of this State, and he will be taken back to answer the charges against him.

SCHOOL EXAMINATION.—The Colored School in Laurens street, near Broome, was examined on Tuesday. The Primary Department passed an excellent examination—the best since its organization. Its teachers are Misses Sarah Ennals, Catharine Harley and Elizabeth Spencer. In the Girls' Department, the best specimens of Painting which have been found in the City Schools were exhibited. Some of the Reading and the Grammar was remarkably good. The Singing will compare very favorably with that of any school in the city. It is taught by Mr. Samuel Waldron, who furnishes a piano. The display of Needle-work and Embroidery was not so extensive as in Mulberry street, but a number of the pieces were very beautiful. The teachers in the Girls' Department, are Misses Fanny Tompkins, Caroline Hamilton and Helen Maria Clair. The Boys' Department furnished a class in reading unsurpassed by any class in any boys' department in the city. It has been taught by Mr. Ransom F. Wake for the past twenty years. He is at present assisted by Mr. John Porter. Mrs E. Oakes Smith was among the many visitors, and spoke at the close of the examination in an elevated strain of sympathy and encouragement.

This examination completes the programme of the Ward Schools, as the Girls' School in Twelfth street is not to be examined this Spring. The examination of the Primary Schools commences on Monday, the 5th of May, and with Schools Nos. 29 and 30 in Stone street.

FATAL FALL.—Coroner Perry held an inquest at No. 245 Avenue B, upon the body of John Con, a native of Ireland, 74 years of age, who died from concussion of the brain produced by a fall down a flight of stairs. The verdict of the Jury was "Accidental death." The inquest was held on Tuesday, but the Coroner failed to report it at the office until yesterday, a circumstance of frequent occurrence.

CHARGE OF BURGLARY.—A man named Patrick Fee was yesterday arrested charged with having, on Tuesday night, broke into the store of Mary Castel, a poor woman residing in Greenwich street, and stolen therefrom nearly all her stock, valued at $100. A servant girl in the same house saw the accused, as she alleges, leaving the place early in the morning with a back load of plunder, and gave information to the Eighth Ward Police. The prisoner was held to await examination.

CHARGE OF ARSON.—Emanuel Micando, a cigar dealer at No. 500 Pearl street, was yesterday arrested on suspicion of having, on Wednesday night, feloniously fired his premises. The Sixth Ward Police, it appears, discovered a smoke issuing from the place at 9½ o'clock in the evening, and on entering found a tub containing camphene and other inflammable materials. The stock was composed mostly of empty cigar boxes, and was heavily insured in the St. Mark's Insurance Co. The accused will be examined by the Fire Marshal.

FUGITIVE FROM JUSTICE.—James Henderson was arrested yesterday as a fugitive from Darien, Conn., where, it is alleged, he committed a burglary some weeks ago, and stole $400 worth of dry goods. He was sent back to answer the charge.

RECOVERY OF GOODS STOLEN FROM AN EXPRESS COMPANY.—On or about the 25th February last, a box marked "M Brooks & Brother, Philadelphia, Pa.," and containing 2½ dozen Italian cloth capes and ten gross of mohair tassels, valued at $117 18, was stolen from Adams's Express office, No. 59 Broadway, and no trace could be obtained of them until Wednesday when a portion of them was found in possession of a man named Thomas Gallagher. Officer Herrman of the Twenty-second Ward Police took Gallagher into custody, and he was committed by Justice Osborne to await an examination, which will probably develop the circumstances under which they came into his possession.

THE BEECHER FALSE PRETENSE CASE.—The complaint made some months ago by Thos. W. Wood, esq., of Brooklyn, against Wm. A. Beecher, a broker of that city, which charged him with having by means of false and fraudulent pretenses obtained from Mr. Wood about $7,000, has been dismissed, the evidence adduced failing to substantiate the charge.

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TOMLINSON has REMOVED his GALLERY to No. 447 Broadway, where the only genuine AMBROTYPE can be found. No Picture is an honest one unless it is stamped patent.

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Let those suffering from Dyspepsia, from diseased liver; from general or nervous debility, use them and be cured. Over a hundred thousand cases cured can be referred to. Their surprising efficacy passes belief. I but perform a duty in making them known. B. BRANDRETH.
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Dr. S. S. FITCH'S "Six Lectures on the Prevention and cure of Consumption, Asthma, Bronchitis, Heart Disease and the Laws of Life, with a full Exposition of Medical Inhalation," a new edition, handsomely bound in muslin, 380 pages, 50 engravings, and steel portrait of the author, will be published to-day for invalids at 25 cents per copy—substantially a gift; will be sent by mail, postage 15 cents. Apply by letter, or personally, to S. S. FITCH & Co., No. 714 Broadway, New-York.

