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The Case of Capt. Fatio vs. Secretary Walker.

TO THE HON. R. J. WALKER,
Secretary of the Treasury :

SIR :—As I had the honor to be informed by your letter of 1st September, 1846, it has pleased the President of the United States, for reasons assigned in that letter, and founded, as I feel bound to believe, on a misapprehension of my conduct, to cause my name to be stricken from the roll of the Revenue Marine, without notification or trial, or even the slightest opportunity afforded me to explain or justify my conduct. Feeling deeply mortified by the charge of a failure to perform my duty to the government and country, and having the most entire confidence in my ability fully to vindicate myself, by the laws and regulations established for the government of the Revenue service, if an opportunity were offered me, I called upon the President, and stated the great injustice which had been done me, and received from him a promise that my case, on being properly presented through you, should be reconsidered, and the injustice complained of, if found to exist, repaired.

Under these circumstances I beg leave to present to you, and through you to the President, the following statement of my case, which is fully sustained by the accompanying evidence—much of which has never been seen, either by yourself or the President—and thereupon respectfully to ask a reconsideration of the harsh and summary judgment pronounced against me.

The history of the transactions which led to my dismission from the service in the manner stated, will be rendered most perspicuous by a precise statement of the facts of the case, in the chronological order in which they occured, accompanied by the evidence upon which the statement is founded.

