AMERICAN INDEPENDENCE.

NORTH CAROLINA VERSUS OLD VIRGINIA.

INTERESTING LETTER FROM THE HON. J. M. H. BEALE.

TO THE EDITOR OF THE NEW YORK HERALD.

HOUSE OF REPRESENTATIVES, January 20, 1853.

I have read in the HERALD of the 17th ult., an address delivered by the Rev. Dr. Hawkes before the New York Historical Society, on the "History of North Carolina," in which he claims for the people of the county of Mecklenburg, of that State, the first movement towards a declaration of American independence.

With no attempt or wish to detract from the merit of the movement made by the patriotic people of that portion of our country, yet it is due to political justice and the truth of history to say that evidence exists, of the most unmistakable character, which shows that the first known step taken in the open assertion of American rights and independence occurred among the people inhabiting the then county of Dunmore, so named after Lord Dunmore, now called Shenandoah, in the Valley of Virginia.

The opinion has long prevailed, with the casual reader and the incorrect historian, that the patriots of Mecklenburg, N. C., "opened the ball of the Revolution." The learned divine has assumed this current belief to be a fact, and thus committed a historical blunder. But to the records of the facts—

The Rev. Peter Muhlenburg, a Lutheran clergyman, from Trappe, Pennsylvania, removed, in the year 1772, to Woodstock, Dunmore county, Virginia, and became the pastor of the church in that village. He was descended from German parentage, and, although born in Pennsylvania, was educated in Halle, in Germany. He soon won the confidence of his flock, and the affection of the whole Germanic family which had settled between the Blue Ridge and the Alleghany, in the now counties of Page, Shenandoah, and Rockingham.

In the early part of the year 1774, the colonists began to murmur at British encroachments upon colonial rights, and discontent reached its acme when the news of the passage of the Boston Port bill was conveyed throughout the land. While there may have been a concerted movement of resistance throughout the State, Dunmore county was the first to step forward and boldly proclaim its opinions in reference to the great questions then agitating the country. This county gave itself a distinct organisation, as contradistinguished from its colonial, and invested power in a "Committee of Safety," the prerogatives of which were to erect opposition to the royal power in case of necessity.

The meeting which took these initial revolutionary steps was held at Woodstock, on the 16th June, 1774, one year before the celebrated Mecklenburg meeting, which occurred in June, 1775. The Rev. Peter Muhlenberg was chosen the Moderator of the meeting; and afterwards, as Chairman of the Committee on Resolutions, reported a number of spirited and appropriate resolutions, the tone of which was bolder than public opinion was then prepared to sanction. The following are a part of the noble sentiments then put forth by those patriotic lovers of liberty:—

"That we will pay due submission to such acts of government as his Majesty has a right by law to exercise over his subjects, and to such only.

"That it is the inherent right of British subjects to be governed and taxed by representatives chosen by themselves only, and that every act of the British Parliament, respecting the internal policy of America, is a dangerous and unconstitutional invasion of our rights and privileges.

"That the enforcing the execution of the said Act of Parliament by a military power, will have a necessary tendency to cause a civil war, thereby dissolving that union which has so long happily subsisted between the mother country and her colonies; and that we will most heartily and unanimously concur with our suffering brethren of Boston, and every other part of North America, who are the immediate victims of tyranny, in promoting all proper measures to avert such dreadful calamities, to procure a redress of our grievances, and to secure our common liberties."

The other resolutions were common at that period, deprecating importation or exportation with Great Britain, and against the East India Company, who are called "the servile tools of arbitrary power." The proceedings close by "pledging themselves to each other, and to our country, that we will inviolably adhere to the votes of this day." The Committee of Safety and Correspondence appointed for the county consisted of the Rev. Peter Muhlenburg, Chairman; Francis Slaughter, Abraham Bird, Tavener Beale, (father of the undersigned,) John Tipton, and Abraham Bowman, Esqs., members.