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STATE AND NATIONAL LAW SCHOOL, POUGHKEEPSIE, N. Y.—NEXT Term begins on the 8th of May. Extemporaneous Oratory and Elocution successfully taught by constant practice. Those wishing to engage in this department alone can be accommodated. Send for Circular to J. W. FOWLER.

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GO TO-NIGHT—GO TO-NIGHT—And see Little CORDELIA HOWARD in her famous part of EVA, in "Uncle Tom's Cabin." It is the most touching and beautiful picture of nature ever witnessed. Two pretty pieces THIS AFTERNOON also.

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INTELLECTUAL CULTURE AND DEVELOPMENT.—How to secure a good Memory and retain it; how to become good Speakers, and Thinkers, and Writers; the basis of success in business; the difference between "Tact and Talent;" selection of pursuits, &c., will be treated upon in Mr. FOWLER'S LECTURE THIS EVENING, at the Bleecker Building. Seats 12½ cents. Professional examinations, with Charts and Written Descriptions of Character daily, at No. 308 Broadway.

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Also, the cheapest and best PORTABLE GAS WORKS, of a new and improved construction, for private dwellings, villages, &c.
For wholesale or retail, call at our great Manufacturing Depot, No. 376 Broadway. ARCHER, WARNER & Co.

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WILSON'S ORIGINAL DANDELION COFFEE.—The genuine is sold wholesale by BARNES & PARK, HEGEMAN, CLARK & Co., and SCHIEFFELIN & SONS, and at retail by Druggists generally. Manufactured at Nos. 75 and 77 East 11th st.

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NEW DECORATIONS AND PAPER HANGINGS for 1856.—PRATT & HARDENBERGH, No. 530 Broadway, are prepared to exhibit the largest and best assortment of PLAIN and DECORATIVE PAPER HANGINGS ever offered in this country. None but first-class workmen employed.

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WINDOW SHADES, White and Buff Holland PICTURE CORDS, TASSELS, &c., at wholesale and retail, by WOODFORD & WEMPLE, Manufacturers, No. 80 Chatham st., New York. Country merchants supplied at the lowest prices, and on the most reasonable terms.

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THE NEW ROTARY LOCK—For Store Doors, Dwellings, &c.—possesses the strength, simplicity, and security of the best Bank and Iron Safe locks now in use. It is infinitely superior to any other clumsy key is changed to a small one, fit to put in your vest pocket or pocketmonnaie. A million of changes can be made in the lock; no two will be made alike, unless expressly ordered. Its great security lays in the impossibility of its being opened without the right key. For sale by the Patentees, HOLMES, VALENTINE & BUTLER,
Nos. 90 and 92 Maiden-lane.

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GAS FIXTURES.
I have now one of the finest assortments of GAS FIXTURES in this city, which for beauty of style and finish are unequaled, composed wholly of new and original designs. Those about furnishing houses with Fixtures will do well to call and examine my stock previous to purchasing elsewhere. GAS PIPES inserted into buildings at the shortest notice.
JAS. G. MOFFET, Nos. 119 and 121 Prince-st.
P. S.—CHANDELIERS in use taken down, regilt, artistic or French bronze, to look equal to new.

LAW INTELLIGENCE.

SUPERIOR COURT—SPECIAL TERM—April 28, 56.

THE OCEAN BIRD—INJUNCTION REFUSED.

John Graham agt. Lewis C. Meyer and Edward Stucken. Defendants pleaded with Corneliss and R. Pollion.

Messrs. W. F. and B. Cutting Attorneys, and F. B. Cutting and C. O'Conor of counsel for plaintiff; Mr. Theddeus H. Lane, Attorney, and G. Dean and Jas. T. Brady of counsel for defendants.

BOSWORTH, Justice—On a verified complaint served on Stucken only, the plaintiff moves for an injunction restraining Meyer and Stucken from selling, conveying, mortgaging, or in any manner disposing of the steamers Ocean Bird, St. Lawrence, and one third of the United States. The motion is opposed on the verified answer of Stucken. The theory of the action and of the motion is, that Meyer and Stucken agreed to loan the plaintiff $105,000 on the security of a bill of sale (absolute in form and terms), of the first two named steamers, and of one third of the other, and upon having the payment of $125,000 secured to Meyer and Stucken to be made in four months. That Meyer and Stucken gave an agreement to C. Pollion, as the representative of, and on account of, and for the benefit of the plaintiff, to sell to C. Pollion, within four months, for $125,000. In other words, $105,000 was loaned, and the repayment of the same in four months, with a premium of $20,000, was secured, and such was the actual contract, and intent of the parties to it.