On the 27th of April, 1846, I was ordered to report myself to the Collector of the district of Mobile, for duty on board the revenue schooner Wolcott, and promptly obeyed order, and took command accordingly. (See accompanying doc. marked A.) The cruising ground of the Wolcott extended from the Chandeleur Islands to the Perdido river. (See doc. B.) On the 30th June, 1846, I received permission from the Collector of Mobile, under whose orders I was placed, as to my "special duties," (see Regulations of 1843, page 15) to repair to Pensacola, which was beyond the limits of my district, for the purpose of cleansing and purifying the Wolcott (by painting and otherwise, of which she stood greatly in need,) and accordingly repaired to that place for the purpose stated. (See doc. C.) This permission to proceed to Pensacola for the purpose stated, was sanctioned by a letter from the Hon. Secretary of the Treasury to the Collector of Mobile, under date of July 10th, 1846. (See doc. E.) I had also applied for new sails for the vessel, of which she likewise stood greatly in need; but the supply of these was deferred by the Department until the fall. (See doc E.) By a letter from the Collector of Mobile under date of the 21st July, 1846, to myself, it will be seen that on the 16th July, 1846, I had stated to him "the unsoundness of the planking of the Wolcott in sundry places above the water line." I desire that what is there said about the unseaworthy condition of this vessel may be noted, as it will fully verify what I repeated to the Department in my letter of the 12th August, 1846. (See doc. F.) On the 27th July, 1846, the Secretary of the Navy addressed a letter to Captain Wm. K. Latimer, commanding the Navy Yard at Pensacola, containing an order to him "To cause the fastest sailing public vessel in port to be prepared to sail at a moment's warning for Vera Cruz, to carry despatches to Commodore Conner," informing him that "the despatches would (will) be forwarded in a day or two ;" and stating that "if there was (is) no other public vessel at Pensacola, it was (is) hoped that the Lawrence might (may) be got ready for so short a cruize." It will be noted that this is a positive order to the "fastest sailing public vessel," and alternatively to the Lawrence if no other public vessel was at Pensacola. (See doc. G.) On the same day (27th July, 1846) the Secretary of the Navy sent forward the despatches, accompanied by another order to "forward them to Commodore Conner at Vera Cruz, as soon as possible." To this order was added the following words : "despatch is desired ; send the first public vessel that can be got ready." (See doc. H.) It appears from the certificate of Commander Mercer, then at Pensacola in command of the Lawrence, that these orders, together with the despatches, were received by Captain Latimer on the 5th of August, 1846, and that at that time both the Lawrence, Commander Mercer, and the Raritan, Captain Gregory, were lying in the harbor of Pensacola. That Captain Latimer immediately sent for both those officers, and submitted the orders from the Navy Department to them. That after these orders were read, Captain Gregory remarked to Commander Mercer, "you can take the despatches;" to which the latter replied, "Yes, sir, ten to one as well, if not as expeditiously, as any other vessel ; but the Secretary has ordered the despatches to be sent by the fastest sailing man-of-war which might be in port, and that vessel is certainly the Raritan, and only expresses a hope that the Lawrence can be made available for the service, provided she is the only vessel in port." After stating the unseaworthy condition of the Lawrence, and another order from the Secretary of the Navy, to go north if Commodore Conner had assigned no duty to the Lawrence, Commander Mercer said to Captain Gregory, "I am, however, ready to take the despatches, if you will give me the order." At this stage of the proceedings or conference, Captain Latimer said, "Gregory, were I in your place, I would take the despatches down in the Raritan, for if Mercer should happen to be dismasted in a squall, on his passage, and the despatches delayed, you would probably be much censured." After stating several reasons why it was unpleasant or inconvenient for Captain Gregory to carry the despatches in the Raritan, it occurred to Commander Mercer that the revenue cutter Wolcott was in port, where he had heard she was to remain until the 1st of September. He therefore thought that she might be sent with the despatches and could deliver them as soon, if not sooner, than either the Raritan or Lawrence. And he suggested to Captain Gregory to apply to the Collector of Pensacola for her, to which he assented immediately. That Captain Gregory did make such application and informed Commander Mercer that he had "got the order for the revenue cutter to take the despatches, (see Document I.) Both these officers of the navy thus relieved themselves from obedience to the positive and peremptory orders of the Secretary of the Navy, which it is manifest did not embrace the revenue cutter Wolcott, which had not been detached for naval service, and for which, if the order had contemplated her, an application would have been made, I suppose, to the Treasury Department, or to the President of the United States, according to section 98 of act 2d March, 1797. It will be noted that Commander Mercer insisted that the Raritan was embraced by the order of the Secretary of the Navy, because that order contemplated "the fastest man-of-war which might be in port, and that vessel certainly was (is) the Raritan." Both he and Captain Latimer thought the order required Captain Gregory to go and carry the despatches in the Raritan. It is not to be supposed, therefore, however inconvenient it may have been for her to go, that she was unable to render the service. Commander Mercer offered to go if Captain Gregory, the senior officer, would give him "the order," but at the same time insisted that the order from the Navy Department required the Raritan to go—and this with a full knowledge of the inconvenience and unwillingness of Captain Gregory to do so. This, it is true, was before the Wolcott was thought of. As to the comparative speed of the Wolcott (even if she had been embraced by the order from the Navy Department,) and the Raritan, it may be seen by examining the log-books of the two vessels at their respective departments, that the Raritan was greatly the fastest vessel—it is believed nearly or quite one-third faster. On the said 5th day of August, 1846, the Wolcott was lying at Pensacola, undergoing the process of painting and cleansing, and in a dismantled condition, with a portion of her crew sick, when I received the letter marked J. from the collector of Pensacola (written at the instance of Captain Gregory) enclosing one from Captain Gregory himself, marked K (see documents J and K.) The collector of Pensacola, in his said letter, admitted that he had no authority (as I well knew from the printed rules and regulations of the service he had not) to give the order asked for by Captain Gregory; and, as I now fully believe, without any authority or necessity for so doing; but, believing that the exigency was great, and feeling a disposition to do any and every thing consistent with my duty, to serve the government; and believing that the orders from Washington were such that Captain Gregory could or would give me an order for the performance of the duty required of me, I immediately addressed him the letter marked L, offering to put the cutter in readiness as soon as possible, and "to sail for Vera Cruz at his bidding (or order.) (See document marked L.) I also immediately wrote a letter to the collector of Mobile, informing him of the unexpected application which had been made to me, stating that the vessel was "not in a fit condition to go to sea in," my want of proper officers, and my own bad health; but, at the same time, expressing a hope that my determination to go, would meet his approbation. (See document M.) Under the influence of a strong disposition to perform the required service, and, after writing these letters without time for reflection or examination of my orders, either standing or special, and feeling the pressure of my duties and obligations, as the commander of the only vessel in the revenue service, on the northern shores of the Gulf of Mexico, I examined both my written and printed orders, and found that the letter from the collector of Mobile, of the 21st July, 1846, (marked F,) communicating the instructions of the Secretary of the Treasury, contained in his letter of the 10th July, 1846, (marked E,) required a "prompt return to my station," after completing the cleansing of my vessel, and, that I should confine myself "to my (the vessel's) usual cruizing ground." In the said letter of the Secretary, of the 10th of July, 1846, to the collector of Mobile, he (the collector) is instructed to "urge upon me (him) a prompt return to the station." The Secretary further adds, in the same letter, in answer to an application to cruise beyond my district, the following peremptory order : "You will, therefore, instruct Captain Fatio to confine his cruising to the appropriate limits of the Mobile station." The printed standing orders, entitled "Rules and Regulations for the government of the United States Revenue Marine, issued November 1st, 1843," and placed in my hands for my government and direction, were found equally positive. At page 15 it is provided that "the cruising ground of the revenue vessels will be designated from time to time, by the department (treasury) under whose superintendence they are placed; and no vessel will, without leave of the Secretary of the Treasury, or the express direction of the collector, depart from the station assigned to her, except forced by stress of weather, or other necessity, or in the pursuit of vessels suspected of being engaged in violating the revenue laws; and which have either escaped from the limits of the vessel's station, or have been discovered hovering about in the vicinity of her cruising ground. In such cases, the vessel will return to her proper station as soon as practicable, after the performance of the special duty; and the cause of the departure will be duly noted on the journal, and reported immediately to the collector." On the same, and the following page, it is provided that "All orders relating to the service of the revenue vessels, in executing the revenue laws, emanating from the President or Secretary of the Treasury, will be communicated through the collector, who will cause the same to be delivered; and communications addressed to the department by the officers, on the business of the service, will be transmitted through the collectors. The collectors will direct the commander of the vessel as to his special duties. All his directions will be in writing, and, as well as the instructions from the Treasury Department, are to be enterted on the vessel's books." On page17, it is declared that "the commanding officers of revenue vessels shall, in no case, take passengers on board, except officers of the customs when on duty, or other persons in the service of the United States ; and the latter only by special direction of the Secetary of the Treasury, or the Collector of the port." On page 4th, it was declared that "it is the determination of the Department to enforce a strict compliance with the regulations prescribed for the government of the revenue service, and to exact a rigorous attention to the duties assigned to the officers." The collector referred to in the above regulations, is the collector of the district to which the revenue vessel is assigned, and under whose direction he (the commander) is placed, and through whom he is to hold communication with the Treasury Department, and that department with him. The foregoing special and general orders, being those which I found, on examination to have been prescribed by the department to which I was subject, for my government, and the orders of said Secretary of 10th of July, 1846, communicated to me by the collector of Mobile, as late as the 21st of the same month, requiring me, peremtorily, to return to my district as soon as I had completed cleansing the vessel, and to confine myself to that district, I found it would be impossible for me, without the most open and palpable breach of orders, to perform the service requested, without positive orders from Captain Gregory requiring me to do so ; with these, under the exigency of the case, I determined to assume the responsibility of performing the service.