The proceedings of this meeting are published in full in the *Virginia Gazette*, for August 4, 1774, a file of which paper is preserved in the Congressional library, at Washington city. (The late fire at the Congressional library may have destroyed it.)

I have thus, Mr. Editor, given you the record proof from the *Gazette*—then the only newspaper, perhaps, which was published in the Virginia colony. But I cannot refrain from copying, as an interesting incident in the history of the times, from a letter written by the Rev. Peter Muhlenburg, to his brother in Trappe, Pa., dated January 17, 1775, which is still preserved as a valuable Revolutionary relic in the Muhlenburg family. He says:—"The times are getting troublesome with us, and begin to wear a hostile appearance. Independent companies are forming in every county, and politics engross all conversation. I had thrown up my commission as chairman of the Committee on Correspondence, and of magistrate likewise; but last week we had a general election in the county for a Great Committee, according to the resolves of Congress, and I am again chosen chairman, so that, whether I choose or not, I am to be a politician."

The Rev. Peter Muhlenburg was chosen a member of the House of Burgesses in 1775, and took sides with Patrick Henry, who was the leader of the war party; and when it was determined to raise six regiments from Virginia, he returned home with the purpose to doff his gown and gird on the regimentals and the sword. At the earnest solicitation of General Washington and Patrick Henry, the House of Delegates elected him Colonel of the eighth Virginia regiment.

Upon his return home, he gave notice to his scattered parishioners that he would deliver to them on the following Sabbath his farewell sermon. The rude country church was filled to overflowing with the hardy mountaineers of the frontier counties of the valley. So great was the assemblage, that the quiet burial-place was filled with crowds of stern, excited men, who had gathered together, believing that something, they knew not what, would be done in behalf of their suffering country. They awaited patiently the appearance of their pastor. He came, and ascended the pulpit, his tall form arrayed in full uniform, over which his gown, the symbol of his divine calling, was thrown. He preached to them of a God, a Saviour, and a Country, with all the zeal and eloquence of a Paul, and they hung upon his fiery words with all the intensity of their souls. His conclusion turned their thoughts upon their sufferings and wrongs, and he said he had unsheathed the sword, and that, in the language of Holy Writ, "there was a time for all things—a time to preach and a time to pray, but those times had passed away," and, in a voice that echoed through the church like a trumpet-blast, "that there was a time to fight, and that time had now come."

After the benediction, his gown was unloosed, and, falling to the floor, he stood before his congregation a girded warrior, and, descending from the pulpit, ordered the drums at the door to beat for recruits. Then followed a bright example of patriotic devotion. His audience, excited in the highest degree by the impassioned words which fell from his lips, flocked around him, eager to be ranked among his followers. Old men were seen bringing forward their children, wives their husbands, and widowed mothers their sons to fight the battles of their country. Nearly three hundred men that day enlisted under his banner. What a noble sight! A cause thus supported could not fail.

The facts stated in the preceding account of Colonel Muhlenburg's farewell sermon are abundantly established by all contemporaneous narratives, and by traditionary reminiscences, and are particularly set forth in "Thatcher's Military Journal," p. 184; "Howe's Historical Collection of Virginia," p. 468; "Kercheval's History of the Valley of Virginia," p. 188; "Rogers's Remembrances of American Heroes, Statesmen, and Sages," p. 366; and "Baird's Religion in America," p. 113.

It is proper that I should state that the most of these facts were copied from the "Life of Peter Muhlenburg," by his relative, Henry A. Muhlenburg, and in many sentences copied entire in the author's own language.

I have conceived this subject of paramount importance, and will thank you to give it an early insertion, and to send the learned Dr. Hawkes a copy of your paper containing it.

Respectfully, your obedient servant,

J. M. H. BEALE.

The Turf.

NEW ORLEANS RACES.—LOUISIANA COURSE, JAN. 8.—Purse $150, mile heats.

