columns by the arrival of the Africa—suffice it to say, that the late meeting was as interesting as any of those we have reported. H. M. Smith presided, and J. D. Hennessy, the President of the Protective Association of Carpenters, acted as Secretary. The Committee on an Increase of Wages, reported against the general principle of Strikes, through Andrew White, and suggested the enrolling of 1,500 men pledged not to work for less than $1 87½ per day from the 10th of March to the 10th of November, which met with the approval of the great portion of the trade who were present, when Mr. White announced that after this new organization had been fully perfected, by enrolling a suitable number of names, it would be time to recommend $2 per day, as demanded by many of the Carpenters as the standard of wages.

On an appeal by a gentleman from Fall River, soliciting the aid of the Carpenters in behalf of the Operative Weavers, now on a strike, a liberal sum was collected, and Messrs. Stansbury, Depew and White appointed a Committee to confer with both the Carpenters' Associations for further aid to these Industrials.

It was then reported by Messrs Stansbury and Snyder that the President of the Carpenters' Association (Mr. J. D. Hennessy) had granted Convention Hall, 179 Wooster-st, for a meeting last evening of the Shirt Sewers, and for a public Carpenters' meeting on Thursday, Feb. 20, a call for which is to be issued by Messrs. Snyder, Getty and Stansbury, in the papers friendly to Labor Reform.

ARREST OF A FUGITIVE FROM JUSTICE.—Officer A. M. C. Smith on Sunday afternoon arrested a young man named Jas. B. Storms *alias* G. H. Carter, charged with being a fugitive from Chittenango, Onondaga Co., where he is wanted to answer an indictment for forging notes of hand in the name of Dr. S. P. Townsend and others. Also to answer a charge of obtaining goods by false pretences. He was yesterday sent back in the custody of Deputy Sheriff Frederick of that County, who came on to procure his arrest.

DISORDERLY BEHAVIOR.—Two men by the names of Fitzgerald and Sharp—the former representing himself to be the Sheriff of Essex County, New-Jersey—hired a cab of Mr. James C. Brady, in Atlantic-st. on Friday evening, and amused themselves by smashing the windows and defacing the vehicle. Both were under the influence of liquor. The Police were summoned, and they were conveyed to the Third District Station-house, but liberated on the payment of all damages.

VIOLATION OF A CITY ORDINANCE.—A butcher named Cornelius Sullivan was on Sunday arrested on a charge of attempting to take the hide from dead animals in an open lot, in violation of a City ordinance.

LARCENY.—Charles Johnson, residing in Oak-st. was yesterday arrested on a charge of stealing a watch valued at $25, belonging to a Mr. John Swan of Water-st. The accused was committed to prison for trial.

DISORDERLY HOUSE.—A woman named Charlotte Brown, keeper of a house of ill repute in Church-st., was, on Saturday, taken into custody on the above charge. It appears that two girls, both under 15 years of age, who had each deserted their parents, were found at her house, living by prostitution. The accused was taken before Justice Lothrop and held to bail in $500 to answer the charge.

DEATH BY DISEASE OF THE LUNGS.—An inquest was on Sunday held at the lodging-house 68 Mulberry st. upon the body of an unknown man, about 40 years of age, who was found dead in his bed on Saturday morning. A verdict of "Death by Disease of the Lungs," was rendered. The deceased was dressed in an old drab sack coat, old black pants, white shirt, and boots.

ARREST FOR BIGAMY.—Thomas Baiden was arrested on Saturday, charged with bigamy, in marrying, on the 8th of October, 1850, Mary Gobrich, he having at that time a wife living to whom he was married in 1843. He was committed, by Justice Lothrop, to answer the charge.