The theory of Meyer and Stucken is, that no loan was made, or intended to be; that two steamers and one third of another were sold by the plaintiff and purchased by them in good faith, without qualification in fact, or intent, at $105,000; and that subsequently, and as an entire distinct and independent transaction, Meyer and Stucken agreed to sell to C. Pollion for $125,000; that his application to purchase was exclusively on his own account and for his own benefit.

On the face of the papers executed by the parties, or on their behalf, the case stands thus: A bill of sale of the Ocean Bird, executed by R. Pollion, for the expressed consideration of $55,000; of the St. Lawrence for the recited consideration of $35,000, executed by the plaintiff, and of one third of the United States for the recited consideration of $15,000, also executed by the plaintiff; all dated the 5th of September, 1855, and all executed to Meyer and Stucken, were delivered to them, with a covenant of the plaintiff and of R. Pollion that all the liens on the three steamers did not exceed $105,000.

Nesmith, who had been negotiating to obtain the money for the plaintiff, and Lane, who had been acting as the adviser of Meyer & Stucken together, as parties of the first part to a covenant dated Dec. 6, 1855, agreed with C. Pollion (and in so agreeing acted as agents of Meyer & Stucken) that Meyer & Stucken should within twenty days enter into an agreement with C. Pollion to sell to him these steamers within said four months thereafter, for $125,000, with the addition of any sum beyond the said sum of $105,000 that should be necessarily expended by the said Meyer & Stucken on the care, custody, sale or keeping of said steamships, or either of them. That C. Pollion might take the St. Lawrence to Cuba at his risk and expense, and sell her, and Meyer & Stucken would convey her to the purchaser on receiving the price for which she might be sold; and, if so sold, for her, that Meyer & Stucken would deduct from the selling price of $125,000 any sum less than $105,000 which they should not have paid for the consideration money, or otherwise have become liable for.

On or about the 31st of December, 1855, Meyer & Stucken executed to C. Pollion an agreement in terms, such as Nesmith & Lane covenanted they should execute.

The transaction, as expressed by the papers executed, is, *First:* a purchase of the three steamers at prices amounting in the aggregate at $105,000; *second:* an agreement of one day's subsequent date, by Meyer & Stucken, to sell to a third person, in four months, on being paid $125,000.

The purpose of the suit is to obtain a judgment of the Court that there was a loan of $105,000, on an interest of $20,000 for four months' use of the money; that these agreements were part and parcel of the transactions and devices to conceal the usury.

C. Pollion did not agree that he would purchase; Graham did not promise to repay the sum paid to him, or any part of it. There was, therefore, an advance of $105,000 without the personal promise or liability of any person to refund any part of it.

The complaint charges that the Ocean Bird and St. Lawrence were worth, and would sell at forced sale for, at least three times $105,000; and that plaintiff had contracted to sell the Ocean Bird for $56,000 to Mr. Sanquinis, who was to and was ready to pay, on completing the sale, $110,000 in cash.

The answer denies that they were worth the sum alleged, or anything like it, and avers that Meyer & Stucken purchased the steamers for their full value.

It denies that they ever agreed or consented to loan to the plaintiff, but avers that they absolutely refused to loan him any money. It admits that when he sold he desired an agreement from them to resell to him, but avers that they refused to make any such agreement. It denies that several offers to purchase were made to them, and among others one from C. Pollion; that this was made on his own account, and for his own interest, and was a matter wholly disconnected from their purchase from Graham.

The answers avers that Meyer & Stucken, besides the $105,000, have paid and become liable to pay over $60,000, on account of liens that were upon the steamers when they bought, and which Graham failed to cancel or extinguish.

It is not alleged that the defendants are irresponsible, and it is conceded that the plaintiff has received in money of Meyer & Stucken $105,000, which, together with the further sum of $60,000, which Meyer & Stucken have paid, or become liable to pay, is fully or about half the value of the Ocean Bird and St. Lawrence, as estimated by Graham.

Presumptively, he runs no hazard of not finding in the judgment of the Court, and in its fruits, if he establishes his case, full indemnity for the value of his property. If he fails in establishing it, and it shall be determined that the transaction was a sale, as the papers executed import, it would be a great wrong to Meyer & Stucken and unnecessarily a great injury, to be enjoined from using or selling the vessels pending this action.

Under such circumstances, an injunction should not be granted, unless on the case as now presented, it is, at least, highly probable that the truth of the transaction is as the plaintiff claims it to be, and that such a remedy is necessary to secure to him full, substantial justice.

There are two features of the case deserving special notice:

First: It appears that under the agreement executed to C. Pollion, the steamer St. Lawrence was taken to Cuba, and the plaintiff went in command of her.

