CITY ITEMS.

STREET MUSIC.—Perhaps in no other particular is New-York more novel to a stranger than in its Street Music; and by "music," be it understood, we restrict ourselves to no arbitrary acceptation of that term as vaguely defined and abstractly theorized upon by the philosophers of "high art," but, taking a wider, bolder range, apply it to all varieties of sound, and, especially in this instance, to the exercise of the human voice in its primitive utterances, as exhibited in certain singers of a peripatetic school who turn their manifest "calling" to immediate pecuniary account.

Earliest among these itinerant warblers who daily pass our windows are the little blue-nosed oyster-boys whose tin pails and dippers clash with a shivering effect in the frosty morning air, and whose piping cry of "oyshtur, fresh oyshtur," varied in intonation as the individual genius or taste of each performer may suggest, is usually one's first interruption of that dreamy, half-dozing state which so pleasantly and smoothly prepares the way from the dim realms of slumber to the brightness and bustle of day. Simultaneous with these, appear the more pretentious newsboys; we fancy—it may be only a fancy, as the blankets are somewhat muffling—that they drawl sleepily, monotonously now, the news by the steamer which, some hours later, when the sun has thawed the huskiness of their vocal organs, is pealed so sharply into the ears of passers by.

A more tragic and novel style is presented in the war-whoop, or yell, or screech adopted as an idiosyncracy by the strictly conscientious venders of "pure country milk" to proclaim their presence to confiding fellow-citizens. It has never ceased to be a matter of speculation with us as regards the places where this feat is learned, no less than the means employed to acquire the marvelous skill with which it is rendered—what remote valleys redcho to the first feeble efforts of novices—what unaided training, self-imposed and laboriously pursued by each aspiring pupil!

After breakfast, (the intermission for refreshments, next on the programme are solos and occasional choruses, of the most various styles of execution and most telling effects; the match-man, crawling about in helpless deformity, wails of his popular commodity; the two stout Dutch women, in short stuff gowns and bright worsted caps, carol their parts blithely in an extraordinary English version, interpreted only by the glittering, rattling tin pans hung on the portly shoulders of the one, and the pretty baskets and brooms flourished by the other; the little withered rag-man, in a savage, bass monotone, relieved in part, however, by the merry, tinkling bell of his hand-cart, repeats one word only, but "that one word he doth outpour" with all the energy of a person who has staked life and fortune on one absorbing pursuit.

Then follow in rapid succession the "glass-puddlin"-ers, bent with the habitual burden of their shops on their backs; old-clothes men, generally Jews, themselves rubbish-like piles of the oldest "old-clothes"—distorted and dirty, and repulsive altogether—faces which we stare at, and wonder if they ever could have been the soft, chubby faces of babies—shaggy, overhanging brows, under which glitter keen, screwed-up black eyes, with an appearance of never having perceived other objects than rents and threadbare seams and grease spots and patches; their mechanical, guttural utterance of "old clo's," to denote the nature of their employment, is quite unnecessary; one glance at them suffices; by no possibility could they suggest for an instant any but the one idea of which they are the exponents.

The charcoal men are unquestionably dirtier, so begrimed from top to toe with their sooty merchandise that it is quite difficult to believe that the vaunted virtues of soap and water would have the usual cleansing effect in their case; but they are by no means so repulsive—their grimness is at least produced by a wholesome disinfectant, a universal purifier.

Then come the "old iron" venders; and men crying lustily by the side of rickety carts filled with apples, or fish, or cabbages, or potatoes, or, it may be, an assortment of butchers' meats, and dragged along at a snail's pace by still more rickety horses, whose protruding bones it is in vain attempted to cover with pieces of old carpet; and the unctuous soap-fat gatherers, spasmodically jerking out their greasy cry as if struck violently on the back when just in the act of swallowing; and the dust men, and the garbage-men, and the kindling-wood-men, and all the choral throng.

All these compose an orchestra which offers an array of talent not to be equaled in variety or originality of execution, however surpassed in the merely artificial redundancies of pretentious cultivation; to those fresh souls who rejoice in the exercise of man's natural gifts, unsullied, untrammeled by didactic rules of art, we recommend this troupe for a careful hearing.

FIVE-POINTS CONCERT.—The rehearsal of the children of the Five-Points Mission and the news boys at the Tabernacle yesterday afternoon, under the direction of Mr. Van Meter, was very good. Those present were delighted to see three to four hundred so orderly and singing in such good tune. The programme for Friday evening is a good one. This concert is to help feed and clothe these little ones.

In the Board of Councilmen last evening over an hour was passed in discussing an ordinance authorizing the Mayor to appoint a number of cattle drivers to drive neat cattle through the city, which, after it had sustained various amendments, was lost for want of a constitutional vote. The bill for the extension of Chambers-st. was adopted in the Committee of the Whole and was ordered to a third reading. The resolution making an appropriation of $200 to each of the regular Reporters in the two Boards of the Common Council was, on motion, passed over in the Committee by a vote of ten ayes to nine noes. The announcement of the vote disclosed the fact that a constitutional quorum was not present by eleven votes, upon which numerous motions were made to rise in order to take a call of the house, all of which were voted down, so that nineteen members transacted all the business in the Committee of the Whole.