## BROOKLYN ITEMS.

THE SUPERVISORSHIPS.—The argument upon the motion to dissolve the injunction granted by the Judge, in the case restraining the Aldermen of the second class of the City of Brooklyn from taking their seats in the Board of Supervisors of Kings County, and which injunction had been served upon the defendants, together with a complaint in the nature of a *quo warranto*, was proceeded with on Saturday in the Supreme Court. F. S. Crooke, Esq. appeared in support of the injunction, and J. M. Van Cott, Esq. for defendants. A technical argument ensued as to the propriety and legality of the course adopted, and the Judge having expressed a wish to hear the whole case, Mr. Crooke proceeded with the main question. The points principally relied on were, that the two Statutes constituting the defendants Supervisors were unconstitutional, inasmuch as the Aldermen were divided into classes by lot. This, he contended, was contrary to the second section of the 10th article of the Constitution, which prescribes that all offices should be filled by election or appointment. Again: By the charter their term of office was to commence on the first Tuesday in April, 1851, but, by an act passed 24th January, it commenced immediately. This was, in fact, filling an appointment by implication—an act which the Legislature had no power to do directly. Mr. Van Cott, on behalf of the defendants, maintained that both Statutes were constitutional, and had been strictly complied with. That the people in electing the Aldermen knew that the functions of Supervisors would devolve upon one class of them, and should not have elected any but fit and competent persons to fill such offices. That the Legislature had sufficient power over all officers and appointments to control the commencement or termination of their term—that, at least, the Statutes in question were not so palpably unconstitutional as to warrant the issue of an injunction; and he would pray that the temporary order should be revoked. The Judge, however, declined to do so, as he expected to be ready to dispose of the case finally on Tuesday next.

**Fugitive Slave Law—Riot at Columbia, Pa.**

The correspondent of the *Philadelphia Sun* gives an account of the disgraceful proceedings at Columbia on Saturday evening, the 8th inst., by which a few ruffians prevented Cyrus M. Burleigh from lecturing on the Fugitive Slave Law—they having locked out the lecturer and his audience. Finding how things were, Mr. Burleigh retired, and a search was made after him by the mobites, who threatened to "ride him on a rail," "tar and feather him," &c.; but, not finding him, they went to the house of a respectable colored man, William Whipper, (of the firm of Whipper & Smith,) which they stoned, without doing much injury.—Three of the mobites were caught in their beds by the constable on Thursday—seven in all being arrested, three of whom were discharged on Friday, and Hogentogler, Wilson, Yeanish and Brown were held, in the sum of $300 each, for their appearance at the next Court.

**Hon. Henry A. Wise Killed.**

The *Somerset Herald* of Tuesday, contains the following rumor as being current in that latitude. We give it to our readers for what it is worth. The death of this gentleman, in a duel with Mr. Finley, of Accomac Co., Va., was currently reported at Carroll's Corner, in this county, on Saturday last. The intelligence was received by a small craft which anchored in Annamessex River on Friday afternoon. Rifles are alleged to have been used by the parties, from which circumstance we are of the opinion that Mr. Finley was the challenged party. We only give the report as we received it, hoping it may prove unfounded.

[Milford (Del.) Beacon, Feb. 14.

## LAW COURTS.

**Court Calendar**....THIS DAY.

COMMON PLEAS.—Part I.—Nos. 167, 139, 199, 201, 203, 221, 233, 241, 247, 243, 253, 261, 147, 265, 255. Part II.—Nos. 442, 454, 460, 464, 263, 292, 470, 472, 474, 476, 478, 480, 462, 484, 486.

SUPERIOR COURT.—Nos. 56, 135, 14, 139, 151, 5, 46, 84, 157, 158, 160, 161, 162, 163, 164, 167, 168, 171, 172, 173, 175, 176, 177, 180, 4, 5, 123, 122, 23, 141, 54, 56, 38, 15, 2, 144, 71, 77, 28, 64, 116, 119, 50, 51, 52, 118, 41, 110, 111, 10, 133, 9, 65.

CIRCUIT COURT.—Nos. 229, 117, 233, 48, 161, 227, 231, 158, 206, 208, 241, 242, 194, 236, 52.

SUPREME COURT.—General Term.—Nos. 34, 47, 199, 49, 50, 51, 53, 54, 55, 56, 58, 59, 60, 61, 62.

U. S. DISTRICT COURT.—Nos. 30, 38, 44, 46, 47, 48, 49, 50, 51, 52.

**Supreme Court.**

*Moser*, arrested on a charge as to jewelry, &c., in England, was brought up on habeas corpus for discharge. Decree this forenoon.