Capt. J. W. Minor's b. g. Berry, 4 years old...	2	1	1
W. Boerman's ch. f. Caddo Maid, 4 years old...	1	2	2
Col. A. L. Bingaman's b. c. Lansquenette, 4 yrs.	4	dis.	
Col. S. M. Hill's ch. f. by Regent............	3	dr.	

Time, 1:48½—1:48½—1:51.

LAST DAY, JAN. 9.—Proprietor's purse, $200, mile heats, best three in five.

Col. S. M. Hill's Wade Hampton............	2	1	1	1
William Boerman's Caddo Maid............	1	2	2	2

The quickest time was 1:48—no other given.

AUGUSTA (GA.) RACES.—LAFAYETTE COURSE, JAN. 13.—Purse $500, three mile heats.

T. W. E. Beall's ch. m. Elizabeth McMary, 5 years old, by Ambassador............	1	1
Green's b. f. Goldpin, 4 years old, by Boston...	2	2

Time, 5:56—5:56.

The Probability of Establishing a Republic in Cuba.

NEW YORK, Jan. 17, 1852.

TO THE EDITOR OF THE HERALD.

DEAR SIR—The Cuban Junta would feel under great obligation if you would publish in your estimable paper the enclosed answer to your Washington correspondent, whose letter was published in the HERALD of the 14th inst.

With the assurances of our respect, we remain your obedient servants,

G. BETANCOURT CISNEROS, President of C. J.

PORFIRIO VALIENTE, Secretary C. J.

THE REPLY.

A Washington correspondent of the HERALD proposes to demonstrate the impossibility of establishing a republic in the island of Cuba. Others have treated this idea as unjust and anti-American. I declare it retrogressive, unphilosophic, and opposed to the best principles and interests of humanity.

This opinion rests on the supposed necessity of political education, preceding political regeneration, so that if this order is not observed the change from monarchical to republican habits must inevitably produce anarchy and confusion. If your correspondent had proposed to demonstrate the utility of a preparatory education for the exercise of republican liberty, we should be entirely of accord; but to sustain the impossibility of establishing a republican government in Cuba, because it has hitherto been under a monarchy, and is not suitably prepared, is an absurdity, and involves, besides, the eternal condemnation of its people to servitude; for their rulers have a vital interest in not educating them for the enjoyment of liberty. If this false idea were admitted as a rule, it would end all theories for improving the political, civil, moral, and religious condition of man. In what manner is a people subjugated by the tyranny of kings to improve their condition? All the public authority is concentrated in the hands of these tyrants, and it is their first interest to keep their vassals in ignorance of their rights.

How can we expect them to permit to their subjects an apprenticeship to the habitudes of liberty, to learn how to overthrow their oppressors, and convert themselves into an independent people? This correspondent demands an impossibility; and doubtless he does not profess liberal principles, as his doctrines would condemn a large portion of the world to servitude. According to his doctrines, Louisiana, Florida, Texas, California, and New Mexico, ought not to have been annexed, and passed thereby so suddenly from all the influences of absolute monarchies to the use of democratic institutions, because they were not prepared by a previous political education, like the thirteen colonies which formed the American confederation; yet the change has taken place, nevertheless, without anarchy or confusion, and they have passed from the condition of an enslaved people to that of free and independent States, exercising under the federal system all the rights of self-government.

This writer, if he is not disposed to serve the cause of despotism, should see that this doctrine of first teaching the habitudes of liberty to those in the condition of slavery implies a contradiction, of such a nature that it cannot be reconciled. The principles of a republic confer on its citizens the rights of sovereignty—they rest on all the enjoyments of liberty, and on the eternal laws of equality. To understand and to know that man is born free and independent—that he is equal in rights to any other man—that this is not the exclusive patrimony of any man or family, and at the very same time to be a slave, the puppet of a privileged class to hold his person, his family and his fortune subject to the will of a despotic king! Nothing can be more contrary to reason.