To-morrow (Friday) the question is to be decided in the Board of Councilmen whether locomotive engines shall be discontinued on the Eleventh avenue, below Fifty-ninth street, and by what influences and by whose agency the report of the Committee to discontinue their use will be opposed, can then be known.

THE NEW BOARD OF COUNCILMEN.—A good deal of activity has been manifested since the announcement of the result of the election, among the aspirants for the President's seat in the new Board of Councilmen. The prominent candidates were Councilmen Pinckney of the Seventeenth, Barney of the Fifth, Cooper of the Ninth, and Gray of the Seventh Wards all of whom, with the exception of Mr. Barney, (who is now serving his first term of office,) have been elected for their third term. Mr. Pinckney is one of the most intelligent, useful, active, and popular members of the Board, and we learn that Messrs. Cooper and Barney have withdrawn in his favor, so that the contest has narrowed down to Messrs. Pinckney and Gray, the first of whom will be supported by the Whigs and Know-Nothings, and the latter by the Democrats. The vote of the former being thirty-five and the latter twenty-four, Mr. Pinckney's election may be considered sure.

SMILLIE'S ENGRAVING OF COLE.—A very great work in American art, in the form of line engraving, is about to appear in the course of a few days. Mr. James Smillie has been engaged for four years on Cole's Voyage of Life, and four grand engravings are the result of his steady labors. Cole's pictures are new beyond the necessity of notice for fame's sake; the testimony of artists and art-lovers is complete in favor of these noble engravings.

DESCENT UPON THE "SMILE," AND ARREST OF GAMBLERS.—The Eighth Ward Police, under Lieut. Stage, made a descent on Tuesday night upon the "Smile," a notorious den on the corner of Mercer and Howard streets, and there arrested four men, named Augus. Winckoop, John McDe mott, Robt. Isaacs and Robt. White, whom they found gambling for money. Henry Vaugh, keeper of the place, was also captured, and, with his customers, held to bail to answer the charge.

COLORED MEN FORCING THEMSELVES INTO THE CARS.

To the Editor of The N. Y. Tribune.

SIR: In your paper of to-day you give an account of an outrage on the Sixth avenue Railroad. I will be obliged to you if you will allow me to say that I was the conductor of the car on which the affair occurred. The colored man of whom you speak, at the head of some six other men, attempted to force himself into my car contrary to a rule of the company, which is, as I understand, now being contested. He was very violent, seized me by the throat, and threw me back upon my passengers, flourishing a large stick about my head, and struck the driver with it, and called to his companions to come in and give us a thrashing. By the assistance of the passengers I put him out, and on my own account complained of him for assault and battery before Justice Pearsey, who held him to bail. Owing to want of the usual notice, when the matter came up I could not appear against him, and now learn, for the first time, that he was discharged. The Company neither made nor ordered the complaint; I did it myself, and should have prosecuted it, had I known when to appear. I am ready to do so now.

Yours, respectfully, W. H. McVITTIE.
Conductor Sixth avenue R. R.

RESIGNATION OF JUDGE STUART.—We understand that City Judge Sydney H. Stuart has sent his letter of resignation to Albany. The Judge protests his innocence, but thinks it his duty to resign, because the ermine should not be tainted even with suspicion. [N. Y. Times.

COLORED MILITARY BALL.—The Colored American Guards gave a Ball at Merritt's Assembly Rooms last evening. There was a good turnout and the Guards looked well. The supper was under the supervision of W. Smith, the floor under the management of C. D. English and and J. A. Johnson; music under the direction of Professor H. Bennett.

FATAL ACCIDENT.—Mrs. Mary Franklin, an aged woman lately residing at No. 36 Cherry-st., died yesterday at the New-York Hospital from injuries received on the 24th ult., when a bale of cotton fell upon her. Coroner O'Donnell was notified, and will hold an inquest upon the body to-day.

RUN OVER.—A man named Joseph Warner was run over by an express-wagon yesterday afternoon, and badly cut about the head. He was conveyed to the New-York Hospital.

GRAND LARCENY.—A young seamstress named Eliza Compton was yesterday arrested charged with stealing female wearing apparel to the value of $75, the property of Catharine Jane Forbes, residing at the corner of Grand and Mulberry streets. A portion of the property was found in possession of the accused, and she was committed by Justice Pearsey for trial.

[Advertisement.]

The great exhibition of PHOTOGRAPHS, for which the Gold Medal was awarded over all competitors at the late Fair of the American Institute, are now to be seen at the Gallery of GURNEY & FREDERICKS, No. 349 Broadway.

[Advertisement.]

The only gold medal awarded for DAGUERREOTYPES at the late Fair of the American Institute was to J. GURNEY. The specimens can now be seen at his Palace of Art, No. 349 Broadway.

[Advertisement.]