**Circuit Court.**

*David Van Horne Floyd* and *Elizabeth*, his wife, vs. *Terbell, Jennings & Co*—Mrs F. owns property 24 Cortland-st. A building stood on it previous to May, 1849, which let for $900 a year. Messrs. T. & Co. agreed with Mr. and Mrs. F. if they would take the old building down and erect a store they would take a lease of it for five years for $3,600 a year. A new building was accordingly put up, and a lease executed and recorded.

The present suit is to recover $160, rent alleged to be due on the 1st of Nov. (quarter-day) from 15th Oct when the new building was finished.

The defense is that plaintiffs were to get the new building done, if practicable, by the 1st of August, which they failed to do in consequence of not exercising proper diligence—that defendants had to pay $650 extra after 1st of August for a store in Pine-st. to which they removed from Cedar-st. and $140 other expenses. They also say that the new store was to be built after the model of No. 15 Cortland, which it was not, the counter cellar having been lath with brick and cement, to keep the water out, instead of paving stones, cemented together, and cement poured over them, so as to cover the paving stones; and that the counter cellar was damp and hurt their goods, and sax to recoup. The right to do so is denied. Verdict this forenoon.

**Superior Court**.....SATURDAY, Feb. 15.

Before Justice Oakley and Judges Sandford and Paine.

[Decisions.]

*John Chester*, appellant, *vs. Levi Mills*, respondent—in this case it was decided that the usage, where goods are sold for cash, but delivered with out at the time of delivery receiving the cash, is against law and void.

Mr. Chester, the Court said, belonged to Detroit. He had flour in New-York, and gave power to Mr. Mills to sell it. Mr. C. was here for a short time himself, but left. The bill of complaint alleges that he empowered Mr. Mills to sell the flour for cash, and not otherwise. The answer denies the claim, and says the sale must be according to custom. Mr. M. goes on to say that the sale and delivery of the flour to Mr. Deming was according to the custom of sales of flour.

There were two issues. One, that it is customary to deliver goods or produce sold for cash before the cash is received. The flour was sold in this way and delivered, the purchaser failed, and the cash was never paid. The question was as to usage, and if Mr. M. was liable. The case went to trial.

Evidence was offered to prove that it is the custom of merchants to deliver flour thus sold before the cash is received. The case was submitted to the Jury without charge, and a verdict found for defendant.

We think the custom is illegal. It is a custom against the plain meaning of the term "sale for cash, and no proof is allowed to vary the term by saying there is a usage to the contrary. Where the plain meaning of language is understood, it will not be available for a party to set up the contrary. Where the plain meaning of language is understood, it will not be available for a party to set up that there is a new aspect of it. If that is allowed, one day one usage will be adduced, and another day another. When the meaning of language has been perfectly well settled, the parties are not to be permitted to set up a usage to explain the meaning.

We shall order a new trial. The plaintiff must amend his replication so as to object to the legality of this issue. New trial ordered; costs to abide the event of the suit.

*Sarah Ann Post* vs. *Isaac Adriance*—Point of Practice—Appeal from an order at Special Term to strike out part of the reply as redundant. The motion to strike out was as to two paragraphs. The Judge refused to strike out one, but struck out the other, and granted the moving party $10 costs of motion. The appeal was made on this point. The Judge, the Court said, was right in striking out, and the only difficulty was, if costs should be granted when only part of the motion was allowed. Where a party succeeds in obtaining a part of his motion only, he should not be entitled to costs, but costs should be to neither party. Order modified accordingly.

*Samuel Hoffman* ads. *John Leslie*.—Hoffman had taken a mortgage on personal property and foreclosed—the property sold and Leslie bid it in. L. then sued H. in trover, and recovered about $500, the full value, although he bid in at less than $100, and the property remained in his possession. The Court thinks, under the circumstances, he was not entitled to recover more than it cost him to buy the property in. New trial granted, on payment of costs, unless plaintiff consents to reduce to $72 50, with interest from Sept, 1849, in which case motion for new trial denied.