—Accordingly, on the same 5th day of August, 1846, about 5 o clock in the afternoon, I went to the city of Pensacola and saw Captain Gregory, to whom I stated I should require orders from him before I could perform the duty he wished me to execute. To this Captain Gregory replied, "hurry and get ready, and come down alongside the frigate, and all shall be made right;" or words to that effect. I showed him the letter which I had received from the collector of Pensacola, which he admitted at the time was no order. Not doubting that Captain Gregory would give me the required order, I made every effort to put my vessel in a state of readiness to sail as soon as possible; and on Sunday evening, the 9th of August, dropped down to the Navy Yard, near the frigate Raritan, and immediately reported to Captain Gregory, and asked him for orders, telling him I could not act without ; he then told me he could not give me any orders, but said that if I did not go to Vera Cruz with the despatches I would be broken. I replied, "if I am to be hung upon the horn of a dilemma, I will hang on the right one, and not break the only orders I have." Captain Gregory then wrote an order to Captain Webster, commanding the Flotilla, at the Balize, informing him that "despatches from the Hon. Secretary of the Navy, having been received with orders to transmit them with the utmost despatch to Commodore Conner, off Vera Cruz, "by any public vessel available for the purpose," and there being none at this port, excepting the revenue cutter Walcot (!) "Captain Fatio" was requested to perform this service, and is now about starting. As his vessel is rather an indifferent one for great despatch, at this season of the year, I have requested him to proceed at once to the Balize, and communicate with you—and have to request that you will be pleased to forward Midshipman Habersham bearer of despatches, in one of your steamers, with all possible expedition—such being the wish of the government." (See doc't N.) From this letter, written after I had positively refused to go to Vera Cruz without orders from Captain Gregory—and which he had refused to give—it is apparent that he had abandoned all idea of my going further than the Balize ; and yet in his letter or report to the Secretary of the Navy, under date of the 19th August, 1846, upon the representations of which my name was stricken from the r[illegible] the service, he suppresses the important fact, th[illegible] my letter to him of the 5th of August was writte[illegible] consented to perform the service required, [illegible]ntly, on the same day, after examining my [illegible] the Treasury Department, informed him I c[illegible]out he would give me an order; he also sup[illegible], the equally important facts of the dem[illegible] refusal of orders on the evening of the 9th of August, and at the same time so states the case, by accident or design, as to create a belief that I sailed from Pensacola, either positively or conditionally, for Vera Cruz, instead of the Balize; whilst he knew the fact was not so. (See doc. O.) On the contrary, the only service I consented to perform, after ascertaining that no orders were to be given to me, was to carry Midshipman Habersham as far as the Balize, which was on the confines of my district, to which I was expressly ordered to confine myself, by the Secretary of the Treasury. Early on the morning of the 10th of August, 1846, I sailed from Pensacola, with Midshipman Habersham on board, for the Balize. The wind being light and ahead, and so continuing, as shown by the extract from the log book of the Wolcott, marked P., I found myself, on the morning of the 11th August, opposite to the entrance of Mobile bay, which was in my course to the Balize. Being unable to make my course, and with every indication of a storm from the south-west, which would be likely to cause delay, and which, from the state of my vessel, officers and crew, I was in a bad condition to encounter; and believing firmly, that under the circumstances, Mr. Habersham's progress would be accelerated thereby, I concluded to place him on board the mail steamer from Mobile to New Orleans—which passed daily near where I then was; and which would enable him to reach that place in a few hours, and the Balize, by the almost hourly opportunities from New Orleans to the latter place, in a few hours more, and much sooner than there was then any reasonable prospect of his d[illegible] by continuing on board the Wolcott. In pursuing [illegible] course, I acted from a firm conviction that whilst I avoided a breach of the positive orders of the department, and of the regulations, not to leave my district, the progress of the despatches would be accelerated. That this was, under the condition of winds and weather, disclosed by the log book of the Wolcott, the most certain and expeditious mode of reaching the Balize at an early period, cannot be doubted by any one acquainted with the localities, and the facilities of rapid progress afforded by the mail steamer to New Orleans, and the hourly steamers that ply from thence to the Balize for the towage of merchant vessels. It is proved by the fact that Mr. Habersham was put on board said mail steamer after 2 o'clock, P. M., and was in New Orleans at 8 o'clock the following morning; and on the same day wrote Captain Gregory that he should, "in the course of a few hours, have a conveyance to the Balize, and from thence to Vera Cruz." (See doc. P.) This expectation of Mr. Habersham would undoubtedly have been realized, but for the fact, subsequently discovered by him, that Captain Webster, of the revenue service, commanding the revenue Flotilla, to whom Captain Gregory's orders were directed, was then at the Brazos; and the Legare, the last vessel of said flotilla, had left the Balize for the Brazos on the same day on which the Wolcott sailed from Pensacola. (See doc. Q.) Mr. Habersham was therefore compelled to remain in New Orleans until he could obtain a passage to the Brazos, where the Legare and other public vessels consisting the flotilla were. The delay of Mr. Habersham at New Orleans, was created by this fact, and not by my failure to proceed with him to the Balize. Had I done so, according to the expectations of Captain Gregory, Captain Webster would not have been there to execute his orders, and Mr. Habersham must have proceeded to New Orleans to obtain a passage to the Brazos, since my understanding with Captain Gregory required me to proceed no further than the Balize; and my positive orders from the Treasury Department forbade it, as well as the printed regulations, placed in my hands for my government, with which I was informed, "it was (is) the determination of the Department to enforce a strict compliance." To show that by going to Vera Cruz without other orders than those which were furnished to me, I should have violated the organic law of Congress, as well as the instructions of the Department, and my oath of office, I beg leave to refer to the 98th and 99th sections of the act of the 2d March, 1799, 3d vol. "Laws United States," pages 226 and 7. These sections will show that the orders from the Navy Department did not apply to, or embrace, the revenue cutter Wolcott, since she had not been directed by the President to "co-operate with the navy;" and that an order from the President, the Secretary of the Treasury, or the Collector of Mobile, "subject to whose direction" the Walcott was, he having been "designated for that purpose," was necessary in any view of the case, before I was authorized to execute said order; and that, according to the provisions of this act, as well as the regulations prescribed for the government of the revenue marine, the Collector of Pensacola was correct in declaring that he had "no authority to issue the order" requested by Captain Gregory; that even the Secretary of the Navy, without a previous direction by the President for the Wolcott "to co-operate with the navy," had no authority to issue such an order; and it is believed that such previous direction by the President was necessary to authorize even the Secretary of the Treasury himself, to issue such an order. (See sections 98 and 99). It seems to be assumed, in the letter of the Hon. Secretary of the Treasury of the 1st September, 1846, communicating my summary dismissal from the service, that I had sailed for Vera Cruz, and that, after having done so, I had deviated, and finally abandoned the voyage. This supposition is entirely erroneous, and is founded, it is presumed, upon the deceptive version of my conduct contained 'in the letter of Captain Gregory, of the 19th August, 1846. I trust the statement now presented, which I stand ready to sustain in every material point, and the evidence upon which it is founded, will show that my conduct has been misrepresented, and that great injustice has been done me; that, for obedience to orders, I have suffered the penalty due alone to disobedience; that while obeying the laws and positive instructions of the Department under whose direction alone I was placed by law, I have been punished without trial or opportunity of defence, for not having obeyed orders addressed exclusively to others (who should have been held amenable if they had been broken); and for not obeying orders which it was conceded there was no authority to give, or which were positively refused when demanded by me, an order was issued from the Navy Department, not to me, but to other persons subject to its orders, to carry important dispatches to Vera Cruz; an order, equally positive was issued to me by the Treasury Department, under whose exclusive control I was placed, not to leave my district. Neither of these orders was altered or countermanded, and yet I have been punished for not leaving my district, and carrying the despatches! The Treasury officer has been punished for not obeying the Navy order to which he was not subject, and for obeying the Treasury order to which he was by law exclusively subject; and the Navy officer who was subject to the Navy order, which he saw fit not to obey, remains free from censure. The order to send, by the fastest vessel, subject to the orders of the Navy Department, becomes an order to the slowest and dullest vessel, not subject to the orders of that Department. One ordered not to go, has been punished for not going; and one ordered to go, has not been punished for not going! The Secretary of the Treasury, through the Collector of Mobile, under whose direction the Wolcott was placed (according to the act of 1799), and through whom all her orders are to be transmitted, orders that vessel not to leave her assigned cruizing ground; but the Collector of Pensacola, who has no control over this vessel, and who declares he has no authority to give her an order to perform a given duty, requests her commander to perform that duty, and will undertake to excuse him for the breach of the Secretary's order. The commander declines to break the legitimate order of his superior, to obey the illegitimate request of one who acknowledges he has no authority over him, and is punished without charge, trial, hearing or defence, to the utmost extent that he could have been for the most flagrant breach of orders. Obedience to orders is the most sacred and vital canon of naval and military law. It lies at the foundation of all order, all discipline, all efficiency, in either arm of the public service. In conclusion, I beg leave to say, that I su[illegible] my case to the Hon. Secretary of the Treasury, a[illegible]ugh him to the President of the United States, f[illegible]deration, with the most entire confidence, tha[illegible]ning the true facts of my case, the injustice done to me under a misapprehension, or misrepresentation of my conduct, will be promptly repaired.

