THE EX-MAYOR ACQUITTED.

NOT GUILTY OF WILLFUL NEGLECT.

THE DEFENSE PRESENT NO TESTIMONY—ARGUMENTS OF MESSRS. STOUGHTON AND TREMAIN—CHARGE OF JUDGE DANIELS.

The trial of Mayor Hall was concluded yesterday, and the case was left with the jury at 6 o'clock in the evening. All day long there was a repetition of the scenes and incidents which have characterized the trial of Ring culprits, and late into the night the unusual glimmer of lights in the windows of the court-room of the Oyer and Terminer attracted the wondering notice of pedestrians in the City Hall Park, and drew many to the scene of interest and anxiety, where groups of lawyers and those of commercial callings, interested in the result of this latest trial, waited impatiently for the coming of the 12 men upon whom the fate of the ex-Mayor depended.

The proceedings of the day were divided into three great acts—the summing up of Mr. Stoughton, the address of Mr. Tremain, and Judge Daniels's charge to the jury. The first speech, that of Mr. Stoughton, was begun at 10 o'clock in the morning, and finished at 12:30. Those present, who had been familiar with Mr. Stoughton's style of delivery, and the eloquence which characterizes his efforts, imagined they noticed in his manner a confidence which pleaded against unnecessary effort and weariness. Certainly his speech lacked much of the length which characterized the one delivered on the other trial, which resulted in a disagreement. Some were surprised when he took his seat, expecting as they did the customary burst of feeling, and there were not wanting those who thought that the speaker should have said much more on such a doubtful issue. When Mr. Tremain concluded his speech, it was evident that he had spared no pains to put before the jury every possible argument likely to affect, in favor of the people, the silent listeners before him. One of the most pointed sentences he uttered was that in reference to the motive of the ex-Mayor in allowing these fraudulent bills to pass his scrutiny, reviving as it did the old piece of gossip about his aspirations for the Governorship, which was the grand inducement in seeking the support of Tammany. Although Mr. Tremain's reference was ambiguous in its character it was apparently understood very generally. The speaker closed at 20 minutes past 4, having spoken over three hours.

Judge Daniels charged the jury for over an hour, reviewing closely the evidence in the case so far as to show its connection with and bearing upon the case, and impressed his views of the meaning of the law emphatically and carefully upon their minds. He practically told them to throw aside all consideration of the meaning of the now famous word "audit," advising them that the statute was plain enough to convince all reasonable men that it meant to examine and pass upon. This left, as the only question for the jury, whether the ex-Mayor neglected willfully to audit. The jury returned from their room at 8 o'clock to inquire whether they must find willful neglect, when they could find simple neglect. Judge Daniels informed them that it must be "willful," and they again retired, with an intimation from the Judge that if they did not find a verdict in an hour or so they would be locked up for the night. At 10:30 they returned with a verdict of not guilty, and the spectators almost universally testified their approbation by repeated and unrestrained cheers.

ADDRESS OF MR. STOUGHTON.

At 10 o'clock the counsel for Mr. Hall announced that there would be no witnesses called for the defense, and Mr. Stoughton, without further delay, began to sum up for the Mayor. He said that as the counsel for the prosecution did not intimate in any way that Mr. Hall was connected with these frauds which men had had the hardihood to concoct, intending to deceive the Mayor, to their own degradation and guilt, the counsel for the defense had come to the conclusion that it was unnecessary to place any evidence before the jury. If there had been any proof, any suggestion even, that such a connection existed they would have answered such suggestion and such proof with evidence; but the case had been narrowed down to a question whether Mr. Hall was technically guilty of neglect, and for this he was indicted and charged with 55 offenses, on each of which he could be sentenced to a year's imprisonment and a fine of $250—the punishment of a life-time! Mr. Stoughton said he believed, however, that the jury had already come to the conclusion that the Mayor had not been guilty of any fault whatever. They had intended to move for a direction to acquit, but Mr. Buckley, who was to make the motion, had left it to him, and he should embody it in his address and so save time.

Judge Daniels interrupted to say that the counsel must not consider himself in any way limited as to time.

Mr. Stoughton disclaimed any intention of shortening the case to the prejudice of justice. He then resumed, with a brief description of Mr. Hall's position in the community before he became Mayor. He was 12 years District-Attorney, and his conduct was irreproachable. Never was he in all that time guilty of oppression. He led a stainless official life. You will search the past in vain for a single utterance to the prejudice of his official character. Friends grew around him, and his life, even in his youth, culminated in the attainment of the high office of Mayor of this great city. A new government was launched on the city. New departments were added. Imagine his position in the Spring of that year organizing these departments. He went on and in the Summer of 1871 the public were startled by the publication that great frauds were committed upon the city.

What then did Mr. Hall do? He at once called upon the Controller, apprehensive that a foundation might exist for these charges. What did he do? He appointed a committee to investigate these accounts, half the committee responsible tax-payers, the other half officials, and to these he proposed to submit all these accounts. Did he feel guilty or did he not feel as innocent as any of you? The committee were to meet on Monday, and on the Sunday before it the vouchers that were in their accustomed place were stolen. What then did he do? He advised Mr. Connolly to resign, thus inviting the hand of every man connected with these frauds to be raised against him. He went on doing his duty as Mayor, but he was accused, he was tried, all the evidence was put on, and what then appeared? That not one dollar of this money stained his hand. The counsel thought that trial should never have been revived and brought on again at the close of the old year and the beginning of the new, and when all is peace. But the door had again been thrown open wide to admit all the evidence the prosecution could give and the case was now before them. The defendant had suffered, for the innocent suffer keenly, and those near and dear to them, but he trusted in God all that was over.

Counsel has read decisions holding that an officer exercising his judicial discretion, though he may decide wrongly, yet if there is no fraud he is not responsible, and that every public officer is presumed to act in obedience to duty, until the contrary is proved. He insisted that before the defendant could justly be called to account it should be shown that he willfully and maliciously perverted his office, and criminally neglected to perform his duty. He called attention to the section of the act under which the indictment was brought, charging willful neglect to audit. He then read the act appointing the Commission of Audit, and said they were not empowered to call witnesses, but everything was left to their discretion, without taking any proof. If Keyser, an honest man known to the Mayor fifteen years, was to present a bill, an honest bill, what proof should they take? Who could measure it? If judges were to measure it, as they differ, what would be crime in one court would be innocence in another. What should the Mayor have done when these bills came before him? Send around experts and ascertain so much was paid for this and so much for that? It was easy to be wise after the fact. If that poor Emperor who was deceived into believing that his armies were properly equipped for war could have a chance again, he would know what he ought to do. But, as Judge Greer says, "I distrust wisdom after the fact."