The complaint states that the efforts and negotiations of the plaintiff to make a sale of her there were frustrated by certain means, which he traced to F. Bussing, a resident of Havana, "the agent of said Meyer & Stucken, to whom they had as it" "cert a power of attorney to represent their interest in respect "of said vessel." That about the 27th of February, 1856, *the plaintiff received*, as the complainant states, from Bussing, a letter of that date containing the words following, viz: "In conclusion, I beg to notify you that I received a power of attorney from Messrs. Meyer & Stucken of New York, authorizing me to receive money from you on account of a loan made by them upon the steamships Ocean Bird, United States (now Mexico) and St. Lawrence, and receipt for the same, for account of said Meyer & Stucken."

The answer denies information and belief, that the plaintiff received from Bussing a letter containing the matter above stated, and avers that if he did, such letter was founded on representation made by the plaintiff to said Bussing. The answer does not deny that the power of attorney mentioned in such authority, nor does the complaint affirm that it did. Whereas it states that the power of attorney was exhibited to the American Consul and does not deny that Graham saw and read it, or knew its whole contents.

If the power of attorney contained a clause substantially of the same meaning as the extract copied from the letter from Bussing to the plaintiff, I should regard it as a significant fact. But as the complaint does not charge that it did, nor that the letter from Bussing, and the extract copied from it, were written in pursuance of instructions to give a notice of that import, the allegations contents in connection with this part of the answer are not entitled to very much consideration.

The other feature on the argument seemed to me utterly in conflict with the idea that there was a bona fide sale by Graham, and a purchase of like character by Meyer & Stucken. That features is the covenant of Meyer & Stucken to deduct from the $125,000 Pollion was to pay, "any sum less than the $105,000 "which they should not have paid for the consideration money, "or otherwise become liable for."

This seemed to me like treating the plaintiff and C. Pollion as one and the same person as to any sum to be so deducted from the price which Pollion was to pay Meyer & Stucken; and if so, that they were, in the contemplation of the parties, the same person as to all parts of the transaction in which C. Pollion was a party.

A more careful examination of the papers satisfies me that such a conclusion might be very unjust to Meyer & Stucken. As the complaint states the matter, $5,000 of the $105,000, was to be paid to compensate agents, who had effected the negotiation, and over $90,000 of the residue was to be paid in extinguishing liens that were upon the vessels. It was all paid before the 22d of December, 1855; which was prior to the time Meyer & Stucken executed the contract to sell to C. Pollion, but subsequent to the execution by Nesmith & Lane of their agreement with him.

It is fairly inferable from the papers, that C. Pollion not only knew of the fact that the plaintiff was to have the $105,000, but understood that substantially the whole of it was to be applied to pay the liens, and that he had confidence that the plaintiff would so apply it to the extent of such amount as might be paid directly to him. This covenant may have been defined and given as a security to Pollion, that the whole of the $105,000 should be actually paid in cash, so that the means of extinguishing the liens should be furnished, he feeling entirely confident that if paid, that result would be produced. If liens for any part of the amount of $105,000 should be removed by the assumption of them by Meyer & Stucken, on an agreement with the owners of the claims to take their responsibility, in lieu of the liens, the result would be the same to C. Pollion.

Meyer & Stucken, not only expecting to pay the $105,000, but being obliged to pay it, to free the steamers from the liens, or else suffer them to be sold, to satisfy the liens, might very properly give such a covenant, which in effect would subject them to a penalty, or loss of such part of the $105,000 as they should not have paid within the four months in cash, or by the assumption of liabilities in extinguishing liens upon the vessels.

I think the injunction should not be granted because:

1. On the face of the papers Meyer & Stucken are purchasers of the steamers.

2. They aver that, in truth and in fact, they were actual and bona fide purchasers at the full and fair price of the vessels.

3. There is no agreement shown of any person either to repay the money advanced, or any part of it, or to purchase and pay for the steamers at any price.

4. However much doubt may exist as to the fair actual cash value of the steamers, there is no such clear evidence of gross inadequacy of price as to justify, in view of all the other facts of the case, the inference, as an unavoidable one, that the transaction was in the intent of the parties, a loan of money, on the security of the vessels.

5. It is not safe to say the least, so unsatisfactorily established the plaintiff's view of it, the Court should not interfere by injunction, when that remedy is not necessary to secure full substantial justice to the parties.

6. If the transaction should be adjudged a usurious loan, and Meyer & Stucken shall have in the meantime disposed of the vessels, they will be as much liable to pay their full value as an actual purchaser.

7. It is not alleged that they are not abundantly able to pay such a judgment. They have already paid, and became liable to pay, over $60,000 in extinguishing liens beside $105,000 which they have paid to the plaintiff. This sum could not be made available as an offset or counter claim, and would be a clear profit to the plaintiff, if he succeeds, of $100,000.