*Eugene Keteltas and others, appellants*, vs. *Lucius E. Bulkley, respondent*—Exceptions as to charge of the Judge, &c.—This was a suit, the Court said, for malicious prosecution against four defendants—Messrs. E. and J. Keteltas, Smith and Brush—but the Court in the trial, directed the Jury to acquit Mr. J. K., and they did so. The action was superintended by a suit in the Common Pleas growing out of a quarrel between defendant and a hackney coachman named Bradley, who sued them for assault and battery, and recovered judgment. Mr. Bulkley was one of the counsel for B. on the occasion, and gave testimony, he having witnessed the transaction.

Subsequently the defendants (apparently through Mr. Smith, principally,) preferred a complaint before a Police Justice, charging Mr. Bulkley with swearing, on the trial, he was not interested, whereas he was so, having a day or two afterward given notice that he had a power of attorney from Bradley as to the judgment. The magistrate dismissed the complaint, but at the request of Mr. Smith, the Court said, the papers were presented before the Grand Jury, who found an indictment against Mr. Bulkley for perjury. That was brought to trial, and at the conclusion of the testimony the Court ordered the Jury to acquit Mr. B., which they did.

Mr. Bulkley then brought this action for malicious prosecution, which was tried in this court, and a verdict recovered for over $3,000. A bill of exceptions was then entered by Messrs K, S and B, with a view to set aside the verdict, and that a new trial be granted. [The case was tried before Judge Vanderpoel.]

It was insisted, in the argument, that there was not sufficient evidence to implicate Mr. Eugene Keteltas or Mr. Brush, they having had nothing to do with the charge of perjury, except to make their affidavit when called upon. The Judge at the trial decided that there was sufficient. It was also decided that the damages, particularly as to Mr. Brush, were excessive.

It was also contended that the general character of the Judge's charge was calculated to have an improper influence on the Jury, in their view of the case, so as to enhance the damages—that he had gone further in his charge than he had a right to do.

These questions, we decide, cannot be brought into the General Term for its judgment. Questions of, to whether there is sufficient evidence, questions as to damages, newly discovered evidence, &c. must be brought before the Special Term. If the Judge there goes against the party, he may apply to the General Term on appeal.

We cannot disturb the verdict on the ground, either as to sufficiency of evidence or excessive damages—if properly maintained, the damages do not appear to be more than reasonable. The prosecution against Mr Bulkley was carried on with zeal and vigor, and the plaintiff was subjected to it. The defendants should not be surprised at the verdict.

As to the Judge's charge, the charge is given in the bill of exceptions in extenso. The practice of entering exceptions to the allusions of fact in a Judge's charge is not to be encouraged, and is altogether improper, unless the position asked for by defendants is sound, that they have a right to bring it as a question before the general term that the Judge has gone beyond the line of his duty and misled the jury, and that his charge led to a verdict, which, in the exercise of their ordinary discretion, would not have been obtained.

The charge may be called a very decided one, as to matters of fact, and must have had an effect upon the jury. The question is whether in such a charge, assuming that to be its character, the Judge has gone beyond the line of his strict duty.

The right of the Judge to comment on a case cannot be questioned; it is every day's practice, and sometimes asserted for the purposes of justice, and allusion to the facts as well as to the law, is a matter to be left to his sound discretion. The security in relation to it must be in the sense of responsibility of the Judge. It is not to be assumed that he would take a course with a view to compromit the case. We are not prepared to say that a case might not present itself, where injustice had grown out of the charge, that a party might not apply for relief.

But it is not necessary to say whether this exception is justified by the fact or not. The question is, whether the Court has a right to consider this in the manner brought before it. Between the charge and the Jury, the latter was properly apprised by the Judge that the questions of fact were entirely at their disposal. In this aspect of the case we cannot see there was anything to avail the defendant here.

Passing from these we are to consider whether there was any error in point of law committed by the Judge in submitting this case to the Jury. Some doubt has arisen in our minds, growing out of the voluminous character of the charge. Various propositions were submitted by defendant's counsel, to the Judge, in writing, which he answered, and all manner of exceptions taken. The Judge was called upon to charge this thing and that thing. This manner of catechising a Judge is a practice which is extremely embarrassing, and which I for one, (said Chief Justice Oakley, who delivered the opinion) will not encourage. When gentlemen on either side present to me questions I receive and look at them, then go on and give the Jury such instructions as I think the case calls for. Should I have made any omissions, or such, I am always glad to be reminded of it.