Mr. Stoughton argued that if the defendant audited only bills that he believed to be honest, on no theory could he be convicted. The three first counts are founded on the allegation that the auditors refused to audit, the fourth charges corrupt perversion of office in allowing and certifying bills which they knew to be fraudulent, but he believed the prosecution did not insist upon that.

Mr. Stoughton proceeded to discuss the evidence which the Mayor had as to the honesty of the bills, and described Connolly, Tweed, Watson, and Woodward, not as they are known to us now, but as the long experienced and trusted public servants. Even the most suspicious of men, sitting and acting with those men, would not dare to suspect them of vile and wicked purposes.

The counsel showed the injustice of charging willful neglect by the argument that if the prosecution were right, every time the Mayor signed a warrant without the Board meeting, he would be guilty of a crime for which he might be imprisoned 110 years. The only proof that the Board of Audit did not meet after passing that resolution was the testimony of Garvey and Keyser that they knew of no meetings. But the presumption of the law was that they did meet, and no one could prove the contrary except Watson, who was dead, and Woodward, who was now away. Counsel concluded, after speaking two hours and a half, by confidently leaving the case to the jury to relieve Mr. Hall from the trouble that had so long and so severely oppressed him.

ADDRESS OF MR. TREMAIN.

Mr. Tremain, before submitting to the jury his ideas of the law and of the evidence, expressed his sense of the unpleasantness of the duty which devolved upon him in prosecuting a member of his own profession. He mentioned the great importance of the case to the citizens, the momentous principles involved, and said there was not one law for the hod-carrier and another for the ex-Mayor; there was one law for all. The jury had not made it, and it was simply their duty to pronounce according to its dictates. They were not to determine whether the offense was a technical one, or to concern themselves with the consequences of a verdict. Of the 55 misdemeanors charged, four were not attempted to be proved, and the 51 are on bills to Davidson, Keyser, and Garvey. The maximum imprisonment for each offense would be one year, and the punishment might be $1 fine or one hour's imprisonment.

At this point the Court took a recess of half an hour, and on reassembling Mr. Tremain resumed, saying that no man would rejoice more than he if the jury, under the circumstances, could acquit. If the defendant intentionally neglected his duty, he willfully did it. He may have thought he was doing right; but that was no defense. On April 5, 1870, the Legislature gave the city a new government, in which the defendant was clothed with imperial powers; then, as a part of the scheme, the old and honored Board of Supervisors, which in this, as in every county since the Revolution, audited claims, was replaced by the new Board. Under that act these gentlemen were required to audit the claims then existing, and to provide for the payments of "the amounts found to be due" by revenue bonds. Counsel then addressed himself to the Court, to argue that auditing the claims and finding out what was due involved an investigation of a quasi-judicial character, at which the Board should meet and have the papers before them, and that the people were entitled to the benefit of their joint investigation. He asked the Court to charge that if the Board did not meet again after they passed the resolution, there was a willful neglect of duty.

Again, said Mr. Tremain, the question of personal connection in this matter is totally unimportant; the question of actual loss to the people is unimportant; but you have here a case in which millions of dollars have been fraudulently abstracted from the public Treasury, and when the sentinels who were placed by the people to guard the Treasury have folded their arms, neglected their duty, and by an infatuation which can scarcely be explained have allowed millions to be abstracted when the slightest inspection of the accounts, as I have shown you, would have satisfied every honest and intelligent man that there was something rotten in Denmark, something that ought to be investigated. Are there any other considerations that may influence men besides a corrupt pecuniary consideration? We cannot penetrate the heart; that is the province of Omniscience. But may there not be other motives than those growing out of a desire to accumulate pelf? May there not be a desire to attain distinction and eminence? May there not be a case where a man holding office discovers that the avenues of power lie through a certain channel; that the easiest way to promotion to the highest office is to allow these men to continue uninterrupted in their work of plunder, without interposing any obstacles to their accomplishment? And may there not be a motive arising from an unmanly fear of those in power? The defendant in this case seems to have been the only man upon that Board to whom the Legislature in passing this law would have a right to look, and upon whose responsibility they would have been likely alone to have passed a law. Surely they would not have conferred upon the Controller, who was not responsible to the people. Connolly was appointed for his term of office after the old charter was abolished by the new, and the Mayor appointed him. The learned gentleman, among the unsworn eulogies he has pronounced has pronounced a high eulogy upon Connolly.

Mr. Stoughton—No, Sir; I told the jury with great distinctness and care to look upon him as he was then known.

Mr. Tremain—I meant to have said that. What was then known about Connolly? I suppose you and every man in the city had heard before that of the man who was universally known as "Slippery Dick."

[Here an involuntary burst of applause came from the audience, suppressed instantly by Judge Daniels, who remarked that a repetition of it would lead to the exclusion of the offending persons from the room.]

It is enough, gentlemen, that you find a stupid indifference, a heedless, careless disregard of the rights of the tax-payers, even if you do not find, what I shall show you existed—a deliberate omission of this duty of auditing. Mr. Tremain went on to argue that the Commissioners voluntarily undertook the trusts reposed in them by the act. He should ask the Court to charge that the jury had nothing else to decide than the question whether the defendant intentionally neglected his duties. There had been no previous audit by the Supervisors of these bills, and that would be the end of them. He argued that the meaning of the resolution of the Board of Audit was simply that the authentication of Wm. M. Tweed or his tool, Woodward, was enough.

In conclusion, counsel said the waters of reform had begun to flow, and it was for the jury to determine whether the waters of justice should be arrested in their flow. If they found a general verdict of guilty, the defendant could only be punished for one offence, but they could find him guilty on all or any of the counts or vouchers. He excluded all thought that any relation existed between the defendant and any of the jurors except those disclosed on the investigation, and left the case in their hands.

JUDGE DANIELS'S CHARGE.