To expect an enslaved people like that of Cuba, where "the philosophy of government is not only unknown, but prohibited"—where there is no right of representation—where the faculty of thinking is punished with exile, and the faculty of printing with death—to learn to be free before they enter upon political regeneration—is to ask the impossible. It is to forget or deride every sentiment of human justice. A people in such a situation can never hope to prepare themselves for an independent existence while they are under the dominion of their barbarous oppressors—humanity, not less than the science of republican government, counsels them to come forth from this state, for, only by this course, is emancipation practicable, and without it, they are condemned to remain forever in the sufferings of this ignominious condition. What matters it if they commence their preparation from the very day they become the masters of their own destiny, even though they commit errors and suffer evils? Very inferior indeed are they to the evils of slavery for life! Is it better perchance to be the serf of a tyrant, than the citizen of a republic, although the worth and exercise of popular sovereignty be not wholly understood?

The confusion and anarchy of the Spanish American republics are cited as examples of countries which have not received any political education before entering upon independence. In fact, they had none, but at present they have attained sufficient, if not to suffocate personal ambitions, at least enough to acquire the knowledge of self-government and its application to the policy and administration of the country. The absence of union, of habitual obedience to the law, and the want of individual abnegation for the general good, proceed doubtless from their not having yet learned to sacrifice personal interests on the altar of their country; but this does not exclude the hope of their learning in a future day to become republicans, like Washington or Franklin. When the rules and institutions of republicanism are established, they are immediately followed by civil and religious education, by industry, by philanthropy, and by all forms of social improvement. In all these advancements, those nations have much to do, who, springing from the Spanish stock, did not receive such benefits; but they begin to enjoy them since the era of their political regeneration. They need some more time to complete their republican education: but assuredly they will attain it. The old habitudes of a people are not destroyed at once; their age is of centuries. When a people is born to liberty, but whose antecedents are of tyranny, it operates as with an individual—its infancy is helpless and inefficient, physically as well as morally; it grows, acquires strength, and develops its faculties in proportion, according as it is guided by good or bad principles. Will your correspondent say the Spanish American republics can never come to the enjoyment of the fruits they have planted with their democratic institutions?

He appears to think so, when he bases his argument on the influence of climate. He says—"Their natural love of pleasure, stimulated by the seductions of a climate of almost unequalled salubrity, unfits them for the more grave attention to more imperative duties, and oftentimes sacrifices, which each citizen of a republic is expected to perform, or to submit to, for the public service." If this were so, the Spanish American nations would never have bought their liberty at such a cost of blood. They had a longer struggle, shed more blood, sacrificed more lives and interests, and, in many instances, had to fight and to suffer with more heroic endurance than even the North Americans. And are these men inadequate to the exigencies of the spirit of republicanism?

The tree of liberty, like an emanation from heaven, flourishes in all climates. God is too infinitely just to deny the greatest of his blessings to the children of the tropics; and even if they are condemned not to enjoy them in peace, better confusion and disorder in the midst of free institutions, than the horrors of political slavery—"*malo inquietam libertatem quam quietum servitium.*" Ask the Spanish Americans if they wish to return to the dominion of the Kings of Castile. And more, what would be their situation to-day, if they were still Spanish colonies? How far would they have advanced in the political education requisite for their ulterior liberty? It is certain they would not be as forward in this respect as we now find Cuba. Her geographical position has brought her into contact with all the civilized nations of the world, who go there to exchange their commodities for her precious and abounding productions. Her proximity and intimate relations with the United States, and the large number of Cubans who have been educated here, have spread throughout the island those seeds of liberty, of order, and of union, which will make of her an independent nation, without falling into the anarchy to which her sisters on the continent were delivered.