As to the point that the Judge, from the affidavit presented before the Magistrate by defendant, should have decided that there was probable cause, and not permitted the case to go to the Jury, that is not so. Probable cause is where a party, from a knowledge of facts at the time, proceeds against a person. The affidavits are only admitted in behalf of the defendant as for what they may be worth. It is for the Jury, from all the circumstances, to say probable cause is a mixed question of law and fact, and proper to be submitted to the Jury.

The Court, therefore, does not consider there was any error of law, nor the fact that Mr. Bulkley, a day or two after the trial in Common Pleas, had a power of attorney, evidence of his possession or interest at the trial.

As to the points of the case beyond that of the law point, the General Term cannot entertain them and it does not feel called upon to interfere as to the verdict. Motion for new trial denied.

*Eugene Lentilhon* vs. *The City of New-York*—Plaintiff obtained a verdict for $900 or $1,000. Notice was immediately given by defendant's counsel, of appeal, and he was allowed to do so without giving security for costs. This is a course which the Court will encourage, as very often by the means a case may be decided without a second trial. It is necessary for both parties to be present and consent. In this case, however, the notice was not entered in the Clerk's books, nor had the plaintiff perfected judgment. As to the latter point, the course will be for the losing party to notify the other to perfect judgment, and if he does not, the Court will compel him to do so, and pay costs of motion, unless he can show cause to the contrary. Plaintiff's counsel having made no objection, and stipulated to argue the case at the December Term, is precluded from setting up that the matter is irregular. The present appeal is dismissed, but without costs.

*Geo. W. Soule* vs. *Wm. H. Burroughs*.—Relative to money deposited in Court in a suit between the parties. Mr. S. it was said, has gone to California. Order at Special Term affirmed.

*Robt. L. Crooke and others* ads. *Wm. P. Furniss*—On a note for $1,000 given to the Croton Ins. Co. as a premium note, and transferred by the Company to defendant, with others, in 1846, as collateral for a loan of $6,000. Verdict was given for defendant, and appeal made. The Court thinks the objections not well taken. When an individual receives a note transferred by a company, which appears on the face to be regular, he is not bound to go to the company and examine its minutes to see if it has been rejected by a vote of the directors. Any irregularity of the company should not affect a bona fide holder without notice. Beside which plaintiff was one of the Finance Committee of the company which acted upon the loan. Motion for new trial denied.

*Henry Wood, Receiver*, vs. *Peter and Jacob Lambert and others*—Order setting aside former judgment on the ground that notice of the application to settle the same should have been given to the defendant's Attorney.

*Robert S. Comstock, defendant in error*, ads. *Leonard Brown, plaintiff in error*.—Motion denied without costs.

*Roberts* vs. *Randall*.—Order modified so that order below be affirmed, without costs.

**Superior Court**....MONDAY, Feb. 17.

Before Judge Mason.

*Edwin Stone* vs. *Peter Duffee and John Brown*—Action for alleged assault and battery.—The plaintiff alleges that being on Pier 3, NR, one Sunday morning, Mr. Duffee struck his hat with a snow ball, and it fell into the river, when Messrs. B. and D. threw pieces of coal at and sunk it, and that the hat contained papers worth $250. It was alleged that plaintiff is proprietor of the Irving House coaches, and his drivers wore a badge to that effect—that Mr. D. is a rival proprietor, his men also wearing badges, and that his hat was knocked off through malice, &c. This was denied, it being said that as the steamboat was coming in several hackmen amused themselves with throwing snowballs, and the one which Mr. D. threw at plaintiff was in sport—that the hat fell on board the steamboat, and was dropped in being handed up, though it was denied that it was so thrown by Mr. D., or that defendants threw coal at it. Verdict this forenoon.

**Superior Court**....MONDAY, Feb. 17.

GENERAL TERM.