ANOTHER TRIUMPH.—The only Medal for DAGUERREOTYPES at the great Exhibition at Paris was awarded to J. GURNEY, No. 349 Broadway, New-York.

[Advertisement.]

JUST RECEIVED—A splendid lot of French CHESTNUTS, and are now prepared in the most delicious manner, iced and stuffed, or Maron's glaces, or Maron's desguises, by HENRY MAILLARD, Confectioner, No. 621 Broadway.

[Advertisement.]

THE HOSIERY ESTABLISHMENT OF MORE THAN THIRTY YEARS' STANDING.—While returning thanks for constantly increasing patronage, we would again invite attention to

THE OLD STAND, NO. 104 BOWERY,

where will be found, as heretofore, a most extensive and varied assortment of

HOSIERY AND UNDERGARMENTS.
A. RANKIN & Co., 104 Bowery.

[Advertisement.]

DUSSELDORF GALLERY.—We do not know a more attractive or instructive place to visit than this magnificent GALLERY OF PAINTINGS; and we do not wonder that it is now daily thronged. New Paintings have recently been added to the already extensive collection, which now makes it the best collection on this Continent. Go and see it.

[Advertisement.]

COMB FACTORY.—A rich assortment of TOILET-SHELL DRESS COMBS, of the newest French patterns, can be seen at A. & J. SAUNDERS'S, No. 387 Broadway.

[Advertisement.]

PORTABLE DRESSING CASES, of an entirely new and compact form, furnished with articles the size of which do not detract from their usefulness, at A. & J. SAUNDERS'S, No. 7 Astor House, and No. 387 Broadway.

[Advertisement.]

FANCY CUTLERY, embracing a large variety of Sportmen's PEN AND POCKET KNIVES, of the most rare and beautiful patterns; also an assortment of TOILET CUTLERY, at A. & J. SAUNDERS'S, No. 7 Astor House, and No. 387 Broadway

[Advertisement.]

Old-established, sound and liberal Philadelphia Fire Insurance Company.—

S. G. WALKER, Agent, No. 75 Liberty-st.

During eleven years not a claim contested. Terms reasonable. Losses promptly settled and paid in New-York.

[Advertisement.]

Merry Christmas and happy New-Year will soon be here. Ladies can obtain beautiful embroidered TOILET SLIPPERS, (presents for Gentlemen,) and they in return, can get Ladies', Misses', Boys' and Children's GAITER BOOTS and SHOES, PATENT LEATHER BOOTS, and CONGRESS GAITERS, forming useful and appropriate gifts for the Holidays.

J. B. MILLER & CO., No. 154 Canal-st.

[Advertisement.]

Pshaw! the 2/ PICTURES are too cheap to be good. The sun shines alike for all but 25-c at DAGUERREOTYPES. This must be so, or the people are no judges, and are fools to order from 50 to 100 portraits daily for 2/, as may be seen at the Rooms, No. 289 Broadway.

[Advertisement.]

Holiday presents in the shape of DAGUERREOTYPES for only 50 cents, including a beautiful case, and equal to those charged $5 for elsewhere, at WELLING'S, cor. of Bleecker and Carmine-sts.

[Advertisement.]

We notice that there is to be a sale THIS EVENING of some very fine PAINTINGS at the rooms lately occupied by the National Academy of Design, No. 663 Broadway, opposite Bond-st. Among the collection may be found the works of Huntingdon, the grand gallery picture of Afala from the Crystal Palace, a superb Portrait by Gilbert Stuart, and others of great beauty and rarity. The sale will be conducted by Mr. E. H. LUDLOW of No. 11 Wall-st.

[Advertisement.]

L'ANGENHEIM'S new series of Stereoscopic Views upon glass and colored to nature. Genesee Valley and Niagara Falls and Rochester may be obtained of BENJ. PIKE, jr., and at PIKE & SONS.

[Advertisement.]

FREE ADMISSION.—A splendid assortment of Fancy Boxes, Baskets, Toys, Surprises, and Confectionery—all of the newest style and selected with the greatest possible care—are now ready for exhibition at H. MAILLARD'S, No. 621 Broadway. The public are respectfully invited to call and examine this rare assortment before purchasing elsewhere.

[Advertisement.]

WILSON'S DANDELION COFFEE—For Dyspepsia, Indigestion, Sick Headache, Bilious and Liver Diseases, and is especially recommended to persons of delicate constitutions. Sold by all respectable Apothecaries, and at the principal depot, corner of 27th-st. and 3d-av.

[Advertisement.]

GAS! GAS!!—Several new styles of GAS FIXTURES, surpassing in beauty and workmanship anything ever offered before. Our designers are producing new and original styles constantly. Also, the best PORTABLE GAS WORKS for private dwellings, churches, or factories in this country. Call at our great Manufacturing Depot, No. 376 Broadway.

ARCHER & WARNER.

[Advertisement.]