The orderly habits and the love of industry evidenced in the number and value of their products, notwithstanding the shackles and extortions of Spanish tyranny, and the illustration of so many of her sons, acquired at home and abroad, by the ample means of their families, are elements to make very possible a republic in Cuba; an institution that will raise her from her present abject condition, and, with time and the immigration of other races, elevate her to a nation of ten or twelve millions of free, rich, liberal, and united inhabitants.

What else is proved by the frequent and daring conspiracies; by the Cuban blood so freely shed on field and scaffold—by the efforts so continually made to achieve the liberty of Cuba? All these parallels between Cuba and the United States prove nothing but that here reign democratic principles, and there absolute despotism. Change the political condition of Cuba—let her enjoy this republican system—and then the science and philosophy of government will become a daily lesson in her academies, and her children will learn those habits of freedom in which they are now uninstructed. To exact it from them now, is to ask pears from the elm. Then Cuban literature will occupy itself with the doctrines of liberty, and teach that blind reverence to a monarchy, as a power emanating from the Creator, is an insult to the Divinity and an injustice to the rights of man. Then the Cubans will carry their votes to the electoral urn, not with the coldness of blood of the Anglo Saxon race, but with the natural warmth which God has put in the veins of the children of the South. When the Cubans have received their political education, the difference, arising from temperament will be the only one between one people and the other. Meanwhile, the disorder of their experimental trials will not amount to civil war in a country bounded in its extent by natural limits, and with a scattered population whose innate sentiment of self-preservation will enforce union.

Cuba, the enslaved colony, may become a republic, although she has not the antecedents of a liberal preparation. The republics of antiquity were born in a day out of the bosom of very opposite habits, and of a civilization much inferior to that of our era. The Swiss realized a sudden transformation that did honor to her sons, and elevated William Tell to the apotheosis of liberty. The great Bolivar immortalized his name by achieving the freedom of Colombia, opening the way and assisting half the New World in securing its independence, and all this without any preliminary political education; and many other nations without it have torn the sceptre from their tyrants, sometimes to expel them and sometimes to force them to adopt constitutions that gave rights and a participation in the government to the people. There are many other proofs that political education and regeneration may bloom together, when, as in the case of Cuba, one cannot precede the other. This precedence, if insisted upon, would, in many nations, prevent the birth of liberty. For a North American to sustain it as an anachronism, is a departure from the principles which constitute the duty and make the honor of his country.

PORFIRIO VALIENTE,
Secretary of Cuban Junta.

The Reciprocity Trade with Canada.

[From the Hamilton Journal and Express, Jan. 11.]

The reciprocity with the United States, of which there has been so much said, is not likely to be granted further than it has been. There is no use for us to attempt to argue with the Americans on the subject. They understand it as well as we do. The traders of Boston and New York are in favor of extending it, but it is for their own benefit—a benefit in which other parts of the Union do not participate. The carrying trade is of great advantage to the Ogdensburg and other railroads; but the "notion" makers of New England do not partake of it, and are therefore opposed to reciprocity, unless it includes some of their manufactures. The Southern planters have no definite idea of reciprocity, and, perhaps, if the pale faces of the North would let their "niggers" alone, they might not object to reciprocity, provided their products (sugar and tobacco) were included. Notwithstanding the rumors in the Boston and Oswego papers, we are satisfied that the present American administration will not do anything with the question of reciprocity. They will leave it for their successors. The Americans have always considered the trade with Canada as a matter for legislation, and not for treaty, and hence their disinclination to negotiate with the British minister on a subject which they think can be best settled by the parties immediately interested. This is evident from the message of President Fillmore, in which, alluding to the wish of the British cabinet to make the fishery question a part of the commercial treaty, he recommends a separate convention for the colonies. To have a reciprocal trade with the United States, we must be willing to satisfy the Congress, which represents the whole nation, that it is reciprocal. Bostonians and New Yorkers are almost as much interested in the Canada trade as the Montrealers and Quebeckers, and therefore they are anxious to have the trade, because it will benefit them, but confer no advantage on the Western and Southern producers. Now, it is absolutely necessary to convince all parties in Congress that a reciprocal trade with Canada is good for the nation. We despair of our being able to do so, without including in our agreement the natural productions of both countries. When this is done, there may be a probability of a reciprocal convention. In the meantime, looking at the great prosperity which has attended the present arrangement with the Americans, and the satisfaction which it has given to merchants and farmers, we can see no necessity for adopting any course which might produce a revulsion in our commercial affairs.