I do not recede to the proposition that an offer to repay the loan left, with interest, is essential to give to this court jurisdiction of this action, or to grant the relief prayed by the complaint, on such facts as it avers exists, and constitute the actual truth in relation to the matters in controversy.

The motion for an injunction is denied, with $10 costs to either party, to abide the event.

SUPREME COURT—CIRCUIT—APRIL 28—Before Judge CLERKE.

Robert Hogan agt. William Taffe and Thos. McCahill.

This action was brought to recover the amount of a premium on a policy of insurance, paid by the plaintiff for the defendants in March, 1851.

In 1850, as appeared from the testimony, plaintiff consigned several shipments of goods to the defendants, who were doing business in San Francisco, under the name of Taffe & McCahill. These consignments were all upon the joint account of the plaintiff and defendants.

There were other business transactions between the parties, and in 1851 certain goods were purchased by Taffe, who was in this city at the time, which he requested the plaintiff to insure, who accordingly did so, in the Union Mutual Insurance Company of this city, for $32,000, giving an insurance note for the premium, $1,187 89, payable in twelve months, which he paid at maturity. For the recovery of this amount the present action is brought.

The Defendants admitted the insurance as alleged, but set up two defenses.

1. That in March, 1851, one Demetrius A. Matchan was a partner in their firm, and should therefore have been made a party to the suit.

2. That the payment of the premium by the plaintiff was a portion of their joint transactions which were yet unsettled.

Maghan was examined, and testified that he was to receive one-fourth of the profits for his services, but that this fact had never been brought to the Plaintiff's knowledge, actually or constructively.

Several merchants were called by the plaintiff, who had sold Taffe the insured goods, and who testified that he represented that his firm was composed of himself and McCahill, on whose account alone they were purchased. Verdict for Plaintiff for $1,498 09, the amount claimed, with interest. J. W. Gerard and J. N. Fogerty for Plaintiff. H. P. Kirkland and John McCahill for Defendants.

SPECIAL TERM—APRIL 29—Before Judge DAVIES.

ST. NICHOLAS HOTEL—BARKEEPER EXONERATED FROM CHARGES OF THEFT.

Treadwell & Acker agt. Teates.

This is a motion to continue a temporary injunction against the defendant, a resident in Chicago.

The defendant was in the employ of the plaintiffs, at the St. Nicholas Hotel, as a barkeeper, from August 15, 1854, to December 12, 1855, as alleged in the complaint. It appears by the affidavits that he had previously been in their employ from May, 1853, to May, 1854.

After the defendant had left for Chicago the plaintiffs discovered that he had deposits standing to his credit in the various city savings banks, amounting to about $2,600, which were made while in plaintiffs' employ, from August, 1854, to December, 1855.

The plaintiffs state that the defendant represented himself to be destitute and in want of employment, both when he first came to them, and in January 1856, when he made further application for employment; and that they missed large sums from the bar, while he acted as barkeeper, especially after May 1, 1855, which they believe him to have abstracted, to the amount of $1,000, and that they are the lawful owners of the deposits standing in his name.

Prima facie, the money thus deposited by and standing to the credit of the defendant, is his property; and the onus is, therefore, upon the plaintiffs, to show that it is theirs, and was improperly and wrongfully obtained by him from them.

The defendant avers that the whole of this money is the proceeds of his labor, and receipts from his share in his father's estate, (about $2,500.) He was called upon under the circumstances, to account for these monies. The fact that he had five different bank accounts is of no small significance, upon the plaintiffs' theory, as also is this connection, the same deposited and the times of deposit.

The testimony supports the defendant's explanation, I think. The affidavits of several persons, who have long known the defendant, show an earnest desire on his part to accumulate something, and to exercise great self denial. His brother's testimony that he had sent him at various times in 1853, '54 and '55 upward of $1,000, has had great weight with me; and the amounts which he could easily and is proved to have saved from his salary, his habits of life, &c., support the supposition that the sums in question might have become honestly his.

I cannot but think on the whole that the plaintiffs are entirely mistaken in their suspicions; at least there is no less evidence of the facts charged to be errant, sufficiently to the injunction, and as all the equities of the complaint and allegations in the affidavits upon which the injunction was issued are denied, I must dissolve the temporary injunction without costs.

Henry A. Chapin agt. Sarah Chapin.—Marriage dissolved.

SPECIAL TERM—APRIL 29—Before Judge DAVIES.

THE JOSEPH WALKER MATTER.

Juniss S. Lewis agt. The Mayor, &c., Walter R. Jones et al.

This suit grows out of the Joseph Walker transactions. It was brought by a sub-contractor for the raising of that vessel with her underwriters. He applies for what he claims to be his share of the fund, which, it will be recollected, Judge Roosevelt a few days since directed to be paid into Court.