Should the President entertain a single do[illegible] my case, he will add to the obligation I am alre[illegible] der to him, for the promptness with which he [illegible] a reconsideration thereof, by subjecting my co[illegible] throughout the whole transaction which led to my [illegible] missal from the service, to the scrutiny and decision of a proper court. Very respectfully, sir,

I remain your obed't servant,
L. C. F. FATIO,
late Captain Revenue Marine.

Washington, Nov. 30, 1846.

EMIGRANTS DEFRAUDED.—The season for canal and lake navigation having returned, our ears are pained and our heart sickens at the renewal of frauds of which emigrants are the victims. We had hoped, after the passage of a stringent law for the protection of emigrants, that we should be relieved from the duty of exposing fraud. But emigrants themselves come to us without knowledge either of the dangers that exists, or the mode of escaping it. The atrocious fraud practised upon the family whose affidavits follow, is, unless something be done to guard against it, to be repeated every hour in the day during the season of navigation :—

State of New York, Albany, ss

Cornelius Kanavane being duly sworn, says :—That he arrived at the city of New York on Monday last in the ship Rappahannock, from Liverpool, which port he left 22d March last, with his wife and nine children, from 6 months to 18 years of age, and his cousin, a female of 20 years of age. Shortly after his arrival, deponent went to the office of R. Schoyer, to which he was directed, corner of West street, N.Y., where he found Mr. Schoyer. Deponent asked him what would be the price for himself and family to Albany ? Schoyer asked him how far he was going, and deponent told him to St. Charles, Illinois. Schoyer then said it would be best for deponent to pay his passage there in New York to Chicago, and then he would not be detained by paying his fare and procuring conveyance at the different places on the way. Deponent asked him how much he would charge to send them to Chicago, and Schoyer said 16*l*. Deponent said that was too much, as he had but little money, and a large family, which is true for him, and Schoyer finally promised to send them with their luggage on the steamboat to Albany, and from thence by packet boat on the canal to Buffalo, and then by steamboat to Chicago, for 12*l*. 10s, which deponent then paid to Schoyer. After he had paid the money, Schoyer said to deponent, he had better go from Buffalo on the lake in a sailing vessel, if he had any value for money, and then gave deponent a ticket, of which the following is a copy :—

PASSAGE TICKET.

No. 22.] NEW YORK, May 1, 1847.

Received of Cornelius Kennevan the fare for the steerage passage of twelve persons, making eight full passengers, from Buffalo to Chicago, by sailing vessel. 50 lbs. luggage to each full passenger.

R. SCHOYER, W. F. H.

To A. J. TIFFENEY, Buffalo.

Said Schoyer also told deponent that 100 lbs. of luggage would be allowed for each passenger, and gave deponent a ticket for the passage on steamboat, of himself and family, from New York to Albany; that deponent and family left New York Tuesday evening, and arrived in Albany yesterday morning. When we arrived, we met at the boat, George C. Preston, who took us and our luggage to his office; there our luggage was weighed, and Preston said I must pay him for the overweight. I asked him how much, and he said five dollars—the luggage weighed about 600 or 700 lbs. I gave him a sovereign, and he gave me nothing back out of it. He gave me the following ticket :—

ALBANY, May 3, 1848.

The bearer, C. Kennevan, has paid in full for the midship passage of 12 persons, making 8 full passengers to Buffalo, including extra baggage. Boat N. H. Blossom.

GEO. C. PRESTON, Agent.

That deponent then went on board said boat "Blossom" with his family and baggage; there were but few persons on board then; that said boat left her place where she was lying yesterday afternoon and went up as far as the weigh-lock, where she now is. Passengers and baggage kept coming on board all day yesterday, and when the boat left, she was so crowded that there was no place for sleeping or even sitting down. Deponent and his family had no place to sleep in last night, and no room to spread out the beds which they had for his wife and the little children to sleep on; and that never a tear did the women shed from the time they left Ireland on board the ship, until last night in this canal boat; and the deponent further says, that said boat is now lying at the weigh lock, where she has laid all night, and has not yet been weighed, and has no horses to draw it on; and that the captain is not there, and has not been there all day, and deponent does not know and has not been able to find out when the boat will leave Albany at all

CORNELIUS KANAVANE.

Sworn before me, 4th May, 1848.

WM. PARMELEE, Albany County Judge.

Albany, ss: Daniel Kanavane, being sworn, says he is son and oldest child of the above named Cornelius Kanavane, and has heard the foregoing affidavit read; that he was present with his father upon the occasions therein mentioned; and that the matters therein stated are true.

DANIEL KANAVANE.

Sworn before me, 4th May, 1848.

WM. PARMELEE, Albany County Judge.

This man Schoyer paid $6 for the passage of these people, with their luggage, to Albany. From Albany to Buffalo he pays $4 and 37½ cents per hundred for luggage over fifty pounds, for each passenger. The passage from Buffalo to Chicago, in sailing vessels, is $2 for each passenger, making $16 for all. The whole expense, therefore, to Schoyer, for sending this family to Chicago, is inside of $30. He has received from them 13*l*. 10*s*., or $64 94.

But even this is not the worst view of the case. This family have but two sovereigns left. They are cooped up with an hundred other victims, in a canal boat, without any provision for being towed. At Buffalo they must wait, on expense, for a sailing vessel, and then they have a voyage of from ten to sixteen days before them. And the fact that an additional sovereign was demanded here, justifies the apprehension that similar demands may be made by the captains of the canal boats and sailing vessels.

We understand that this man Schoyer has applied to the mayor of New York for a license to board vessels with a steamer, as a booking agent for passengers.—*Albany Eve. Journal.*

PHILADELPHIA, May 6, 1848.

The Whig National Convention—Thieves and Burglars—The Military—Model Artists, &c.

The upper saloon of the Museum has been secured by the committee of arrangements, for the whig convention next month. As the time approaches for the holding of the two political conventions, at Baltimore and in this city, curiosity becomes more intense to know what will be the result, though appearances indicate that the same candidates that took part in the last struggle will again be the nominees.

Three *chevaliers d' industrie* of the light fingered fraternity, probably on a professional visit from your city, are now here and going about seeking some prey. The vicinity of our banks are favorite places of resort, and no sooner do they perceive a green-horn putting away the notes he has just received into his pocket book, than they are after him with the utmost eagerness, and if he escapes plundering it is not their fault. As they have been spotted by the police, they will probably leave this for parts unknown in a very short time.

Our volunteers are making preparations for an appropriate military display on the arrival of their favorite, General Cadwalader. His gallant conduct, both at home and abroad fully entitle him to the distinction of a grand reception.

A troupe of Model Artists, while exhibiting last evening, in a ten pin alley, in Delwyn street, were caught in the act by the police of the Northern Liberties, and found a lodging place in the watch house. Venus was nabued while rising from the seo, and her seizure by one of the officers was the signal for the dispersal of the audience. The troupe, composed of eight females and one or two men, had a hearing before Mayor Belsterling, this morning, and were mostly committed in default of bail.

The body of an unknown female was found drowned yesterday opposite Petty's Island, in the Delaware. She was not identified.

Patrick McFarlan, died this morning of injuries received a week since during a fight in Richmond. Thomas Eddy, his antagonist, who had previously been committed for a mere assault and battery, will now have to answer a charge of homicide.

ANOTHER MURDER.—Between the hours of 9 and 10 o'clock last night, one James Murphy, who resided in Burgess alley, had some difficulty with his wife Catherine, and struck her a violent blow, knocking her down a flight of stairs, and breaking her neck. The man was immediately arrested by watchman Cloutman and others, and conveyed to jail. The woman breathed but a few moments after the affray.—*Boston Adv.*

Affairs in Venezuela.

TO THE EDITOR OF THE NEW YORK HERALD :

CARACAS, April 1, 1848.