THE GREAT INHALING REMEDY for Asthma, Consumption, and all diseases of the throat and lungs: Dr. CURTIS'S HYGEIANA. Thousands have been restored to health the past year by the Hygeiana. Principal office, No. 543 Broadway, and sold by C. H. RING, No. 145 Broadway. Price only $3 a package. Dr. CURTIS will be at the office daily from 10 to 4 o'clock, where he may be consulted free of charge.

BROOKLYN ITEMS.

THE SUNDAY LIQUOR ORDINANCES.—In the City Court yesterday John B. Brahm, the keeper of a saloon in Fulton street, was tried in an action brought by the city for the recovery of $800 penalties for violations of the Sunday ordinance. The proof was clear and judgment was rendered in the sum of $350 and costs against defendant.

BREAKING UP A HOUSE OF ILL-FAME.—Catharine Shelly preferred a complaint against Mary Baxton and Mary Hill, for keeping a house of prostitution in Seventh street, between North Fifth and Sixth streets. The accused were arrested by Officers Sterrett and Van Dyke and taken before Justice Jacobs, who remanded them for examination.

BACK AGAIN.—John J. Henry, who suffered an imprisonment of three months on the charge of arson, and discharged by the Court the other day, celebrated his release by getting drunk. He was brought before Justice Smith and sent to the County Jail for ten days in default of paying the usual fine.

COURT OF SESSIONS.—Michael Coyle was tried in this Court yesterday on a charge of rape, preferred by Bridget Rogers, alleged to have been committed on the evening of the 14th of September last. The charge was not sustained, and Coyle was acquitted.

LAW INTELLIGENCE.

TRIAL OF SAMUEL SPRAGUE FOR THE MURDER OF MARGARET FURTIG.

COURT OF GENERAL SESSIONS—Dec. 19—Before Recorder SMITH.

Samuel Sprague, charged with the murder of Margaret Furtig in June last, was again placed at the bar. As was stated in our issue of yesterday, the case for the prosecution closed on the preceding day.

The prisoner is a young man about thirty years old, whose look betokens aught but a sanguinary disposition or temperament. His father, a respectable looking man, occupied a seat near his son during the trial. His gray hairs, seemingly blanched prematurely, and the heavy load of grief that appears to weigh him down, bear evidence of how strongly his son's position affects him. Much interest is manifested in the trial, and a large number of persons filled the Court-room.

The Court convened at 11 a. m. The first witness placed on the stand was

Charles J. Nordquist, examined by Mr. Clinton—I am a physician; I was called to attend Mrs. Furtig about two hours after she received the wound at the house No. 260 Delancey street; I was her physician for six weeks, until she was conveyed to the hospital; I called on her daily; there was at first some prospect that she would recover; at a later period I had very little hope of her; the medicines I prescribed were administered very irregularly; I had great difficulty in prevailing upon her friends to give her any medicine; I left my instructions as to her treatment with her husband; Furtig gave me to understand that he was going to make $3,000 or $5,000 by the case; he was going to do it by suing Mr. Sprague's father; he said this after the death of his wife; I told him not to do it, but at the same time I told him that Mr. Sprague would compensate him for the loss of his wife; I never said that he would get $220 if he should leave the country; he told me that a friend, or a lawyer, I cannot remember which, told him he could make a large sum of money out of the prisoner's father; I took the bullet from the wound in the woman's body; that is, I mean to say that Dr. Underhill and I took it out; the Captain of the Thirteenth ward police was present; I think he has the ball; the ball did not fall out, as was asserted yesterday by the witness Furtig; the forceps had to be used in order to extract the ball from a depth of at least two inches.

By District-Attorney—I do not know whether it was a ball or a slug; it was quite flattened; I do not think that there was more than one ball fired into the woman; I did not see her clothes; the flesh was not much perforated or burned by the powder; I should judge that the pistol must have been within two feet of her breast when it was discharged; the conversation between Furtig and me in regard to the money he expected to make took place on the day on which the Coroner's Inquest was held; the prisoner's father came daily to inquire after the injured woman; I told him he was going to be sued; I often talked with him about it; I had a conversation with Furtig on the subject of the money previous to the death of the woman.

By Mr. Clinton—Furtig commenced to speak about seeing Mr. Sprague's father about three or four weeks after his wife was shot; Sprague's father never authorized me to offer Furtig any sum of money whatever; the medicines began to be administered irregularly about two weeks after the woman was shot.

The District Attorney contended that the rule of law was well defined which rendered it impossible for a defendant to show that a wounded party died, partly through the effects of unskillful treatment, or even of criminal maltreatment, if the wound which he inflicted contributed to the death of said party.

The Court coincided in the views of the District-Attorney.

Examination resumed—Furtig refused to procure, on one occasion, some medicine I ordered for his wife; Mrs. Hanf, a woman who attended her, said she should have it if she (Mrs. H.) was to pay for it herself; I ordered port wine and porter to strengthen her, but she did not get either; once or twice he gave her some buttermilk; I expect she would have been better if the medicines had been regularly given to her; I remonstrated with Furtig, and insisted upon his wife being sent to the Hospital, where she would be better attended to; the room in which she lay was immediately under the roof and was excessively hot during the Summer; Sprague's father furnished some money to purchase medicines for the deceased; Furtig asserted as a reason why he did not purchase the medicines that he was too poor; Sprague's father once gave me $5 to give to Furtig for medicine and other necessaries for his wife.