Rochester Flour Trade.

[From the Rochester Democrat, Jan. 19.]

The publication of the annual statistics of the flour business in this city has been delayed beyond the usual time, on account chiefly of the difficulty of obtaining some items that were necessary to make it complete. The statements below are authentic, and will be found interesting.

The amount of flour shipped from this place by canal, during each month of the past season of navigation, and five previous years, is as follows:—

	1852.	1851.	1850.	1849.	1848	1847.
April....	24,980	52,152	38,039	..	..	..
May.....	51,912	61,758	56,641	89,508	93,279	127,059
June....	82,722	29,616	35,665	58,081	67,585	74,932
July.....	59,815	40,805	33,301	40,823	54,958	78,390
August..	46,667	43,390	57,445	56,792	67,753	61,965
Sept.....	69,169	63,887	88,196	77,186	92,396	74,473
October..	86,539	112,037	94,348	153,004	98,946	111,030
Nov.....	101,773	96,683	129,291	124,411	108,865	163,712
Dec.	15,098	..	8,447	1,042	651	..
Total..	538,676	500,330	552,729	570,757	584,426	631,574

Quantities shipped for a series of years:—

1844.............	400,388	1849.............	570,757
1855.............	518,318	1850.............	552,729
1846.............	540,232	1851.............	500,330
1847.............	631,574	1852.............	538,676
1848.............	584,426		

The following is the amount of flour shipped from this place on the Rochester and Syracuse Railroad during the year 1852:—

January..........	8,321	July..............	70
February.........	23,213	August............	190
March............	16,557	September.........	11,810
April............	11,976	October...........	13,190
May..............	456	November..........	9,726
June.............	138	December..........	27,550

Total....................	133,198
Previous year............	20,513
Increase.................	112,585

The Buffalo and Rochester road has brought into the city 75,695 barrels during the past year, up to January first: the year previous, 49,090 barrels.

Deducting from the amount shipped by canal and railroad (671,574) the amount left by the same, (122,070,) and the whole amount sent forward from this city appears to be 549,504 barrels. To this should be added the amount shipped by the Lake to Ogdensburg, about 1,000 barrels.

The R. L. and N. F. Road has brought down, during the few months they have been in operation, up to the first of January, 31,090 barrels of flour, and 3,660 bushels of wheat. With increased facilities for carriage and storing, they will increase this average. During one week of the present month they have brought 5,461 barrels of flour, and 363 bushels of wheat. This flour has been sent forward on the Central roads to Albany and New York, in the cars of the Lockport road. There should be deducted from the amount set down as shipped by the R. & S. road, the number of barrels brought by the R. L. & N. F., and the Western roads.

It will be seen that the amount of flour shipped is large, taking into consideration the fact that the market for this staple had received no impulse until late in the season of navigation, and that during the prevalence of cholera boatmen avoided stopping at this place as much as possible. The reader will not fail to observe the increased amount taken forward by railroad, and that the facilities afforded by the canal are not equal to the desire to ship, in a period when flour is advancing in the Eastern markets. The Rochester and Buffalo Railroad has nearly doubled the amount of flour brought down in any previous year, and the Rochester, Lockport and Niagara Falls road has done a good business at it, even while the canal remained open.