GENTLEMEN OF THE JURY: The defendant in this case, so far as the inquiry now involved is concerned, is in substance indicted for willful neglect of the performance of an official duty imposed upon him by act of Legislature passed April 26, 1870, and which went into effect upon that day. At the time when this act was passed the defendant was the Mayor of the City of New-York, and it was contemplated prior to that time—and consummated, in fact, by previous legislation—that some changes should be made in the form of the city government, and in consequence of these changes the provision to which your attention has been so frequently called during the progress of this trial was enacted as a part of the statute imposing this duty upon the defendant in common with other persons. That duty, gentlemen, was not novel in its character, because some of the duties had been imposed upon other boards and other officers in the State for a great many years. It had been the policy of the law of the State to require claims which were presented against municipal bodies, whether cities, counties, villages, or towns, to be audited, examined, and reported upon by certain boards to which this duty was confided. In reference to counties, the duty is confided to a Board of Supervisors, and so of claims against the cities the duty is imposed upon the Common Council of the city or upon some city officials. So that his duty is not a novel one, but is familiar to the law of the State, and was at the time this statute was enacted. It had been required to be performed in this county by the Board of Supervisors, which, by the legislation of 1870 was legislated out of existence. The law confided to the Board of Supervisors the duty of auditing accounts against the county on claims made against the county, and it became necessary, in taking away the powers of the Board, that this duty should be charged upon other persons, so that claims made against the corporation of the city or county should only be passed and allowed to be paid after they had been made the subject of examination and found legally and justly due. The object of all this legislation in reference to auditing these accounts, no matter what the body may be against which the claims are made, was to enable the public officers or the public board charged with the observance of this duty to see to it that the claim that is made the subject of investigation is one that is fairly and properly the subject of payment by the public authorities. In reference to matters of this kind you know, gentlemen, that it is necessary that there should be some board with authority of this nature, to protect the public funds of the city against spurious or unjust claims. It is placed in the hands of these Boards to discharge the duties which individuals ordinarily discharge for themselves when claims are made against them, when bills are presented, of ascertaining the facts and circumstances out of which the bill or claim has originated, with the view of determining whether it is a legal, just or valid one. These Boards and these officers consequently have been made the subject of legislation from time to time from a very early period of the legislative history of the State of New-York, for the purpose of protecting the tax-payer and the public from the payment of claims which have no just foundation, and of securing a proper, faithful and complete investigation into the existence of those claims before they shall be allowed and paid out of the public treasury.

SPECIAL INSTRUCTIONS TO AUDIT.

Now, gentlemen, at the time when these charges were made, by the laws of 1870, in the Board of Supervisors of the County of New-York, and also in the city government of the City of New-York to a certain extent, claims were in existence which, according to the assumption made by the Legislature, had been made the proper subject of audit and allowance by the Board of Supervisors. The legislation of 1870 contemplates in its nature that some further action should be taken upon the claims, then in the hands of the Board of Supervisors, before they should be made the subject of payment. There was, according to the evidence of Mr. Storrs, Deputy-Controller, about 190 of those claims. As I have already stated to you, the Legislature, by this act of April 26, 1870, seems to have contemplated the necessity of future action, of future investigation, in reference to those accounts before they should be made the subject of payment out of the Treasury of the county. For this reason the act was passed, and it is provided in the fourth section of the act that the defendant in this case, together with two other persons, the Controller and the President of the Board of Supervisors, should audit these accounts and investigate them for the purpose of ascertaining whether they were of such a character that they ought to be paid from the public money of the County of New-York. Perhaps I may as well call your attention to the language of the statute, although it has been the subject of comment by the counsel. It is this:

All liabilities against the County of New-York, incurred previous to the passage of this act [April 26, 1870], shall be audited by the Mayor, Controller, and President of the Board of Supervisors, and the amounts which may be found necessary to meet them shall be provided for by the issue of revenue bonds for the County of New-York payable during the year 1870; and the Board of Supervisors shall include in the Tax Levy for 1871 the amounts necessary to pay such bonds and the interest thereon. Such claims shall be paid by the Controller, or the officer selected, upon the certificate of the officers named herein.

This is the whole of the provision defining the imposing of duty upon the defendant, which, it is claimed in this case the evidence shows, he has willfully neglected. Considerable has been said as to the nature and character of this duty to audit. The term, as I understand it, is one of ordinary signification, and seems to have been used frequently by the Legislature in the same sense in which it is publicly regarded; and when these terms are used in the enactment of the law, it is to be presumed, unless there is something in the law itself indicating a different purpose on the part of the Legislature, that the term is used in the sense that it addresses itself to the person, whose duty may be prescribed by the use of the term, and to that individual in the sense in which it is popularly understood in the community. Now, as a description of the signification of this term as it is used in the law and as ordinarily used between individuals, and was at the time this statute was enacted, I quote from an opinion delivered in the Court of Errors, which has been referred to by counsel during the progress of this case.

"Audit" means to hear, to examine, to adjust, to pass upon, to settle, and it matters not whether the duty is difficult or easy in its nature; it requires the exercise of judgment, and that is enough.

That, gentlemen, was substantially the duty imposed upon the defendant by the statute of 1870, and he was required to perform it conjointly with two other persons. The statute itself says these persons were to act conjointly. The language of the statute is that the claim shall be paid by the Controller to the parties entitled to receive it, upon the certificate of the officer named therein. This contemplates a joint act of investigation. In addition to that it is provided that whenever any power or authority or duty is confided by law to three or more persons, such authority may be exercised by a majority of such persons or officers upon a meeting of all the persons or officers so intrusted, unless special provision is otherwise made. There is no special provision otherwise made in this case, but, on the other hand, the plain import of the provision made in this act of 1870 is that they shall meet together and act jointly in the discharge of the duty imposed upon them. Taking that statute, together with the preceding one, it leaves no doubt whatever of the course that those persons were required to pursue.

This was in substance the duty imposed upon these persons, and they were required to perform it for the purpose of preventing the payment of spurious or unjust accounts. The importance of this is manifest from the manner in which these accounts were presented, in which they were afterwards passed and allowed and paid out of the Treasury, because the evidence shows here beyond controversy that to a very great extent the accounts were false, fictitious and fraudulent, and in consequence of this a very large amount of money has been abstracted from the public Treasury, which should not have been appropriated to any such purpose. The question arises, this defendant having authority conferred upon him as a member of this Board, whether he willfully neglected to perform the duty he was required to perform under the provisions of this statute. It is claimed on the part of the prosecution that the evidence is of such a character as reasonably and fairly to lead the minds of the jury to the conclusion that there was a willful neglect and omission on his part. That, gentlemen, is probably the more important point in this case, because really there can be no substantial difference of opinion as to the character of the duty the defendant was required to perform. The language of the statute is plain. The defendant is an experienced lawyer, a man of prominent position, of great intelligence and capacity, and under those circumstances, where the language of the statute is plain as in this case, there certainly can be no impropriety in holding him to the discharge of the duty which the statute really and fairly sets forth.