SIR—I have seen in your valuable journal of the 28th February ult., an account of the events which took place in Venezuela, from the time of the election of General Monegas to be President of the Republic down to the end of January of the present year. The accuracy of the relation contained in your journal places it beyond doubt that it was written by some one who was a member of Congress, and an eye-witness of the horrible massacre committed on the execrable 24th of January, by command of President Monegas, and by the troops which he had, contrary to law, assembled in the capital, to the number of 3,000 men. Perfectly agreeing as I do with the account referred to, as altogether correct, I should not have been induced to trouble you on the subject, were it not for some letters published in your paper a few days after, dated the 26th and 28th January, said to have been received from this city by a gentleman a resident of New York, which letters render it necessary to make a few observations. These letters do not relate the events in the manner in which they took place, but in the manner in which the *Chargé d'Affaires* of the British government is anxious to describe them ; and this circumstance shows who was the writer of them. He is an Englishman, a man who has in his breast a heart of steel, an intimate friend of the aforesaid *Chargé d'Affaires*, and his accomplice in all, whatever it may be, which he undertakes. I will quote, from the letters you published, a specimen of the falsehood of which the writer is guilty :

"On the 24th, in the morning, the Secretary of State, Doctor Sanavria, proceeded to the Chamber of Representatives, in order to lay before them the President's Message—whereupon two persons of the faction opposed to the government threatened his life—one of them with a dagger, the other with a pistol. When this was known outside in the street, the people and a part of the militia advanced to the doors of the hall, when one of those inside the building fired, and killed a person in the crowd. The people were so much irritated by this act, that they immediately commenced an attack upon the Chamber of Representatives."

All this is false. What really happened was as follows. By the constitution the Secretaries of State are allowed to be present in the chamber, and to give any explanations which may be demanded of them. A proposition was made and agreed to, that the Secretary of State should remain in the Chamber, to make the necessary explanations upon the threatening aspect of affairs in the capital. The message was then read. It is hardly necessary to inform you, Mr. Editor, that the alarm which existed was produced by the President and his cut-throats, in order to intimidate the Congress in its deliberations. When the message had been reaed, which was at 2¾ p. m., a discharge of musketry was heard outside the Chamber, followed immediately by several other discharges of firearms in succession. The troops of the government had just then fired upon Colonel Smith and the twelve young men who had mounted guard to protect the Congress, without any provocation whatever having been given by them. Then it was and not before that a deputy drew a dagger, and rushing up to the Secretary of State addressed him as follows: "Doctor Sanarria ! you knew of this ! Save us, or we shall all die together." The deputies in favor of the government had previously left the House, leaving behind not a single partizan of the government except the Secretary. No wonder then that a deputy should thus resort to the only means of safety. This was so effectual that I can assure you, Sir, that if the Secretary had not accidentally been in the Chamber, all the members in it would have been, every one of them, massacred; but the assassins would have run the risk of wounding the Secretary if they had fired ! This is so sure and certain that all the members who left the place where the Secretary was were massacred.

The writer of those letters goes on to say that "the President, the Commanders and civil authorities ran to the scene of danger and saced hundreds of persons." The truth is as follows : Shortly after the attack began, the Senate commissioned one of the deputies in favor of the government to request the President to save their lives, which he did, not only because they had not resolved upon removing the Congress to Porto Cabello, but also, in order that he might have an instrument which might confer the appearance of legality upon his acts. At ¾ past 3 P. M. he conducted the Senate in safety to the government house. The Senate then expressed to the President its wish that efforts should immediately be made to save the other branch of the Legislature. The scene which followed upon this request will never be forgotten by those who were present at it. The President replied that he had had no participation in the attack upon the Chambers, though no doubt it would be attributed to him. After a few minutes the Senate again reminded him of the danger in which the other branch was, and that some one was ceasing to exist every moment that passed. He then protested in few and plain words that he could not in person intervene, and that it would be dangerous on account of the exasperation of the people, but he promised to send the Secretary of War and some military officers to the scene of danger. Thus half an hour had elapsed since the arrival of the Senate when he went out for this purpose. The fact is the President sought delay on purpose, till he could ascertain that the Representatives, Garcia, Rojas, Gonzales, P. Rojas, and the Secretary of the Chamber, Camacho, had been killed, whose heads he had loudly called for in the passages of the government house, when several of the assassins left in the morning in order to go and attack the Chamber. While this scene was going on, and several of the Senators were entreating the President to go to the rescue of the others, the Governor of the Province, as also Messrs. Belford, Hinton and Wilson, the Charge d'affairs of Great Britain, with other persons, came into the apartment. The latter person joined his entreaties to those of the Senate, and said to the President, "Yes, General, it is necessary." Then at last General Monagas consented and went out at ¼ past 4 P. M., accompanied by the Governor, the Secretary at War, and five or six other persons.

This may suffice, Sir, to convince you that the letters which are an echo from the British embassy here, are a tissue of falsehoods invented for the object of throwing doubts upon the events of the 24th January. I direct these remarks to you, Sir, in order to cause historical truth to prevail, since the massacres of the 24th January, premeditated long before they were executed, are so unexampled in the annals of crime, that many on that account will refuse to give credit to them.

Now that I am addressing you, Sir, permit me to explain the cause of the spite of the British Charge against Venezuela. He has two leading motives. The first is, the persuasion that if there was a regular government, it would not suffer him to reside in Venezuela; the other is, the dispute on the question of boundary between British Guayana and Venezuela. In 1841, that government seized upon 20,000 square miles of Venezuelian Guayana; and again, afterward, it seized upon all of that vast province containing more than 180,000 square miles, watered by the majestic Oronoco, and innumerable tributaries. The means adopted to get possession of this vast territory of Guayana, are anarchy and divisions sown among the different races of Venezuela, and a dissolution of the republic. This vast territory might, in time, become the seat of a rich, powerful, and prosperous republic.

You will be convinced, Sir, of the truth of this assertion, when you know that Venezuela is in debt to the following amount:—

Domestic debt	$1,790,695
Foreign do	20,962,212
	$22,752,907

The foreign debt is owing to British subjects. The domestic debt of Venezuela has been increased this year by $1,500,000, which money has been employed to maintain the army which served as assassins of the Congress, and to support the tyranny of Monagas. Thus the whole of the debt amounts to $24,252,907. How can Venezuela, in constant struggle with anarchy, which absorbs all her resources, pay, with her income of $2,000,000, the capital and interest of so great a debt? No one will say she can. The English government knows this, and therefore foments all the bad elements contained in the country, in order that when Venezuela is reduced to misery and poverty, she may seize upon Guayana in payment of the debt due to her subjects. I am, Mr. Editor, yours, &c.

A MEMBER OF CONGRESS,
AND EYE-WITNESS OF THE FACTS.

Mother Goose on the Mexican War.

[From the National Intelligencer.]

Who took the city?
"I!" said brave Scott,
"With soldiers and shot,
I took the city!"

Where's Santa Anna?
"Running and boasting,
After his roasting,
Since his last rout,
He wants to get out—
There's Santa Anna!"

Who let him in?
"I!" said James K. Polk;
"Most fairly he spoke,
But his bargain he broke—
I let him in!"