John G. Cooper, examined by Mr. Clinton: I am by trade a locksmith; I have known the prisoner at the bar for ten years; he was always a peaceable man, to my knowledge; he was remarkable for his peaceable disposition; he was "very strong" in his sobriety; I mean he was very "straight" in his temperance.

By District-Attorney—I do not know way he left his father; I heard it was in consequence of getting married; I have not heard of a difficulty between himself and his father; he has not worked with me during the past three years; he is by trade a locksmith; I have known him to be engaged in painting within the last three years.

By Mr. Schaffer—He was married, I believe, about four years ago; I know this from rumor only.

Charles Hicks, examined by Mr. Clinton—I live at No. 262 Second street; I am a block and pump maker; I have known the prisoner twelve or fifteen years; I have not been in the same shop with him; I have seen him about a dozen times a year; I lived in the same neighborhood with him four years ago; I never heard his character brought into question; I never heard that he was violent or disorderly; I never saw him drink anything in his life; he was strictly temperate as far as I know; he was very abstemious, so much so as to become a subject of remark.

Ellas T. Harris, examined by Mr. Clinton—I am a plumber, and have known the prisoner since 1840; his character for peace, quietness and temperance has been remarkably good; his general character was good; I always understood that he was a strong Temperance man.

The testimony of several other witnesses who were examined as to the character of the prisoner substantially coincided with those above given.

Thomas White, examined by Mr Clinton—I am one of the persons alluded to by Furtig yesterday, as one of "the shoemakers;" I was living at No. 260 Delancey street with my family at the time of this shooting; I remember the circumstances of the dog in the yard, alluded to by Furtig in his evidence; I went out to look for a little child of mine that had gone astray; I met with Smith, who is the other "shoemaker" who accompanied me back; Furtig, his wife, child, and dog, were in the yard; the dog flew at me; I requested Furtig and his wife to take the dog off; [at this point of Whittle's testimony he was desired to stand aside to give place to Sheriff Willet, who testified favorably for the prisoners character] "the "shoemaker's" testimony was then resumed;—I asked Furtig and his wife to take the dog off; they only laughed at me; I said I would kill the dog; whereupon old Furtig said he would kill me; he then clinched me, and I called upon Smith to take Furtig off from me; he had me tight round the body; I know not whether Smith struck him or not; if he did it was the only blow struck on our side; Furtig was smoking a long Dutch pipe, his wife grabbed it and struck me with it on the nose; the fire flew out and burned my face; I retreated, and she followed me up closely; Smith threw some water over her, and said that he would "cool her off;" he took away the pipe from her, and she procured a club; some people called out to me to knock her down; I did not like to touch her because she was a woman; she continued to strike me, and pursued me into my own room; she struck two, three or four times in my own room; I retreated because I did not want to strike her; I received the blows upon my breast and head; the blows took the skin off my breast, and I felt the effects in my head for two weeks afteward; Smith went into my room with me; I got vexed when I saw her in my room, and told her that if she did not go out I would knock her down; I shut my room door when she went out, and got her husband, who had been standing in the yard; Furtig did not interfere after Smith took him away from me; I did not strike him on account of his being an old man; I did not see the prisoner during the difficulty between Furtig and his wife and me; I was not acquainted with any of the parties; Furtig spoke to me always in English very well—well enough for me to understand him; I did not hear any one say, "Wnip "that Dutchman;" if Sprague had said so I think I would have heard him; quite a crowd of people assembled during the fracas; I was not drunk on that occasion; Smith had been drinking, but he was not drunk; he was at Williamsburgh when I last heard of him; I never knew Sprague use any violence before this affair.

Cross-examined, by Mr. Hall—I had seen the dog before; he did not know me; he flew at me as if he would bite me; he was a heavy dog; had long body and short legs; he was what is generally called a brindled terrier; I did not hear any person call out to me to "whip the Dutchman;" I did not hear or see the shooting; the officers came up, and Sprague was arrested; I did not go up stairs and see Furtig's wife after she was shot; Sprague ran into my room before he was arrested; I did not then know that the woman had been shot; I did not know what he had in his hand; the officers arrested him in my room.

Timothy Kerrigan, sworn—I live in Rivington street; I heard the last witness; the first I saw of the affray was Mrs. Furtig licking Whittle with a pipe; I worked with Whittle; I did not go out of the room; I could see out of the door into the yard; she struck him on the face; she struck him more than once; she afterward got a club and followed Whittle up to his own room; she struck him with it; the club looked like a small hatchet handle; I saw Whittle coming into his own room; she hit him on the head and breast; he shut the door when he got into the room.