THE ALLEGED NEGLECT OF DUTY.

Did the defendant willfully refuse or neglect to audit these accounts, together with these two other persons? The first thing we encounter in reference to the transactions of the defendant is the resolution which has been approved and made a subject of comment. This was passed soon after the act of April went into effect, at a meeting held May 5, 1870. It is claimed by the prosecution from that resolution that the defendant intended to neglect his duty. Now to make such neglect a misdemeanor it must be shown that the officer intended to neglect what the law required him to perform. The question therefore is did the defendant at this or any subsequent time, in pursuance of the express intention of this resolution, willfully neglect to perform the duty prescribed by the statute? In this case the duty was one of a judicial character, and in this sense the defendant had no right to renounce the personal performance of that duty, or impose it upon any other person, or upon the Board of Supervisors itself, or upon the President or Secretary, for the statute has prescribed otherwise.

The first evidence sustaining the proposition on the part of the prosecution that there was such willful neglect, is the existence of this resolution passed by the Board itself May 5, 1870. By this resolution these three persons met as a Board under the statute, and substantially accepted the duties. Then they resolved that the claims be collected by the County Auditor and passed through, substantially, without investigation. This, however, was not the crime; it was the intention to commit it; for if their intention was to certify these accounts thus collected without examination, then there was the disposition and intention to declare their duty, and it is for the jury to say whether as a matter of fact that construction is to be put on the language of the resolution. But to find whether the crime charged on the indictment was committed it is necessary to go further and inquire whether that purpose was carried out.

On this branch of the subject Judge Daniels referred to the testimony of Mr. Lynes, bookkeeper, as to the manner in which the warrants were made out. It is a question for your consideration, said he, whether the evidence shows that these persons acted upon the express design embodied in their resolution. It is claimed that there is further evidence tending to establish this conclusion, arising out of the manner in which these accounts were passed, and it is claimed on the part of the prosecution that if these persons had met together as the act of 1870 required, and investigated these accounts, some of them are so grossly fraudulent as to have at once arrested the attention of these individuals and prevented their payment by the authorities.

Judge Daniels spoke of Davidson's bill of $16,940, and the manner of his obtaining it, adding that he did not understand that his testimony was seriously questioned by the defense. It was claimed, on the part of the prosecution, that when the claim of Davidson came up before the Board of Audit, and the warrant had been filled up for $49,000, that the difference would have exposed at once the fraud, and prevented the public from being involved in the loss of this large sum of money; and it was claimed that inasmuch as no such detection was made, it was evident that these persons were not exercising the authority conferred upon them, to discharge the duty required of them by the act of 1870.

Judge Daniels next called attention to the largeness of the bills, $590,000 being one sum claimed for work on the Court-house in one month, to the circumstance of the signatures to the certificates being in different colored inks, to the evidence that the defendant's signature was not on the warrants, and to the fact of the signatures being affixed at different dates as showing according to the prosecution that they were put on at different places as well as times, thus proving that they did not meet to audit and examine; reference was likewise made to the Mayor's message in which he defined his view of the duty imposed on him to be that it was ministerial. With regard to the defense that the duties were too arduous, he instructed the jury that this would be no excuse. The officer cannot undertake the duty and willfully neglect it, though he may postpone the duty, or he can entirely surrender his position. The claims to be passed upon were 190 in number, and with the means at his disposal the prosecution hold that no great length of time would be occupied by the examination. But whatever time would be taken the duty was there, and could not be neglected or delegated to any one else. The presumption of the law is in favor of the defendant. He is not to be surmised guilty, but on the evidence the jury must be satisfied beyond a reasonable doubt that he committed the offense charged against him. If they were so satisfied, no matter how painful it might be to the defendant's friends that he had so involved himself, it was their duty to shut their eyes to the consequences and pronounce him guilty. He instructed them that unless they had an abiding conviction of the defendant's guilt, they should find him not guilty.

In reference to the other charges in the indictment, Judge Daniels said: I have come to the conclusion, after some time spent in an examination of them, that they are not sufficiently made out as to justify you in finding the defendant guilty. So that your simple duty is to determine whether the defendant has failed to perform his duty as enjoined in the Act of April, 1870. If he has not, you are to find him guilty of that offense charged in the indictment; if you are not satisfied, you are to render a verdict of not guilty.

Judge Daniels also instructed the jury that there was no evidence of conspiracy between the defendant and his associates and nothing to connect him with the fraudulent making up of the bills.

At the conclusion of the charge proper the propositions to charge previously handed up were variously passed upon, and Mr. Stoughton took exception to that part of the charge which set forth that the resolution of the Board indicated a design not to perform the duty.

Judge Daniels said to his own mind it did indicate such a design, but he would leave the jury to put their own construction upon it.

THE VERDICT.

The jury retired at 6 o'clock, but the large crowd present in the court-room still remained in their seats. Ex-Mayor Hall was surrounded by his friends, who wished him every fortune, and trusted he would be able to spend his Christmas at home. During the absence of the jury he appeared to be very nervous, and when spoken to seemed to be replying in an absent-minded manner! At 8:15 one of the Court officers cleared the jurymen's seats, and instantly much commotion and excitement among the bystanders was manifested. The jury took their seats, and Judge Daniels entered the Court. Mr. Sparks, the clerk, read off their names.

The Foreman—Your honor, we wish to ask you a few questions. First, we wish your Honor to inform us whether a simple neglect of duty requires a verdict of guilty, or whether there must be shown willful neglect.

His Honor replied that it must be a willful neglect, and a single act was sufficient.

The Foreman—Secondly, Is it for us to decide whether the neglect of duty was willful or not?

Judge Daniels—Decidedly, you are to decide upon that point. I will remain here for an hour or an hour and a-half longer, and if you agree by that time I will receive your verdict; if not, you will have to be locked up for the night.

The jury then retired again. Their appearance caused considerable discussion among the lawyers, lookers on, and friends of Mr. Hall, and a verdict of "Not Guilty" was expected by all. The ex-Mayor seemed much relieved when he heard the questions asked by the jury, and a rumor was prevalent that at this time the jury stood ten for acquittal and two for conviction. The jury retired again, and after an absence of two hours returned to court. This was at 10:30 o'clock, and the jury had been considering their verdict for 4½ hours. The court-room was still crowded, every inch of room being taken up, and the greatest excitement prevailed when the crier called "Hats off!" and the Judge entered and took his seat on the bench. Recorder Hackett occupied a seat near Judge Daniels, and the ex-Mayor was seated at the counsels' desk, surrounded by Messrs. Stoughton, Buckley, Vanderpoel, Brown, and numerous others from the legal profession. Lyman Tremain was absent, but Mr. Peckham represented the prosecution. As the jury filed into the court-room the greatest silence ensued, and Mr. Hall calmly looked into the face of each juryman as he took his seat. He seemed to be thoroughly overcome, and answered questions put to him by his friends only in monosyllables. The Clerk called over the names of the jurymen, and each one answered.