Who does the fighting?
"We!" said the b'hoys;"
"Guns are our toys,
And battles our joys—
We do the fighting!"

Who gets the glory?
"Old "Rough and Ready!"
Quick, daring, and steady!
He gets the glory."

Who does the weeping?
"The widow and orphan!
Alas! but too often,
O'er many a coffin :
They do the weeping."

Who sends despatches?
"I!" said bold 'Gideon,'
"By my carrier pigeon,
I write my own story,
And fill it with glory;
I send despatches."

Who is the martyr?
"I!" said proud Worth;
I'm pressed to the earth;
That Scott is too partial;
I'll have a court martial;
I am the martyr!"

Who made the treaty?
"I!" said Nicholas Trist;
"I brought out the grist,
And would'n't revoke
For Buchanan or Polk—
I made the treaty!"

Who pays the money?
"We!" say the Nation :
"Stars and salvation!
We're taxed like creation!
We pay the money!"

April, 1848.

VIOLENT HAILSTORM.—Yesterday afternoon our city was visited by a storm of unusual violence, during which hail fell in quantity sufficient to whiten our streets, and of all sizes from that of a pistol ball to a hen's egg. Some of the particles of ice which fell in the vicinity of the office, measured seven and a-half inches in circumference, and weighed upwards of two ounces. Fortunately there was not much wind, and comparatively but little damage was done in the breaking of windows, but nearly all of the new gas lamps were more or less injured, and the peach trees nearly divested of the young fruit. We have great reason to apprehend that much injury has resulted to the cotton and corn in our vicinity. During the storm the head of the foretopgallant mast of the bark Shakspeare, lying at North Commercial wharf, was struck by lightning, which knocked off the truck, shivering the mast down to the chain stays of the foretopgallant yard, where it passed off, without doing further injury.—*Charleston Mercury, May 3.*

Railroad Affairs.

It is said that the Cheshire Railroad will be opened on Tuesday next to Keene, N. H.

Law Intelligence.

UNITED STATES DISTRICT COURT—IN ADMIRALTY.—Before Judge Betts.—*James E. Goodrich et al. vs. John Norris.*—Written opinion.—Action on a bill of lading for not delivering five barrels of tripe, at Boston, conformably to the undertaking in the bill of lading. Defence, that the five barrels were never, in fact, laden on board defendant's vessel. Held, that defendant was not excluded by the bills of lading from proving the barrels were not received by the vessel; but held on all the proofs, that the weight of the evidence was in favor of the libellants, and decreed that they recover $50, with interest from December 3, 1846, and costs to be taxed.

Valentine Lana vs. The brig Henry Buck.—Written opinion.—This litigation was very protracted and expensive, on various motions and exceptions, subsequent to the decree on the merits. The only substantial equity to be adjusted is that of costs. Held, that both parties tax summary costs, and that after mutual sets-off between the parties, the balance of costs, and the tender paid into court, (if any surplus,) be recovered by the libellant.

John Henley and William Murray vs. The Steamboat Champion.—Written opinion.—Libel for collision of the steamboat in this harbor with the libellant's sloop (Mary.) Held, that steamboats are not chargeable with the whole responsibility of avoiding sailing vessels, when approaching each other in opposite directions. Sailing vessels are bound to use all reasonable precaution for their own safety, and to avoid injury to steamboats. Held, that if under the circumstances of this case, the sloop is excusable for not exhibiting a light to enable the steamboat to know her exact position, the preponderance of proof is, that the collision was brought about through inattention and misconduct of those managing the sloop, and not from any fault on the part of the steamboat. Ordered the libel dismissed with costs.

John A. Bradstreet vs. Heran Lees & Co.—Written opinion.—Action for freight of 705 bales of cotton from New Orleans to New York, consigned to the defendants, to whom the bill of lading was enclosed, on which they made an advance of twenty-one thousand dollars before the arrival of the cotton.—The bill of lading represented the cotton to have been shipped in good order and well conditioned. The plaintiff in his libel also so averred it. The bales, when examined at the stores, when deposited here, were found injured in the interior by wet, and the defendants expended $261 40 in the examination and picking and drying of the cotton. This they claimed to deduct from the freight, ($1756 02.) having paid the balance to the libellant. The three principal grounds of defence were:—1. That the case was not within the jurisdiction of the court. 2. That the cotton was not delivered at the city, but at the quarantine, where the ship was compelled to come to, and that accordingly freight had not been earned; and 3. That the bill of lading had not been fulfilled by delivering the cotton in good order. The libellant gave evidence tending to prove that the injury was country damage, received by the cotton before it was shipped at New Orleans. Held, that the court had jurisdiction of the matter, and that the delivery of the cargo at quarantine was a fulfilment of the shipping contract; also held, that the libellant was estopped by the bill of lading, as against the endorsers or assignees, (who had made advances on it.) from denying that the cotton was shipped in good order and condition; and that, moreover, he could not give evidence in contradiction of the averments of his libel. Held, that libellant was answerable for the damages proved, which being equal to the balance claimed, decree for the respondents, with costs.

Orandates Mauran and others, vs. The Schooner H. B. Foster.—(Opinion in writing.)—Libel for salvage by owners and crew of the steamboat Samson. The schooner anchored in the lower bay on the evening of March 26, 1847, near the west bank. A gale came on in the night, and the schooner dragged her anchors. The masts were cut away at 8 the next morning, but she continued to drag till about one P. M., when she brought up near the east bank, occasionally touching the ground, but not being injured in her bottom. At 3 P. M. the storm subsided, and the master and crew left the vessel for Sandy Hook in a small boat. The steamboat had notice of the situation of the schooner in the afternoon of the 27th, with advice that she required assistance; but the master thought the weather too severe to attempt going to her. She went down the next morning, slipped the cables of the schooner, (they being foul, and the anchors not easily raised,) and towed her to the city, and was absent on the service five hours. The weather was then favorable, and the steamboat encountered no special hazard. The Samson is mostly employed in towing vessels out to sea, and from sea into the harbor, and going to the relief of those in the harbor and its vicinity requiring assistance, and the regular compensation for these services is $10 per hour for the time she is employed.—The schooner and cargo were worth about $14,000. The libellants claimed that the schooner was a derelict, and that they were entitled to the salvage compensation usually awarded in cases of that class. The claimants insisted that the libellants ought not to receive more than the usual towage compensation, and should be charged with the expense ($75) of removing the schooner's anchors unnecessarily left by her. They also charged the crew of the Samson with embezzling oranges, part of the schooner's cargo. Held that this was not a case of towage, strictly so called, but was one of salvage service ; held that the schooner was not a derelict, and though the services were valuable and meritorious in a high degree, in respect to the vessel, yet they were not indispensible to her, other relief being near at the time, and she lying at safe anchor in the bay, and the shore only from about four to six miles from her, in three directions, and that accordingly the salvage compensation should be moderate; held that the charge of embezzlement was not proved. Decree for $250 and costs.