Cross-examined by the District-Attorney—I afterwood saw Mrs. Furtig come down stairs, and in ten minutes I saw her return bleeding; this was the first that I know of her being shot; I heard the report of the pistol; I did not know Sprague; he came into Whipple's room after the report of the pistol; the first I saw of Sprague that evening he was in the yard; it was during the affray; did not see anything of the affray; I did not see Whipple strike Mrs. Furtig; I never was up stairs to Mr. Sprague's room.

Mrs. Johns examined by Mr Clinton—I resided in Delancey street at the time of the occurrence; I was in the second story at the time of the affray; I could see the whole of it from my window, when I looked out of the window I saw Furtig lay his pipe down and clinch the shoemaker, Mr. Whipple; then I saw the woman run with a stick in her hand; I saw the woman strike the shoemaker in the yard; I saw no more of the affray; I knew Sprague by sight; I saw him that night at the door; he seemed to have nothing to do with the affray; Mr. Sprague seemed to be an accommodating, quiet, peaceable neighbor; I never knew of his drinking anything; I thought the shoemakers were sober.

Cross-examined by District-Attorney—I heard the report of a pistol; I then saw Sprague, when the officers took him away; I then saw the woman, but I did not know that she had been shot; I saw Mr. Furtig taking her up stairs.

Susan Arkenar, sworn—I lived at No. 260 Delancey street when Mrs. Furtig was shot; it was in the same house in which Mrs. Furtig lived; I heard a noise and went down to see what was going on; I saw Mrs. Furtig with a piece of wood in her hand striking at the shoemaker; she struck him on the head; I heard the pistol fired.

Cross-examined by Mr. Hall—The fracas in the yard occurred about ten minutes before the pistol was fired.

Franz Klein, examined by Mr. Clinton—I lived in the same house on the floor beneath Furtig at the time of this affray; I heard the pistol shot up stairs; previously I heard loud talking in Sprague's room; there was a noise there; I do not know what was said in Sprague's room; I heard more voices than one.

Cross examined by the District Attorney—The loud talking continued about two minutes; the deceased had as loud a voice as a man; I could not distinguish her voice on this occasion; she might have been one of the loud talkers; after the loud talking I heard the report of a pistol.

Frederich Kutchler, examined—I lived in the house No. 260 Delancey street, where Sprague & Furtig lived; my room was immediately under Sprague's room; I heard the pistol fired; before I heard the pistol I heard a great noise in Sprague's room; the noise was so great, shaking my room so much that my wife was frightened and wanted to leave the house; I thought the whole ceiling was coming down; the noise was inside Sprague's room; about three feet from the door; I heard more voices than one talking; I do not know whether the talking was in German or in English; the jar on the ceiling was about two minutes after the loud talking began; it seemed that somebody fell; afterward the loud talking began again; I did not see anything of the affray; I only heard it. I opened my door and heard Mrs. Furtig say, "You are a loafer, you are a thief, you are a Know-Nothing," and then the pistol was fired; those words were said in German; they were the last words I heard spoken.

A juror inquired how, if those words were spoken in German they could make the prisoner angry, inasmuch as he did not understand a word of German? The witness did not offer any satisfactory explanation.

The Court desired the witness to repeat the exact expressions to the Jury that were used by deceased to Sprague. They were: "*Du bist ein loafer, du bist ein spitzbube, du bist ein Know-Nothing.*"

The District-Attorney remarked that the German language had not become so corrupt as to possess words to signify loafer and Know-Nothing.

Cross-examined by the District Attorney—I went about eighteen inches out of my room when I heard these words; when I heard the pistol fired my wife pulled me back; Mrs Furtig was a stout, heavy woman; one of the largest sized women; very strong, and about four feet five inches high.

To a Juror—I never heard that Mrs. Furtig quarreled with anybody but Sprague; there was some previous difficulty about the dog; I knew it was Mrs. Furtig, because there was no other German woman up stairs; I did not hear her husband's voice at all; all the other people in the house complained of Furtig's dog.

Mrs. Johns recalled—To Mr. Clinton—I know the deceased's character.

The Court instructed the witness not to answer the question concerning the character of the deceased for peaceableness or quarreling.

Mr. Shaffer said that the defense could show that Mrs. Furtig had previously inflicted personal violence on lodgers in the house.

The District Attorney objected to such evidence, because the prisoner and deceased were strangers and could not be acquainted with each other's temper. It had been admitted by Judge Edwards, in the De Corn case, because the parties were acquainted and knew each other's temperament.

The Court expressed some doubt as to the admissibility of the evidence, and in consequence of that doubt ruled in favor of the prisoner.

Betsey Brown, examined by Mr. Clinton—I am the daughter of deceased by a former husband; I am 16 years old.

Q. Did your mother ever commit any violence on you?

The District-Attorney objected, and the Court ruled that the defense should first prove that the prisoner should have been aware of such acts of violence before the affray.

Q. Did you ever inform Sprague previous to the shooting of your mother as to any acts of violence committed by your mother? A. No; I never told him anything as I never knew him.