Mr. Sparks then said: "Have you agreed upon a verdict, gentlemen?"

"We have," replied the Foreman.

At this moment the excitement among the spectators was intense, and each one held his breath to catch the answers as they fell from the lips of the Foreman.

The Clerk continued—"How say you, gentlemen, is A. Oakey Hall, the prisoner at the bar, guilty or not guilty?"

"Not guilty!" replied the Foreman.

But before the words were fairly pronounced there instantly ensued a scene which beggars description and one which will be long remembered by all who witnessed it. Cheer after cheer arose, hats were waved in the air, and the shouting and noise continued, notwithstanding the cries of "Order" from the officers and the rapping of His Honor's gavel. The spectators rose from their seats, one and all, and leaping over railings, chairs, and tables, tried to vie with each other in first shaking the ex-Mayor's hand. Mr. Hall appeared to be entirely overpowered and as he had not eaten anything since 11 o'clock in the day, he felt very faint, and it was necessary to take him near the window. As soon as order had been secured Mr. Sparks polled the jury, and asked each one if the verdict rendered was his verdict. They all replied in the affirmative. The clerk then recorded the verdict "Not guilty," and Judge Daniels discharged the jury until 10 o'clock on Monday. As each juror left his seat to go out of the room he stepped forward to shake hands with Mr. Hall. Congratulations poured in from every side, and it was fully half an hour before he could leave the room, and then only on the plea of illness. The crowd followed him down stairs, and the last words heard were from a poorly clad Irishman, who exclaimed, "God bless you, Mr. Mayor; I wish you a Merry Christmas and a Happy New Year."

THE VILLE DU HAVRE.

NO LIST OF THE CREW TO BE HAD IN THIS CITY—RESULT OF THE FRENCH COMPANY'S INVESTIGATION.

There is no list of the crew of the Ville du Havre to be found at the office of George Mackenzie, agent of the line, nor at the French Consulate. The men were all shipped in France, and the list is kept there. When the ship's papers are handed over to the French Consul on her arrival at this port, they are simply filed during her stay and are returned to the officers on her departure. Mr. Mackenzie states that the Company's agents in Paris would doubtless have forwarded the list had they known how deep an interest has been developed here in the personnel of the crew; but they had no reason to believe that any of them had relatives or friends here. It appears, however, that a number of letters inquiring for the lost and saved among the crew has been received by Mr. Mackenzie, showing that some of the men had relatives here and a great many of them acquaintances. He has accordingly written for the list.

Mr. Mackenzie expresses the opinion that the accounts written by passengers saved have been colored freely by their natural feelings of anger and grief, and that due justice has not been rendered to Capt. Surmont and the crew. He thinks also that there has been a very visible effort to make heroes of themselves in the letters of most of the passengers at the expense of the crew and Company. The Captain of the Europe, which arrived a few days ago, saw Capt. Surmont in Havre and conversed with him on the subject of the disaster. Capt. Surmont had already made an official statement to the Company, but stated furthermore to the Captain of the Europe that it was well understood that steamers should give the right of way to sailing vessels, and that had the Loch Earn kept straight on her course the Havre would have passed behind her. She had ported enough to take her clear of the Loch Earn's stern, the officer acting under the well understood rule that the sailing vessel should keep straight ahead. Instead of that, the Loch Earn, probably frightened at the movement of the Ville du Havre, failed to luff, and hence the collision. The following letter has been received by Mr. Mackenzie from the Company's offices in Paris. The investigation spoken of is merely an inquiry by the Company's officers, and not the regular governmental investigation:

PARIS, Dec. 5, 1873.

Mr. GEO. MACKENZIE, ag't.

DEAR SIR: The investigation to which, according to the rule of our Company, all events of importance at sea are subjected, establishes, according to the testimony gathered up to this time, the fault of the English vessel. It seems, in effect, that the Ville du Havre, sighting the Loch Earn close by its starboard, bore away to port, which would have carried away the two vessels from each other if the English ship, instead of luffing as was her duty, had not done just the contrary, which rendered a collision inevitable. It is our duty to add that, during this overwhelming catastrophe, our entire crew, captain, officers, and sailors, showed themselves faithful to the principles of honor, discipline and self-abnegation, which belong to the traditions of the French marine. No one of our people endeavored to rescue himself from death by abandoning his post. Our men all sank with the steamer, striving to the last moment, with an unwavering obedience, to execute the orders of their officers for the safety of the passengers intrusted to them. You will see by Capt. Surmont's report that if the efforts of all did not meet with greater success it was because the crew found themselves embarrassed by complications that no human will nor strength could overcome. Capt. Surmont and all his officers are above all praise. You have known them for a long time, and their noble conduct will not surprise you.

GEN'L TRANS. COMPANY.

A TRIBUTE TO HORACE GREELEY.

The Joint Committee appointed by the Common Council to make arrangements for presenting the family of the late Horace Greeley with an illuminated album, containing a portrait of Mr. Greeley and a narrative of the action taken by the Common Council at the time of his death, met, at noon yesterday, in the Chamber of the Board of Aldermen. There were present Aldermen McCafferty, Van Schaick and Billings; Assistant Aldermen Theiss, Thornell and Wisser, Mr. Whitelaw Reid, Mr. John F. Cleveland, and several others. Alderman McCafferty called the meeting to order and then asked for the report of a sub-committee who were appointed to wait on the Mayor at the previous meeting to request him to make the presentation in behalf of the city. They reported that the Mayor seemed unwilling to comply with their request, and would prefer that some other person make the presentation; but he promised to consider the proposition and give his decision at the next meeting. Alderman Van Schaick moved that a committee of two be appointed to wait on the Mayor and obtain his final answer. The Chairman appointed as such committee Alderman Van Schaick and Assistant Alderman Thornell. The Committee left the room, and in a few minutes returned and stated that the Mayor would consent providing that the day for the presentation be fixed between the 10th and 13th of January.