The case was argued yesterday, on a motion for a non suit, and this morning Judge Davies made what he thought would be a disposition of it satisfactory to all parties, in order that it might go to the General Term, where the important principles involved could be more decisively adjudicated upon.

The points of his decision were, that the contractors, with the underwriters, did have a lien upon the fund for the expenditure under the contract, which is not destroyed by the unlawful interference of the Corporation.

That Jones, and those acting under him, have no better rights than the Corporation, their principal.

That, inasmuch as the corporation can make no contract for the expenditure of money beyond the sum of $250, according to the 12th section of the charter of 1853, its alleged contract with Jones was invalid and conferred no rights.

That, therefore, the motion for a nonsuit should be denied and judgment entered for the plaintiff.

Mr. Cutting and Mr. Upton requested a fuller hearing upon the points involved.

The Court consented to hear further testimony and argument thereon, and the case stood over till Thursday.

Judge Davies intimated, in the course of the argument, that in his opinion no parties could have a lien upon the fund unless a promise was made by the owners of the vessel or their authorized agents, or by the Corporation, under section 6 of article 4 of the act relative to public health, passed in 1850.

G. C. and L. W. Goddard for plaintiff.

F. B. Cutting for Dodge & Barnes, sub-contractors of Jones.

Mr. Upton for Walter R. Jones and Lane, his assignee. Mr. Shepard for the Corporation. Mr. Scudder for Bell, original contractor with the Underwriters.

CIRCUIT—Before Judge CLERKE.

SALE—NON-FORWARDING OF CUSTOM HOUSE PAPERS.

Geo. B. Waldron and David Paige agt. William F. Romaia.

Geo. B. Waldron and David P. Paige agt. James Young.

These two suits are brought for the value of certain sugars, alleged to have been sold *inter alia*. The defence in both is non-delivery. At the time of the two sales in question, which were made at the same time, the sugars were in a United States bonded warehouse in this city. They were forwarded thence to Oswego, but the Custom House papers were not forwarded with them. Notwithstanding this fact, they were given up to Ames & Co. in Oswego, who deposited them in a private warehouse, where they were consumed by a fire which did not touch the government warehouse.

The Jury were instructed that if they believed the goods to have been shipped as directed, by the defendants, they must find for the plaintiffs, subject to the opinion of the Court upon the question whether the Custom House papers should have been forwarded by the plaintiffs or by the defendants. The Jury found for the plaintiffs, in the first case for $2,068 36, in the second for $618 95—the whole amounts claimed. Wm. M. Evarts and L. K. Miller for plaintiffs; Wm. H. Leonard and J. T. Hoffman for defendants.

SURROGATE'S COURT—April 30—Before the Hon. A. W. BRADFORD.

PROBATE OF THE WILL OF HENRY PARISH.