In the appeal in the suit brought by Mr. *L. E. Bulkley* against *Messrs. Eugene Keteltas, C. R. Smith and Brush*, already referred to, Mr. W. K. (brother of Mr. E. K.) was not a defendant in the suit, though he had been so in the suit by Bradley, in the Common Pleas, but the complaint as to him dismissed. Verdict $3,000 and costs. The Chief Justice remarked on Saturday, that questions of fact must be presented to the Special term, but even if the Court had entertained the questions of fact in this case, they saw nothing in them which would lead the Court to set aside the verdict.

This term is sitting for the hearing of arguments before Chief Justice Oakley and Judges Sandford and Paine.

**Court of Common Pleas**....MONDAY, Feb. 17.

Before Judge Woodruff.

*William Mulock* vs. *Matthew Rowe*.—Suit to recover about $217, (being taxed costs and $50 counsel fee) alleged to be due from Mr. R. to Mr. M. The liability was denied. Mr. R. employed Mr. M., it was said, to sue two small notes—(we understood for about $150)—after they had been on the calendar for some time from some cause Mr. M. gave up the charge of the cases, and Mr. R. had to employ other attorney and counsel, and engaged Mr. Jas. T. Brady, who was successful, and whose counsel fee and taxed costs amounted to about $125. [It is said Mr. R. had not realized from the defendants the costs.]

In answer to the present claim it is contended that Mr. Mulock having abandoned the cases cannot charge for taxed costs or counsel fee.

The Court, in its charge, said the business of an attorney is to see to the summoning of witnesses, &c., and is distinct from that of counsel. A counsel (whether the attorney or a third party acts as such) is entitled to remuneration not only for trying the case, but for time taken in consultations, unless he should voluntarily abandon the case, and the benefit of those consultations were lost to the client—in that case he is not entitled to counsel fee, but still, if he has also acted, as in this case, as attorney, he is entitled to his taxed costs as attorney, his client having had the benefit, as far as the cause went, of his service. Verdict for plaintiff—$164 79.

*Cole, et al*, vs. *Walker, et al*—For alleged invalid levy at a brewery up town, already referred to.—Verdict for defendant.

**Court of General Sessions**....SATURDAY, Feb. 15.

Before Judge Beebe and two Aldermen.

*Trial for Receiving Stolen Goods*.—The attention of the Court was occupied during the whole day with the trial of Robert Foster, charged with receiving four chronometers, worth $150 each, which had been stolen in 1849, from the store of Henry Glover, corner of Wall and Water sts. In the afternoon the case was given to the Jury who were out until 10 o'clock, when they were unable to agree, and were discharged by the Court.

**Court of General Sessions**....MONDAY, Feb. 17.

Before the Recorder and Ald. Franklin and Dooley.

*Trial for receiving Stolen Goods*.—Michael Kerrigan was placed upon trial, charged with receiving a number of articles of wearing apparel stolen from Dewitt C. Routelle, of 247 Broadway, on the evening of the 29th of December last, knowing them to have been stolen. The evidence did not sustain the indictment and the District Attorney did not ask for a conviction. The accused was accordingly honorably discharged.

*Trial for Larceny*.—Patrick Gallagher was put on trial, charged with stealing the clothes alluded to in the above case, but he produced several witnesses who swore that at the time the larceny was said to have been committed, the accused was in his own house, entertaining some friends. The jury rendered a verdict of not guilty.

*Trial for Grand Larceny*.—A girl named Catherine O'Connor, a servant in the employ of John R. Post, was tried for Grand Larceny, in stealing in January last $45 in gold, from her employer. A portion of the stolen money was found in her possession. She was found guilty and sentenced by the Court to the House of Refuge.

Adjourned.

FIRE IN TROY.—The extensive paper hanging establishment of Messrs. A. & W. Orr, 265 River-st., was discovered to be on fire about 4 o'clock this morning, and notwithstanding the strenuous efforts of the firemen and citizens, the whole building, together with its valuable contents, was burned to the ground. The safe, books, &c., were with much difficulty saved. No other property could be got out in consequence of the violence of the flames. The engine and other valuable machinery in the building was also destroyed. Loss $35,000; insurance $19,000. By this calamity a large number of men and boys are thrown out of employment. The adjoining store, occupied by Messrs. E. & D. B. Plum, was damaged by water.