Assistant Alderman Theiss moved that Mr. Reid be requested to state what day would be convenient to the family of Mr. Greeley on which the presentation could be made. Mr. Reid replied that any day that the Committee would decide upon would suit the convenience of Mr. Greeley's daughters.

Alderman Van Schaick asked where the presentation should be made. Mr. Reid replied that the Misses Greeley were in town, and they would be pleased to receive the Committee at their residence in Cottage-place.

Alderman McCafferty said the Committee would like to invite several old friends and admirers of Mr. Greeley to be present at the presentation. Mr. Reid replied that the residence of the Misses Greeley was small, but the parlors would accommodate from twenty-five to thirty persons. Assistant Alderman Thornell thought it would be more appropriate to have the presentation made at the residence of the young ladies. Mr. Reid said that the young ladies were desirous that the Committee should act as they thought best. Alderman Van Schaick then moved that the presentation be made at the residence of the Misses Greeley in Cottage-place on Wednesday, Jan. 14, at 3 p. m. This motion was adopted, and the Secretary was directed to inform the absent members of the Joint Committee and the members of the Joint Committee who drew up the resolutions as adopted last year, and request their attendance. A committee of three, consisting of Alderman Van Schaick, Assistant Aldermen Thornell and Wisser, were appointed to confer with the family and invite such persons to be present as they may choose. It was agreed that the Committee shall meet in the Clerk's office of the Common Council on Jan. 14 at 2 p. m., and proceed in a body to Cottage-place. On motion of Alderman Van Schaick, a photograph of the album was ordered to be taken and to be deposited in the City Library. The Committee then adjourned.

NEW-JERSEY LEGISLATION

THE COMING SESSION.

ORGANIZATION OF THE TWO HOUSES—DOUBTFUL RUMOR IN REFERENCE TO THE GENERAL RAILROAD LAW—OFFICES TO BE FILLED—RAILROAD LEGISLATION—STATE FINANCES.

[FROM THE REGULAR CORRESPONDENT OF THE TRIBUNE.]

TRENTON, Dec. 24.—The ninety-eighth session of the State Legislature will meet here one week from next Tuesday, and while the time may seem rather distant to speak with certainty of the organization, enough is known to say that Senator John W. Taylor of Essex will again be elected President of the Senate, and Garret A. Hobart of Passaic Speaker of the Assembly. The Senate will stand politically the same as it did last year—fourteen Republicans to seven Democrats. It is reported that Mr. Carr, the defeated Republican candidate for Senator from Passaic, will contest Senator Hopper's election on the ground that fraud and bribery were used in the canvass. In the Assembly the Republican majority will be 4, against 28 last year. Thus it may be seen that the Republicans have a majority of 11 on joint ballot. There is a wild rumor afloat that the Pennsylvania, the Delaware, Lackawanna and Western, and the New-Jersey Central Railroad Companies will endeavor, at the approaching session, to have the General Railroad law repealed. It is said that these companies fear the other great trunk lines (the Reading and the Baltimore and Ohio Railroads), seeking an outlet to the Hudson River under that law. It is doubtful if there is any ground for the rumor. The more probable means used to destroy the law will be amendments calculated to destroy its effectiveness.

The people will watch with some concern the appointment of the committees. Last year President Taylor committed the mistake of giving the chairmanship of the Committee on Railroads and Canals to Mr. Hopkins, a gentleman who proved himself altogether too partial to the interests of the monopolists. No doubt the President of the Senate regretted his mistake, and will show better judgment this year by appointing Senator Hewitt or Stone as head of that very important Committee. Not a little disgust and astonishment pervade the people of New-Jersey at the return of Mr. Levi D. Jarrard to the Senate. During the session last Winter this gentleman's constituents held indignation meetings and severely denounced him as representing monopoly instead of the people of Middlesex. In 1870, he was elected by 515 majority. This year his majority dwindled down to 138. Mr. Richard S. Leaming, who was the Monopolists' candidate last Winter for Speaker, will take his seat this year as Senator. Hunterdon County, which is strongly Democratic, and generally considered good for about 2,000 majority on that side, sends this year a Republican Senator to represent it. The Democratic candidate, it was alleged, bought up the nominating convention, despite the protestations and warnings of the Democratic leaders in that county, and for this he was defeated, and Mr. Frederick A. Potts, the Republican candidate, elected.

Among the rumors afloat is one that the Republican majority in the Legislature may attempt to elect a successor to United States Senator John P. Stockton. The propriety of this act is openly canvassed by Republican politicians, and as there is nothing in the Constitution to prevent it, its probability appears to seriously concern many anxious people of all parties. But there seems to be no good foundation for believing, or even thinking, that any such move will be made. The report is said to be of Democratic creation, and is considered by some politicians to be a shrewd invention to commit Republicans to a discouraging contemplation of their weakness, and to force them to give up the contest before it is begun.

State Controller Runyon's term expires early in the coming year, and among the candidates named for his place are ex-Senator Belden of Salem and ex-Senator Bulkley of Passaic. The candidates for State Treasurer will be the present incumbent, Mr. Sooy, ex-Senator Wright of Burlington, and Walter F. Bartlett of Mercer. Mr. Bartlett came within one vote last Winter of receiving the caucus nomination for this office. It is believed that the present State Prison Keeper, Mr. Howell, will be retained, as it is said he gives general satisfaction. The other appointments will be confined to one or two judges and county attorneys by Gov. Parker, and a few lay judges by the Legislature.

As the Pennsylvania and other railroad companies have refused to pay the one per cent tax to the cities in which their property is located, on the ground that it takes two to make a bargain, and they decline to assent to the agreement, an effort will be made, it is said, for the repeal of the law or to modify it so as to make it general except in reference to the cities which are obliged to protect railroad property, supply police, gaslights, &c., and receive no return therefor. As the law was passed by a majority of only one vote, its repeal is already considered quite an easy matter. The Morris and Essex Railroad Company will seek the privilege of having a ferry of its own on the Hudson. It is now dependent on the Hoboken Ferry. The location proposed is between the coal docks and the Erie Railroad. A canal company, with a capital of $10,000,000, is proposed, for the purpose of constructing and operating a ship canal across the State from Raritan Bay, east of South Amboy, to the Delaware River. There is still another project on foot, which is to build a ship canal from Green Pond, near President Grant's Summer residence at Long Branch, to Pleasure Bay, on the Shrewsbury River, so that vessels may avoid Sandy Hook. Mr. S. B. Driggs heads this movement, and he also wants to build a sea-wall along the front from Sandy Hook to Deal, below Long Branch. Princeton Theological Seminary wants a supplement increasing its powers. Several new counties are proposed; sundry banks, trust, life, and fire insurance companies, turnpike and gas companies, equalization of taxes upon real and personal property, increased water supply to various cities, &c., and the division of the Episcopal diocese of the State.