Cross-examination of Daniel Lord continued—I am well satisfied that the paper marked No. 1 (which has been published in THE TRIBUNE under the title of List of Investments) is not the same that Mrs. Parish brought to my house in September when she first spoke about a codicil; I have no recollection as to the similarity or identity of the items named; the paper she brought to my house was a half sheet, according to my best impression; the Monday after the breakfast at Hellgate I drafted the codicil, never embodying the codicil of 1849, inclosed it in an envelope, and left it that afternoon at Mr. Parish's house in Union square; next, Mr. Delafield brought me the draft with an alteration, in his handwriting, making the charitable legacies payable in two years; he was to get the other duplicate will from the bank, and we arranged for the execution and selected the witnesses; the codicil was then engrossed on the blank sheets of the duplicate will at my office, and the afternoon of the 15th of September was fixed upon for the signing; this was by Mr. Delafield; on the 15th we met in the library of Mr. Parish's house in Union square, between 4 and 5 o'clock p. m.; Mrs. Parish was there when I went in, and Mr. Davis came in before anything was done; I recollect no other persons than Mr. Henry Parish and Mr. Delafield; I asked Mr. Parish if I should read the codicil I had brought, and he said "Yes;" I then gave one of the codicils to Mr. Davis, and asked him to compare it with the one I read, and I read it slowly and distinctly, pausing at each separate gift; Mr. Parish made no expression of dissent; I asked him if he approved it, and he answered "Yes;" I asked him if he wished to sign it, and he assented; I then asked if Mr. Davis or myself should write his name, and he nodded to me; I wrote his name as it appears upon the paper, and laid it before him, and steadied his hand while he made his mark; I recollect that one of the strokes of the cross had been made somewhat imperfectly, and he pressed the pen over the mark again; I merely steadied his hand; I did not guide it; I asked him if he declared this to be a codicil to his will, and he said "Yes;" I then asked if he wished Mr. Davis and myself to sign as witnesses, and he said "Yes;" I then read the subscription clause aloud to Mr. Davis, and wrote our names and residences; a similar questions were asked, and similar answers received, in relation to the other duplicate and similar acts of signing took place, except the repetition of one of the marks of the cross; a general conversation was then entered into between Mr. Davis and Mrs. Parish, about an hour was consumed in the business; I left the papers there; a few days before the 15th of June, 1854, Mr. Parish requested me to draw another codicil for him and Mrs. Parish did the same thing in his presence; prior to this Mr. Henry Delafield had called on me to know what should be done with the Buffalo and New-York City acceptances belonging to Mr. Parish, which had been dishonored; that led to a call by Mr. and Mrs. Parish at my office, and I then went to their house at Union-square on the 15th of June, at 9 a. m.; Mrs Parish spoke of those acceptances, and a short conversation on that subject ensued; she then said that Mr. Parish wished to make an alteration in his will in relation to the last residuary clause; I was engaged that morning, and made an appointment with them that afternoon; these acceptances had been placed in my hands some time before; I do not know whether they have ever been collected; I returned them to Mr. Delafield with a recommendation to try to accommodate them by negotiation rather than by suit; I thought me, in this interview with Mr. and Mrs. Parish it was suggested that he wanted to change the last residuary clause, and also to make an alteration in the gifts to the children of his brother in the preceding clause of the same will; his wife made this suggestion; I think the residuary clause of the will had been read and explained; he was asked if he wished to make Mrs. Parish his residuary legatee, and he said Yes; Mrs. Parish said this in making suggestions to Mr. Parish; I remember that I dissuaded him, and think that the alteration he wished was unfavorable to his children; I told Mr. Parish that it would be harsh to allow a difference between them to bear upon the children; I think he made some sound indicating a hesitating acquiescence; my impression is very strong that Mrs. Parish said something in accordance with my advice; I cannot give any description of the sound which I call a hesitating acquiescence; Mrs. Parish did not in any of her suggestions refer to any particular children of either of the brothers; the reference was very general; my understanding was, that the reference to the brother's children was confined to the residuary clause, although I do not remember of Mrs. Parish using the term "residuary clause;" I said I would draw up a form of codicil answering to their desires, and submit it to them; I drew it up, and either left it at the house in Union square or gave it to Mr. Delafield, and proposed to meet them the next morning, which I did; that morning, when the matter came up, I read the draft codicil to Mr. Parish, and in reading, perceived that it was an absolute revocation by virtue of a direct gift to Mrs. Parish; I then suggested the insertion of the clause, "In case she shall survive me, I revoke the thirteenth article of my above-written will;" I think I explained the purpose of this to him; I asked him if he approved of the codicil, and he said "Yes;" I then asked him the direct question which are detailed in regard to the signing the other codicil; Mr. Ward was the other witness; this interview probably did not last over half an hour; when Mrs. Parish invited Mr. Ward and myself to come to the country residence to eat strawberries, he nodded his head, and, if I am not very much mistaken, said "Yes;" and his countenance assumed a pleasant expression; when the codicils were executed, Mr. Parish made his sign for an inquiry, and took up the suggestion that he wished to speak of the gifts to his brother's children; I renewed my objections, and he made a similar expression, and the subject was dropped; since my examination in relation to the codicil of the 29th of August, 1849, I have received from Mrs. Parish, which I addressed to her at that time, from which I now state that I was first called to town on the subject of that codicil on Saturday, the 25th of August, which corresponds with an entry in my diary, and it was on that day I was requested to draw up that codicil, instead of the 29th; I drew the codicil on that day and inclosed it with this note, and I returned that afternoon to my residence in Fairfield; on the following Wednesday I returned to town on this business; I had the interview which I have described, and the arrangements were made for the execution of the codicil in the afternoon, as I have stated; I recollect seeing Mr. Parish at a New-York sale on the 1st of January 1856; I am quite sure I had seen him before, but I cannot say when; I have no doubt that I have seen him at his house, but I have no kind of recollection of the time; I made him the usual New-Year's wish, and he seemed to appreciate the courtesy; he made the sound of inquiry, and took up with the suggestion that he wanted me to call and see them by way of a visit; I think Mrs. Parish never told me of any other cause of ill feeling between herself and Mr. Daniel Parish except his pressing by her and taking the will from the bank, and I do not think any of the Messrs. Delafield ever spoke to me on the subject unless perhaps one of them may have alluded to the removal of the will; Mrs. Parish never spoke of this difference, or of any thing which had given offence except in our interviews; I know of no investment having been made of Mr. Parish's property in Mrs. Parish's name since the execution of the second codicil; Mr Parish seemed occasionally, I never saw him weep; on the interview in December, 1849 he had sensibly improved, and he continued to improve so that in all my subsequent interviews he appeared to be in improved health; I cannot remember whether each successive interview showed him to be better than before; he appeared to be as well when I saw him in January last as when I saw him in September, 1854, but I cannot say that he seemed to be any better; I have no recollection of seeing him moving about; he wore spectacles, I think, at some of the interviews I had with him; I cannot say that he did at all, and I could not specify any one particular interview at which he wore spectacles; my impression is that he generally wore spectacles; one of his eyes, if I recollect, had a cataract; to a certain degree I always supposed that he knew me when I bowed to him; there was considerable variety in the tones and gestures by which he expressed himself, and I think that they were varied according to the occasion; it was in December, 1849, that I first noticed his sound for inquiry; I did not comprehend it before I was told what it was; I attached to it simply the meaning of surprise or a wish, but no idea further than that; the connection in which the expression of hesitating acquiescence was used gives me an idea of its meaning; I understood it on the first occasion on which I heard it; its meaning was never expounded to me; the suggestion which I made of cancelling the will was my own thought, and had not been suggested to me; I had never spoken of it to the Messrs. Delafield; and I think I had not spoken to Mrs Parish about it; Mr. Delafield suggested that I should witness it, and I consented; he spoke of my being a witness; I had a belief that there might be an attempt to contest his capacity; I cannot say that I expected that it would be and when I consented to become a witness, I mentioned that it would preclude my acting as counsel upon the trial of such litigation; I did not by any act or in any way say to Mrs Parish that I could be more useful to her as witness than in any other way; it was not one of the Messrs Delafield who told me that he could distinguish dates and figures to some extent; Mrs. Parish never said anything to me as to whether Mr Parish could read, to my recollection; I will not be positive about it; when I saw him eating his breakfast at Hell Gate he had a napkin about his neck; I have no recollection of noticing anything about the mode of his taking his food, whether he used his hands or not; there was nothing about it that struck me.