Q. Has Mr. Furtig ever said to you, or in your presence, that he expected to make any sum of money out of the prisoner's father in consequence of this affair? A. Yes; he said on the 4th of July, when my mother was so low that she could not speak, that he thought he would get $5,000 by her death; he said he would not spend his money by getting medicine for her as she never would be able to go out and do washing any more.

Furtig had been previously asked by Mr. Clinton if he ever expressed any expectation before, or to this witness, of realizing any money by his wife's death. This he denied.

Q. Did your mother ever reveal to you by whose fault she was shot? A. She said she jumped between Sprague and her husband, and that the pistol went off.

To a Juror—I did not live with my mother.

Mr. Clinton offered to show that the witness was forced to fly from the violence of her mother in order to save her life. The Court, however, decided such evidence to be inadmissible.

Adrian Hirst, sworn—I am a clerk in Dr. Norquist's drug store; I heard Furtig say that he expected to get some damages by his wife's death; he said he would not take $3,000, he said he expected to get the money out of the elder Sprague; this he said in the drug-store; he did not come to the store for medicine.

Ann Pilkington, sworn—I was living at No. 260 Delancey-st. at the time Mrs. Furtig was shot; I was living with Sprague as his wife.

The District-Attorney objected to the testimony of this witness on the ground that if she was not Sprague's wife, yet he held her forth to the world as such, it was for the defense to prove by some other party that she is not his wife.

Mr. Clinton said that he could prove that Sprague was married seven years ago in Newburgh, and that his wife was still living.

The Court remarked that having lived several years with Sprague as his wife, the law would decide that she was a witness by coercion, and if she should commit perjury to save Sprague she could not be punished for it, and that therefore her evidence was inadmissible.

The defense proceeded to show that Sprague's wife was alive.

The Rev. Mr. Gilder examined by Mr. Clinton.

Q. Did you at any time marry the prisoner Sprague to any party?

The District-Attorney—Stop, Sir; have you any recollection of Sprague? A. I cannot say I have.

District Attorney—Then I object to the testimony.

The Recorder—It is quite incompetent.

District Attorney—This reverend gentleman may testify that he married a Samuel Sprague, but he cannot identify the prisoner as the same person; it might be merely a coincidence of names.

Mr Clinton—We propose to show that this gentleman married a Samuel Sprague at Newburgh; we will then identify the prisoner as the Samuel Sprague he married.

The witness then read from the register of the church to which he was attached in Newburgh the record of the marriage of Samuel Sprague to Jane Ann Hedding, at Newburgh, on January 2, 1848.

Samuel Sprague examined—I am the father of the prisoner; I know of my son's marriage to Jane Ann Hedding; I knew her before the marriage; the last I heard of her was that she was living a short time ago, it may be a month ago; she lives at Newburgh.

The District Attorney—Is he divorced from her?

Mr. Shaffer—We object to that.

The District-Attorney said that the prosecution had been informed that a divorce had been granted, and if so, perhaps the woman the defense had called upon the stand might be his second wife, and her testimony be thus rendered inadmissible.

The counsel for the defense argued at some length on the other side, but the Court allowed the District-Attorney's question.

Mr. Clinton excepted.

Question repeated.

Witness—I have understood that she was divorced from him, but not he from her.

Mr. Clinton—That means that the divorce was procured against him on the ground of infidelity, and that consequently he cannot marry again during the lifetime of his first wife.

The counsel for the defense argued at great length that the defense were not bound to prove that Sprague was not married to Ann Pilkington, in order to make her evidence admissible. No defense was bound to prove a negative. It would be impossible in the present instance to prove that there had been no marriage, unless every marriage record in the United States and the Old World was searched.

Mr. Schaffer next argued that the woman Pilkington was living in adultery with the prisoner, and that therefore she could not in any sense be considered his wife. Her evidence, therefore, was admissible.

The District-Attorney replied that the prisoner and his wife were jointly indicted for this murder; she was reputed his wife; the jury did not know her name. It was now proposed to place her on the stand as a witness in Sprague's behalf on the ground that she was not his wife, but living in adultery. He however has recognized her as his wife before the world, as such she passed, and the law supposes she is his wife until the contrary is proved by positive and original testimony. He demanded in the name of the law, that the woman be proved not to be the prisoner's wife before she is allowed to open her lips on the stand.

Mr. Clinton asked as it was already late that the Court would reserve his decision till morning, when the defense would produce sufficient testimony to establish their position.

The District-Attorney trusted that the Court would give an immediate decision.

Mr. Clinton remarked that he would produce witnesses who saw the prisoner's wife this very day.

The Recorder said that that would only settle part of the difficulty. It was evident that the prisoner had lived with the woman Pilkington as her husband; that he had frequently called her his wife, and that she was living with him and present at the time of this affray. The law holds that every person must be held responsible for his own acts, and the prisoner by his act, having given it out to the world that this woman was his wife, she cannot come into court and give evidence in his behalf; if she could, any married woman whose husband was charged with crime, might, to shield him, swear that she was not his wife, commit perjury and go unpunished for that perjury, the law presuming that she acted under coercion. I think the prisoner's act in living with Ann Pilkington as his wife is superior to the presumption that his first wife is still alive, or that the divorce was so constructed as to prevent him marrying again. I decide, therefore, that Ann Pilkington is not a competent witness.