Mr. I. B. Culver, the Surveyor of the National Railroad line across New-Jersey, recently put this projected road into bankruptcy on account of $60,000, which he claimed to be due him. Most of the old incorporators have, it is said, withdrawn from it, and ex-Senator Crowell of Union succeeds Col. Hamilton as the head of the project. Sixteen miles of the road are built, and it is understood that either the Reading or the Baltimore and Ohio Railroad Company will purchase the route and complete it to the Hudson.

No county has as yet paid the school tax, and only four (Camden, Cumberland, Gloucester, and Bergen) have paid in full the State tax. Essex has paid on account $50,000, leaving a balance unpaid of $135,000. The great bulk of the State taxes are generally paid between Christmas and New-Year's, and this year may prove no exception to the rule. The State expenditures will show an increase over last year, chiefly on account of the construction of the State Insane Asylum at Morristown, which it is estimated will cost over $1,500,000. Over $550,000 have already been paid out of the State Treasury on this account.

Nearly all the rooms at the principal hotels are already engaged by the legislators and lobbyists, and various projects of unusual interest are looked forward to.

THE WOMAN'S SOCIAL EDUCATION SOCIETY.

A meeting of the Woman's Social Education Society was held at Plimpton Hall yesterday afternoon. Mrs. Caroline Soule was elected President of the Society. After a discussion in regard to a paper upon "Truthfulness," read at a previous meeting by Mrs. Dr. Miller, Mrs. H. M. Slocum read a paper entitled, "How to Make Home Happy." She dwelt upon the importance of the proper management of domestics in the family. They should be taught, by example, the importance, not only of cleanliness of person, but of cleanliness of speech, of absolute truthfulness, for the reason that they exercise such a controlling influence upon the children of the family. Children should be guided instead of governed by their parents—should be led instead of driven. Fear is the worst possible weapon. Parents should be careful in the management of their offspring, not to rob them of their self-respect; they should wait at least 24 hours before inflicting punishment, lest it be done in a passion. By the rule of fear parents drive their children from them and lose their confidence; and that lost, the influence of the parent is also lost. Women should have, as much as possible, the care of their own children, as there was nothing like a mother's love in guiding children aright. In regard to dress, she thought elegant proportions should be studied rather than cost of the material. She would recommend three rules for the management of children: 1. Draw them by love, and never by fear; 2. Teach them to govern themselves; 3. Teach them to follow the Golden Rule.

FREE SCIENTIFIC SCHOOLS.

To the Editor of The Tribune.

SIR: A proposition has come before the Board of Education for establishing a free School of Chemical Science in this city. The idea is an excellent one, and the amount so expended could not be used for a better purpose. We are a country of inventors, the ingenuity of our people is almost a by-word, and with this inherent talent it is our duty to do all in our power toward the distribution of scientific knowledge among those whose means are limited. The expenses of attending technical schools is considerable, and comparatively few can enjoy the benefits of scientific instruction unless they are able to pay some hundreds of dollars a year. It may be that no steps will be taken by the Board of Education toward the realization of the scheme, but nevertheless it is worth while seeing how a sum of money could be best expended, and how each dollar might bring in its return.

Establishing a school means building or renting a house, purchasing apparatus, accumulating a good library of reference, all of which cannot be done for a small sum of money, neither can it be done without considerable delay. We already have in New-York one Free School of Chemistry, open day and evening, about which very little is known, though more scholars apply than can be accommodated. That great educational institution, the Cooper Institute, has, besides giving free lectures in chemistry, established a class where the student may work in a well-appointed laboratory, under careful instructors. This class now numbers some 30 students, who pay about $10 a year apiece for the privileges enjoyed—a sum which only partially defrays the yearly expenses in chemicals, &c. Here we have an organized body of men and instructors who are practically at work, and who embrace among their number some eminent names. The generosity of Mr. Peter Cooper in giving to the people of our city the advantages of free education in so many branches should not be overlooked by the Board of Education, and in using any sum of money which may be appropriated for the free school, it should be considered whether its application to the enlargement of the laboratory of the Cooper Institute would not be the best and most practical form to apply it. We have in the Cooper Institute a good library, all the scientific papers, much physical apparatus, which, very expensive in itself, is almost a necessary adjunct to a good laboratory; with all these advantages secured, not to mention the fact that any amount of room would be given free of cost, it seems that the city could best spend its money in the enlargement of this school. The many demands upon the income of the Institute cramp the trustees to such an extent that the laboratory cannot receive its full share, and it is a continual struggle to get along. A few thousand dollars a year, the sum which would have to be spent in house rent alone, would put the school at the Cooper Institute into a flourishing condition, and the continuance of this this aid would eventually result in making it one of the best schools in the country. The most difficult part of an undertaking is its commencement, and here we already have the beginning well and properly formed, waiting only for more money to extend its usefulness. H. L. BREVOORT.

New-York, Dec. 24, 1873.

THE CALIFORNIA POLITICAL REVOLUTION.

Some of the characteristics of the political revolution in California are admirably set forth in a speech delivered by Mr. John F. Swift, one of the ablest men of the Independents. When the nomination for candidates for U. S. Senator was in order, Mr. Swift, in the Assembly, said:

I consider myself the most fortunate man who has ever stood upon the floor of a California Legislature, for the reason that it is my proud privilege to offer to this House as a candidate for United States Senator a name that in itself has become, not only in this State but throughout the nation, the symbol of justice and purity, and the watchword of resistance to wrong. Need I go further and say to a California Legislature that the man is Newton Booth? In the history of our State, this is the first place and the auspicious day the first occasion when the people have presumed to claim a voice or even recognition in selecting a man to fill this lofty post. Until this hour, Senators from California have represented in most cases anything but the people. What they have done has been too often to hold their seats, draw their pay and mileage, and to post or steam back and forth from this coast to the Federal Capital once a year, in luxurious cars or steamships, the attorneys and flunkeys of those who carried them up and down the country. They have not been representatives of the people in any sense. So with the great majority of the past Senators from other States. What do they represent. They too often represent steamship companies, jobbing contract hunters, and political speculators. Some represented one ring of corrupt politicians and some another. Some have represented the railroads, some have represented land grabbers, and some cliques of water monopolists; some have represented the banks of San Francisco, and some the schemers and speculators who fatten upon the public treasury, in the shape of bands of hungry office-holders. Their bankers, runners and go-betweens. In the mean time industry has been unrepresented, legitimate commerce has had no one to urge its demands, and above all things the bone and muscle and sinew of the masses have been absolutely voiceless and tongueless. The delving miner has been recognized only to be oppressed by taxation. The toiling farmer has sunk down to be the mere servant of the tax-gatherer; the bondsman of the land and water monopolist, the human chattel of the subsidized corporation that controls the road to market, the iron rail, and the communications by land and by sea. These were the constituencies of too many modern statesmen. These powers they represented. To do their bidding they traveled elegantly to Washington and back twice a year. Gentlemen, there has been a revolution. The people claim its fruits and have sent you hither to gather them in. See that you do not forget your errand. Gov. Booth, in private as well as in public, was always on the side of the right. When Democracy meant equality to men of all nations, when it meant antagonism to centralization of power, when it meant what its name signifies, then Gov. Booth was a Democrat. When Republicanism meant patriotism and devotion to the Union, when it meant resistance to treason and secession, when it meant enlightened civilization and progress, based upon freedom to all men, then Gov. Booth was a Republican. And now that Democracy and Republicanism have passed into the hands of the people's enemies and have come to mean subserviency to organized corruption, when they mean debauchery in government and bribery in official station, when they stand for a monstrous scheme, national in proportion, ramifying and festering from ocean to ocean, the infamous purpose of which is to bind the people of this nation hand and foot and deliver them up to the incorporated monopolists for bond slaves, to fetch and carry at the command of these lords of the rail and the locomotive, then Gov. Booth is no longer either a Democrat or a Republican. He is an independent man of the people; and it is as a man of the people, indorsed by the people and demanded for them, that I ask your votes.

THE COURTS.

THE SENTENCE OF LANGE LEGAL.

A DECISION IN THE UNITED STATES COURT THAT A SENTENCE CAN BE RESCINDED AND A NEW ONE PASSED.

In the United States Circuit Court yesterday, before Judges Woodruff, Blatchford, and Benedict, in the matter of the order requiring the United States District Attorney to show cause why a writ of certiorari and habeas corpus should not be issued for Edward Lange, now in prison for illegally converting mail bags to his own use, Mr. Arnoux, of counsel for Lange, presented to the Court the record of his case.

Edward Lange of the firm of Lange, Little & Hillman, printers in the city, was indicted for appropriating to his own use—in plain terms for stealing—a quantity of U. S. mail-bags. Like all printers who are accustomed to send large quantities of printed matter through the mails, the firm were in the habit of sending to the Post-Office for mail-bags in which to deposit their publications, sometimes ordering as many as 50 or 100 at a time. The charge against Mr. Lange of appropriating the bags to his own use was made by his coachman, with whom he had had some difficulty, and Mr. Lange claims that the evidence on which to base the charge was arranged or manufactured beforehand. Be this as it may, twenty-seven of these mail-bags were found on the premises of Mr. Lange, mostly in his stable up-town, and on this evidence he was tried before Judge Benedict of the U. S. District Court and convicted of stealing them.

Judge Benedict sentenced Lange to one year's imprisonment and to pay a fine of $200. It was subsequently ascertained that the prisoner could not be legally sentenced both to pay a fine and to be imprisoned; the first sentence was therefore rescinded, and Lange was resentenced to one year's imprisonment. The question in the case is: Can the Court legally rescind a sentence and pass a new one? In arguing that question Mr. Arnoux spoke substantially as follows:

Whether the indictment stands generally "guilty," as entered in the minutes of the court, or it be the special verdict which the jury did in fact render, the sentence of the Court can only be pronounced on one indictment as a unit, and for only one conviction and punishment. It is, however, only necessary on this point to recall the argument of the counsel and the opinion of Judge Davis in the Tweed case, and to cite the declaration of Judge Benedict that there was only one conviction; that he had charged the jury only in respect to one transaction, and intended, in the sentence, to punish for one conviction only. But we claim that a judge or court, sitting as a court of review, is not always bound by the record of the Clerk in his minutes in the court below, but that the court may have matters affecting the record brought before it. The original sentence pronounced upon Lange was illegal and void, and it was the duty of the court to discharge him when the illegality of the sentence was made to appear. Under the law, the alternative was given to the judge either to impose a fine, or to imprison: he could not do both. It therefore becomes a grave question whether the effect of a double sentence is to render illegal the whole or only the excess of punishment; and if the latter, what is the excess of punishment in this case? We contend that if any part of the sentence can stand, then that which is last shall stand in preference to that which is first. If, then, any part of this sentence can stand, the infliction of the fine subsequent to the imprisonment, the former being, under the law, in full satisfaction of the crime of which Lange had been found guilty, must of necessity be the whole punishment, especially where, as in this case, the fine has been paid to and accepted by the United States in satisfaction of that part of the sentence. The sentence pronounced is an entirety, and if it exceeds the punishment provided by law is wholly illegal and void. (Rex agt. Ellis, 5 B. and C., 395; Holt agt. Regina, 2 D. and L., 774; 9 Jur., 638.) Lange having been removed from the Court and imprisoned under the sentence, and having paid the fine in full, the sentence was in part executed, and "had become beyond the control" of the Judge who pronounced it. The power of the Court having been exhausted in the sentence first pronounced, the second sentence was wholly without jurisdiction. That being so, Lange is entitled to the writ prayed for, and to be discharged from his illegal imprisonment.

Assistant United States District-Attorney Purdy, in his reply to Mr. Arnoux, cited the Callicott case (Blatchford's C. C. R., vol. 8, p. 89), in which Judge Woodruff held that he had no jurisdiction to review, "on a conviction corpus, the judgment of the Circuit Court "on a conviction and sentence, on an indictment, on an allegation that the statute under which the sentence was imposed had been repealed before such sentence was passed." After claiming that the principles of law applied by Judge Woodruff to the Callicott case should prevail in Lange's case, Mr. Purdy agreed that, on general principles, the court has the power to rescind a sentence erroneously passed, and to inflict a new one, provided, however, that, as in this case, such action be taken during the term of the court at which the prisoner was tried.

Judge Woodruff delivered the following decision of the court refusing to grant the writ asked for:

We are of opinion that the judgment rendered in this case, it being for a punishment expressly authorized by statute, cannot be impeached under proceedings by habeas corpus, if the Court had jurisdiction to pronounce that judgment. The only ground upon which that jurisdiction is questioned is that the Court had, on a previous