James M. Hoyt and Jesse Hoyt vs. the Bark Joshua Barker, Vandewater and others.—(Opinion in writing.)—The libel demands the value of a cargo of flour taken on board the bark at Albany, to be transported to New York. The case came up on exceptions to the commissioner's report. The bark sunk at the wharf at Albany, the 8th of October ; the next day she was raised, the flour taken out and sold at auction by the claimants, without authority from the libellants, or their knowledge. They reside in New York, and communication could have been had with them by telegraph in a few minutes, and by steamboat in twenty-four hours. The bark was immediately pumped out, and laden with a cargo of lumber, and despatched to New York, where she arrived the 15th, and brought the first intelligence of the sale of the flour. The claimants offered to pay over the proceeds of the flour, on being allowed $350 expenses, and the balance of an outstanding account of $1175 15. The commissioner reported the market value of the flour in New York on the 9th and 15th of October, being on the 9th, $4640 50, and on the 15th, $4841. Held by the court, that the sale of the flour by the claimants was without necessity, and wrongful in respect to the libellants ; that they were entitled to demand its value, at their election, when it was converted by the claimants to money, or at the time it could have been reasonably delivered to them in New York, notwithstanding the accident and delay in its transportation, which, upon the evidence, was the 15th ; that the valuation of the flour made by the commissioner was sustained by the proofs in the case; and it was decreed that the libellants receive $4841, less the antecedent charges thereon, (350,) and the value of the freight to New York, ($70,) being $4621, with interest from October 15, and costs to be taxed.

Goldsmith, Wells and others, vs. the Steamboat Bay State.—(Opinion in writing.)—Action for collision in the mouth of Narragansett bay, by which the schooner Oriana and her cargo, were sunk and totally lost, at about 6 a.m., the 13th day of August last. The weather was nearly a dead calm, and the fog so thick upon the water, that the vessels could not be seen one or two hundred feet apart. The schooner was under way, but lying nearly still, and the steamer was running at the rate of sixteen miles the hour. The noise of her approach could be heard in that weather several miles, and was heard for fifteen minutes on board the schooner, her large bell was also ringing as notice of her movement, from time to time, and it had been rung that morning a very few minutes before the collision.—The schooner, whilst at anchor during the night, had, on account of the fog, given notice of her position by beating an empty hogshead on her deck. It was found that such warning would be heard far enough by a steamer in motion, to enable her to avoid the schooner. Held, that the steamer was in fault in running with that high speed in such weather, and would be answerable for all the consequences, if the schooner had used proper diligence and precaution on her part. Held, that the schooner was also guilty of blameable negligence and want of precaution, whilst lying still on the broad sea, and a steamer was approaching her, in not giving the warning of her position, in her power to give, and which she had continued to give through the previous night. Held, that both vessels being in fault in the premises, the damages occasioned thereby must be apportioned, and be borne equally by each vessel.—Order of reference to ascertain value of schooner and cargo. No costs allowed to either party.

The United States vs. the Schooner Mary Jane.—Libel against the schooner, for being fitted out and prepared to carry on the slave trade. The schooner was equipped at this port in July, 1847, and laden with a cargo for the coast of Africa, on a trading voyage, and was to return in five months. The master in command of her had been frequently on the coast, and had been indicted and convicted in the United States for being concerned in the slave trade, on his last preceding voyage there, and been sentenced to the State prison on the conviction. He was pardoned by the President, and shortly after was employed on the voyage in question. The cargo was discharged immediately on the arrival of the schooner at Galenas; and under the direction of the master, who remained on shore, additional water casks were put on board, and more ordered, and the vessel directed to be ready to go to Brazil, under charter to a person in Galenas, to carry passengers, Spaniards or Portuguese. The mate and crew in charge of the schooner, becoming alarmed, and thinking she was destined to be put in the slave trade, made sail with her, and searched along the coast for an American man of war, to put her in chagre of United States officers; but not being able to meet with a cruiser, they brought the vessel to this port, and surrendered her to the United States authorities. Evidence was given by the claimant in explanation of many of the facts proved. Held by the court that sufficient proof was not produced by the United States to convict the vessel of being fitted out and prepared to be engaged in the slave trade, and ordered, that the libel be dismissed; but held that probable cause was shown for the arrest and seizure of the vessel, and ordered a certificate to be entered accordingly.

Peter McDonald and others vs. The Ship Aberfoyle.—(Opinion in writing.)—Suit by steerage passengers to recover compensation for being put on short allowance of provision and water, on a voyage from Liverpool to New York. The proofs were ample, showing the insufficiency of the supply to the libellants, and their sufferings in consequence. The defence was—1. That the ship was a British vessel, and the parties British subjects, and that this Court had no jurisdiction in the matter. 2. That the entire ship had been chartered by the owners, and the charterers were owners for the voyage, and the ship was not responsible for their acts. 3. That the contract of libellants was with the agent or broker of passengers, and was personal, and not binding on the ship, he not being agent of the ship. 4. There being no proof that the ship had not an adequate supply of provisions or water, she must be presumed to have been so furnished; and that it was the fault of the master in not delivering them out to the libellants, for which he alone is answerable. Held that the charter party proved was an affrightment for the voyage and not an entire letting of the ship, so as to constitute the charterers owners for the voyage; that passenger vessels carrying passengers, &c., for hire, are liable *in rem*, on their contracts, the same as on shipment of merchandize; that the ship is bound to provide passengers wholesome and necessary provisions and water, as well as necessary room for sleeping and being housed; and when the passenger is deprived of either the ship is chargeable for the injury, certainly, unless the owner proves the necessary provision was made by him, and withheld by the master; that, in this case, the contract having to be executed or completed in the United States, the courts of this country have jurisdiction on the subject matter, the same as if the parties and ship were American. Decreed that the libellants recover against the ship the amount of passage money paid, together with interest from the commencement of the suit, and taxed costs.

John Scott vs. William H Russell.—Libel for wages, to Liverpool and back, as cook. The libellant was seen taking tobacco on board the vessel in New York clandestinely. The vessel was searched at Liverpool by custom house officers, and 40 to 50 pounds of tobacco was found concealed under the floor of the cook's galley. The vessel was in consequence detained some days; but no distinct evidence was given of the time, or the damage occasioned to the owners. Held, that seamen owe fidelity to the ship, and any intentional or wrongful act of theirs on board, subjecting the ship owners to loss, will be punished by substraction of their wages. The mulct may equal the whole amount of wages, or at the discretion of the court, be qualified according to the equities of the case. The evidence leaves no room to doubt that he well knew he was violating the English law in what he did. No very severe loss to the ship being proved, it is ordered that an abatement of $25 for the offence be made for the libellant's wages, and that he recover the residue (if any) without costs.

Edward Fitzgerald vs William Dodge.—Opinion in writing.—Suit for collision at one of the piers in New York. The steamboat Mohegan, commanded by the respondant, was towing out of her berth a coal barge. The libellant's schooner was at a contiguous pier. At the request of the respondant, she was dropped astern, so as to open space sufficient for the barge to pass out at her head. The libellant and respondent both thought the schooner had been sufficienly moved, but the eddy tide swayed the barge, as she was towed out of her berth, towards the schooner, and no one loosing her forward faste so as to let her fall farther back, her bowsprit was struck by the barge, and she received considerable injury. Some injury was also received by the barge. Held that the case was one of mischance or accident. Both parties thought a widening opened sufficient for the barge to pass out safely; and although the respondant by warping out the barge by hand, might have kept her off the schooner, so the respondent, by letting loose his fasts, or hauling her a trifle more astern, would have kept the two clear. It is not a case of wrongful colision, in which the defendant can be made answerable. Bill dismissed without costs to either party.