At 3½ Mr. O Conor announced that his cross examination of Mr. Lord was closed, and the case was adjourned until Thursday morning at 10 o'clock.

MAY 1—Cross-examination of Daniel Lord by Judge EDMONDS—I do not remember of Mr. Parish ever giving an assent to a portion of a portion of the question and dissenting from the rest; I have no doubt but that he might have done so; when he contemplated revoking the appointment of Daniel Parish he did not intimate a wish to appoint anybody in his stead; he could only indicate a person in answer to a suggestion; if his meaning was not met he continued his interrogatories; nothing was said to Mrs. Parish, or in my presence, in any of the interviews about his sister or his brother-in-law, Mr. Sherman; the sisters might have been mentioned by Mrs. Parish in some of my interviews with her; my remembrance is negative; I only recollect that she mentioned that Mr. Sherman brought or sent a physician which she disapproved of; I have an impression that it was a homeopathic physician; Mrs. Parish did not seat herself at these interviews, so as to keep her eye on Mr. Parish; she did not assume any particular situation, and she did not by look or gesture convey or intimate her wishes to him; I observed no attempt on her part to influence his wishes; he was quite capable of understanding but the gift he exceeded his proposes by a gesture; I recollect no instance in which, what I understood by his voice, was not in harmony with the expression of his countenance; my interviews with him before his illness were only incidental, and I can make no comparison between his abilities then and after his paralysis; I have never drawn any will or testamentary paper which has not been spoken of in my examination; nothing was said in any of those interviews about the property bequeathed having been sold; I know it, I presume, when the second codicil was executed; Mr. Halbrook is not a relative of mine; he made a bequest of $1,000 to one of my sons; I had nothing to do with drafting his will.

Cross-examined by Mr. Jordan—Mr. Parish could articulate yes and no unmistakably, though not clearly; which he meant was plain; he could not articulate as plainly on the 29th of August, 1849, as on the 17th of December; I did not watch Mrs. Parish to see if she watched Mr. Parish; I have never drawn a will for her.

Direct examination resumed by Mr. Cutting—The list of investments was not a list of all his property; there was such a statement, and it gave a result as expressed in Exhibit No. 2; I saw nothing peculiar in the attentions of Mrs. Parish to her husband.

Charles R. Davis sworn—Examined by Mr. Cutting—I knew Mr. Parish twenty or thirty years before his decease, and saw him many times during that period; one of the Messrs Delafield told me that it was Mr. Parish's wish that I should, with Mr. Daniel Lord, witness the execution of a codicil to his will on the 15th of September, 1855, at about 4 o'clock, at his house in Union square; I went and found Mr. and Mrs. Parish and the same Mr. Delafield in the library; we talked about health and the weather; I had not se