Mr. Clinton took an exception to his Honor's ruling.

The Court then adjourned.

TRIAL OF SYLVANUS M. SPENCER FOR THE MURDER OF CAPT. FRAZIER.

UNITED STATES DISTRICT COURT—Dec. 19.

The trial of Sylvanus M. Spencer for the murder of Capt. Frazier, on board the ship Sea Witch, commenced yesterday in the United States District Court.

Mr. Joachimssen opened for the defense. He said that the Sea Witch was an American vessel, owned by Howland & Aspinwall. She sailed from this port for Hong-Kong on the 25th of April, 1855, commanded by Capt. Frazier. She had a crew of 30 men, and expected to take a cargo of coolies for Panama. Spencer was first mate. From the time of going out to the date of the murder, there was ill-will between the captain and first mate. Before leaving port the first mate wanted to be put on shore; the captain refused, and the accused said: "If I go in this ship, you "or I will have to die, and you had better leave it off. "I have stood more from you than I have from any "man in my life." On the 3d of June the captain and mate had another quarrel on the spar deck, and Spencer said: "I will kill you—d if I don't have revenge on you." On the evening of the 4th, Capt. Frazier said to the mate: "Any time you want satisfaction I will "give it to you in any way you wish it, on board or "on shore; and if you attack me on deck, one or the "other of us will go overboard, or perhaps both." Later in the evening there was another sharp quarrel. On the morning of the 5th of June, the mate, Mr. Spencer, came and called the surgeon, Dr. Brolaseo, and told him that the captain was dead, and Dr. Brolaseo found that he had received three severe wounds in the head, and was no longer rational. The captain died that day about noon, and Mr. Spencer assumed the command. They expected to prove the fact of ill-feeling having existed between them; that no sailor was allowed to enter the cabin; that the blows were struck during the watch of Mr. Spencer; that he manifested no feeling after the death of the captain, and various other circumstances tending to show that he was the murderer.

Joseph P. Brolaseo, sworn—Was surgeon of the Sea Witch, Capt. Frazier; there were twenty-three of the crew, and the vessel was bound to Hong-Kong and Panama; Capt. Frazier died between midnight and the morning of the 5th of June; on the morning of that day he was lying in his berth with his hand under his head and his face toward the side of the vessel; the night before I took tea with the Captain and first mate; they had high words, and the Captain told the mate that he was neither an officer, a seaman or a navigator; that he was a liar and would not be believed; that he was a coward and must see heavens to knock men down with a the wheel; he told him that he could not use his fist, but must take a belaying-pin to knock the second mate down; Mr. Spencer's watch commenced at midnight; the Captain was well then; I saw him again between 9½ and 10 o'clock sitting at his table in the after-cabin writing; I was present at no other quarrel between them; I next saw the Captain about 4 o'clock on the morning of the 5th. [Mr. Brolaseo explained a diagram representing the cabin]. A light was always kept in the steward's pantry, which shone out on the watch; it was on the port side, the left side; then there was a light in the binnacle and another in the captain's state-room; there was also a candle, which was put out when the captain went to bed; we had warm weather, and slept with our doors open; I saw Mr. Spencer last that night at the tea-table; I heard no unusual noise that night; I slept soundly; I was awakened at 12 o'clock; at about 4 o'clock I was called by Mr. Spencer; it was Mr. Spencer's watch from midnight until 4 o'clock; it was not yet daylight; Mr. Spencer came to me with the lamp that he obtained in the steward's pantry in his hand; he told me to get up for God's sake—he believed the captain was murdered; I got up and went to the captain's state-room with Mr. Spencer, and there found him; there was no light in the captain's state room except the one Mr. Spencer brought, and I know of no other lights in the cabin; I found the captain lying upon his right side in his berth, with his face toward the right side of the vessel on his right hand; the counterpane and pillows, sides and top of the berth were covered with blood; he was breathing heavily; there were no marks on the left side; Mr. Spencer stood inside the doorway with the light while I examined; he was outside when I went in; the captain's head was toward the stern of the ship; I tried to turn the captain over, but could not; turned to Mr Spencer; he asked if I wanted assistance; I told him to call the carpenter; he went out and the carpenter came in, and we turned the body over to see where the blood came from; we found him bleeding from his nose, mouth and right ear; the whole of the right side of his face was very much swollen and discolored; his right eye was swollen and shut; I sponged the blood from the face and found that he had a gash over the right eye, perpendicular and an inch or an inch and a half in length; in the temple was a circular depression, where I could feel the bones grate against each other; it was a compound contused wound; there was another wound behind and above the right ear, cut in to the bone; these were separate and distinct wounds; the skull was fractured in two places; the Captain died about noon that day from these woun