William Alexander vs. Joseph Galloway.—(Opinion in writing.) Suit for wages from New York to Charleston and back. The libellant was arrested in this city after the return of the ship, charged with stealing a bag of cotton, part of the return cargo. On trial before a justice for the larceny, the libellant was acquitted. But the evidence produced on this having established beyond all question, that the libellant, in concert with two accomplices (a person on shore and the second mate) had purloined the cotton, landed it in the night, and attempted to sell it—held that his conduct forfeited all wages earned on the voyage. It did so, because the wilful plunder of the cargo and taking it ashore for sale, was a higher offence in a sailor than embezzling and using on board, liquors or provisions belonging to the ship, and such acts are visited by abatement of wages to the full extent of the ship's loss ; and also, because misconduct was of a character to justify the master discharging the sailor from the ship, and that grade of misconduct carries with it, as a common consequence, a forfeiture of wages. Decree dismissing the libel, with costs to be taxed.

Charles Summers vs. Andrew T. Piercy.—(Opinions in writing.) Libel for wages earned whilst the vessel was fitting for sea, and for damages in not taking libellant the voyage. He engaged as cook, and went at times two or three days before her sailing, to the vessel, and did occasionally some work on board. When ordered on board the day of sailing, he refused to go, and declared he would not perform the voyage. The shipping brokers and others, failing to persuade him to fulfil his engagement, and the vessel being detained for a cook, another was shipped and went the voyage. Held that the leaving the vessel by the libellant, in violation of his contract, and against the wishes of the master, was in effect a desertion. At common law, the libellant would be barred, recovering for the work done, having broken his agreement and failed to serve out the time for which he was hired. The same rule applies in the maratime courts, where the sailor quits the vessel without the consent of the master. Decree that the libel be dismissed, with summary costs to the respondent, to be taxed.

Robert Wood vs The Bark Infanta.—(Opinion in writing.)—Action for damages by a British sailor against a British ship, and also for his services in fitting out and preparing the ship for sea in her home port. Held that admiralty courts will not enforce claims in favor of foreigners against ships of their own country, or liabilities incurred in a home port, unless those claims are proved to be liens in that place. By the law of England, artificers and nautical men acquire no lien on a vessel within the realm for supplies or services rendered her. Held, also, that the contract of the libellant with the ship, being for a voyage from Nova Scotia to New York, thence to Liverpool, and thence to the United States or a British port in North America, the libellant could not arrest the vessel before the termination of the voyage in this port, unless he proved a wrongful discharge, his own destitution, or produced the approval of the British consul or commercial agent in this port, or minister to the United States, to his suit. Held, also, that the facts in proof would justly defeat the recovery of libellant on the merits. Held that the commission to Nova Scotia was properly executed, although witnesses were examined, whose names had not been previously furnished the libellant—a sufficient excuse, therefore, being given by the respondent, decree for respondent with costs.

George States vs. The Bark Infanta.—The same legal principles applicable to this case. Libel dismissed with costs.

COMMON PLEAS—IN BANCO—DECISIONS—Stephen Arnold, et. al. ads. Isaac Arnold.—Motion granted ; costs to abide the event. Fox vs. Hare—Motion for commission denied, but without prejudice to a renewal of it ; no costs to either party on this motion. Shaeffer ads. Wright—Motion granted, provided the defendant pays into court the amount of the verdict, or gives security therefor, and pays all costs of inquest and subsequent proceedings in this cause ; costs of motion and of suit against bail. Allis ads. White—Motion to set aside default granted, without costs. Maybee vs. Thomas—Motion so far granted as to allow parties to submit written arguments on Saturday next. White vs. Allis—Motion for commission granted according to notice; costs to abide the event. Sutton ads. Curry—Motion granted with costs. Plaintiff may stipulate on payment of costs. Bertrand ads. Lovegrove—No opposition being made, the motion granted to vacate the default, and the original motion is to be heard on Friday next.

SUPERIOR COURT—IN BANCO—*De Puga vs. Merchants' Insurance Company*—Motion denied without costs to either party.

Howland ads. Hasbrouck.—Motion for new trial denied. Judgment for plaintiff.

Bank of Louisiana vs. Gerard H. Coster.—Judgment for plaintiffs.

Kees ads. Mills.—Judgment for defendant, as in case of a nonsuit.

Copperthwait vs. Sheffield.—Ordered, that for the purpose of adjusting the verdict in this cause, interest be computed upon the judgment recovered by the Bank of England against James and John Reid, on the 5th day of March, 1842, from that day to the 7th of April, 1842, at the rate of five per cent per annum; that interest upon the two bills upon which this suit is brought, be computed at the rate of five per cent per annum from the 19th day of June, 1837, to the 7th of April, 1842. The amount to be ascertained pursuant to the directions contained in the order of the court, to be converted into the currency of the United States at the rate of $4 86, and 1-10 per cent to the pound sterling, and interest added at the rate of seven per cent per annum from the 7th of April, 1842, to the date of the verdict.

UNITED STATES COMMISSIONER'S OFFICE, May 6—Before Commissioner Morton—*Charge of Murder.*—Greenwood, the man charged with the murder of Wm. Carlyle, on board the brig Colonel Tayloe, was committed to-day to take his trial for murder.

COURT OF GENERAL SESSIONS—May 5.—Before Recorder Scott, and Aldermen Franklin and Dodge.—John McKeon Esq., District Attorney.

The Trial of Honora Shepard, on an indictment for passing a counterfeit $10 bank bill, was resumed, and several additional witnesses were examined, but the case had not been closed for the prosecution when the court adjourned until to-morrow morning.

COURT CALENDAR FOR MONDAY.—*Circuit Court.*—½, 15, 16, 17, 18, 19, 20, 21, 23, 25, 27, 183. *Superior Court.*—32, 298, 49, 2, 6, 9, 11, 81, 86, 89, 94, 102, 105, 121, 122, 123, 134, 138, 146, 148, 150, 152, 165, 168, 17, 23, 52, 34, 54, 63, 68, 70, 103, 171 to 176 inclusive, 179, 182, 183, 184, 186, 187, 18, 188 to 192, 194 to 200. *Common Pleas.*—23, 24, 36, 41, 44, 46, 48, 50, 51, 52, 54, 57 59, 60, 62, 63.

THE CANALS.—Yesterday, upwards of one hundred boats were lying in this city awaiting their turns to pass the weigh-lock. Loaded boats were weighed to go east yesterday morning for the first time, the water having become sufficient for navigation in that direction. Up to six o'clock last evening, the whole number of boats weighed was 52.

The number of barrels of flour which had passed the weigh lock up to the same hour, was 25,601.—*Rochester American, 5th inst.*