[Alb. Eve. Jour., 14th.

**Western Michigan—Plank Roads.**

Correspondence of The Tribune.

EAST SAGINAW, Mich., Saturday, Feb. 1.

H. GREELEY, ESQ: I have thought a word from this section of Michigan might be interesting to some of your readers. Possessing a soil of the richest fertility, timber of choicest quality, among which are the noblest pines in America, this country offers advantages to settlers rarely met with. Tributary to the Saginaw Bay, are the Flint, Shiawassee, Cass and Tittibiwassie Rivers, contributing their products for 150 miles each. Within the past year through the enterprise of a few citizens we have begun the construction of a Plank Road from Flint, Genesee Co., to East Saginaw on the Saginaw River—33 miles in length, and will be completed 1st July—a great work, in less than twelve months from subscribing of stock. We are already obtaining a benefit; many are coming in; before this our roads were impassable, the country could not be seen. You, as a great friend of Plank Roads, we should be glad to see here. We will pledge that you will be gratified with the visit, and your fare shall be nought worse than trout and deer's meat, partridges and salmon. W. B.

HOMSTEAD EXEMPTION.—A bill has passed the Legislature of Illinois exempting a Homestead, to the value of $1,000, from execution.

## MARRIED

In New York City, Jan 27, Francis P Whittemore, of the Gazette, Nashua, N H, to Angelina H Parks, of Palmer....Also, Feb 9, Patrick Killoran to Mary Frances Rooney.....Also, Feb 10, Owen J Norton to Permelia A, eldest daughter of Douglas Benson.....Also, Feb 16, Thomas Rockliffe to Mary Shea, both of this City....Also, Feb 12, James McKay to Mary Jane Allen.

At Brooklyn, L I, Feb. 16, William Simpson of New Bridge, N. J., to Jane, relict of the late Capt Wm Carry, Carrickfergus, Ireland.

At Williamsburgh, Feb 9, Philip Suffel to Miss Catharine Buchman.....Also, George Hess to Miss Margreta Wagner.....Also, Heinrich Fretchen to Miss Catharine Eberemann.

In Easton, Conn, Feb 12 S H Wales, of the New York Scientific American to Frances Elizabeth, only daughter of James D. Johnson, Esq., of Easton.

At Clifton, S I, Feb 13, Joseph L. Sieboth, (from Prussia) to Chlotilde A Kern (from Wurtemburg), all of Brooklyn.

In Attakapas, La, Jan 22, Lieut George F. Pickett U S A, to Miss Sally Harrison, daughter of D. John Minge, late of Richmond, Va.

In Carroll county, Md., Jan 2, Edward Spalding to Miss Elizabeth Ingler, of Frederick county.

At Toronto, C. W., Jan 8, Richard Fairclough, late of Preston, Lancashire, England, to Mary A Elizabeth, only daughter of J N Martyn, formerly of Falmouth, Cornwall, England.

At New Orleans, Jan 6, Louis Victor Foote, of Paris, to Miss Mary Theresa, daughter of F H Pettigrew, of this city.

In Macon county, near Fort Valley, Ga, Jan 8, Wm Flowers, to Miss Josephine, daughter of Capt John Lamar.

In Cincinnati, O, Jan 31, Henry Hooker, to Miss Margaret J Ferry.....Also, at the same place, Jan 22, John H Peel to Miss Caroline Smith, both of England.

In Russell county, Ala, Jan 14, Mr John R Berry to Miss Maria Louisa, daughter of Gen Ancerom Abercrombie.

In Barnstable, Mass, Jan 25, Mr Barnabas L Hinckley, of New-Orleans, to Miss Amelia Ainsworth.

At Huntsville, Ala, Jan 8, Charles J Colcock, of S C, to Miss Lucy Frances Horton.

At Columbus, Miss, Jan 5, Prof Thos G Rice, of LaGrange College to Miss Julia A Yongue.

In Clarke county, Ala, on the 26th Dec, Mi