The amount of wheat left here by both canals, for two years, is as follows:—

	1851		1852	
	Gen. Val.	Erie.	Erie.	Gen. Val.
April..............	25,028	16,448	8,482	..
May................	86,974	55,287	106,151	..
June...............	45,247	36,981	229,486	85,103
July...............	81,491	37,770	117,047	66,211
August.............	59,187	22,294	37,135	96,312
September..........	159,472	18,751	71,022	73,180
October............	365,900	61,754	120,796	141,143
November...........	178,892	64,287	190,227	97,631
December...........	79,856	46,855	19,774	35,736
Total..............	1,113,847	351,097	1,003,090	535,213

The Valley canal was unnavigable during two months of the season, after the Erie canal was open, which accounts for their being no wheat left on that canal in April and May.

The Western Railroad has left 181,197 bushels, which is a little more than it brought here the year previous.

The following is the quantity left by both canals for a series of years:—

1844..............	884,141	1849..............	1,426,436
1845..............	1,109,281	1850..............	1,215,759
1846..............	1,502,548	1851..............	1,465,454
1847..............	1,778,116	1852..............	1,438,301
1848..............	1,443,183		

Amount left by railroad 184,857 bushels. Total 1,623,158.

In 1852, the amount of wheat left by canal and railroad, was 1,723,158 bushels, against 1,640,456 bushels in 1851. A small quantity was supplied by lake vessels from points on the American coast, and a still smaller amount of Canadian wheat was ground here. Less than one million bushels have been required from the surrounding country, to make up the amount manufactured into flour, and shipped in that form. It must be remembered, however, that the mills have supplied the wants of more than 40,000 people at the same time.

EXECUTION IN SOUTH CAROLINA.—L. A. J. Stubbs, of Marlboro district, who was convicted of the murder of his slave, at last October court, was hanged in the Courthouse square, at Bennettsville, on the seventh inst., in accordance with the sentence of the Court. The *Cheraw Gazette* says "that the offence for which Mr. Stubbs suffered the extreme penalty of the law consisted as much of the neglect of his duty as a master as of any other ingredient. In this point of view, this case speaks volumes in behalf of our laws enacted for the protection of our slave population, and puts to blush thousands of the lies invented and propagated by Northern fanaticism to disparage the institution of slavery."

Obituary.

Mr. John Bartlett, a celebrated musician, and who has been for more than twenty-five years identified with the Brigade Band of Boston, died in that city on the 16th inst.

The Steamboat Reindeer Calamity—Trial of Captain Farnham for Manslaughter—Important Charge of Judge Betts—Disagreement of the Jury.

UNITED STATES CIRCUIT COURT.

Before Hon. Judge Betts.

The United States District Attorney, Mr. J. Prescott Hall, proceeded to sum up on the part of the government, of which the following is a summary. He said:—The gentleman who opened the defence in this cause, with so much clearness and ability, for Captain Farnham—the counsel who has so fairly and intelligently examined his witnesses, and the distinguished advocate who has finally summed up the evidence with so much eloquence and force, have done me no more than justice when they say that I come to the discharge of my official duty on this occasion with great reluctance. It is not, however, for the reason that this defendant is in any way entitled to especial commisseration, but because I am always reluctant to inflict pain upon others. The learned Judge upon the bench has also a painful duty to perform, but he will not shrink from it because it is painful; nor can you, gentlemen of the jury, escape from the responsibility which is cast upon you by the laws of your country. We live under a government of laws, made by the people themselves; and neither the Judge upon the bench, nor the prosecuting officer, nor the jury now impannelled to try this traverse, can shrink from the discharge of their respective duties without a violation of the oaths which are administered to keep them steadfast in the pathway of their obligations. If there be any country which depends upon the good sense of its citizens for protection, it is this. The law is expounded by the Court. The Judge, in his wisdom, is on that bench to place the case before you, free from the bias and coloring of the public prosecutor or the learned counsel for the defence; but it comes finally to you, gentlemen—twelve men placed in the jury box—to whom the public look for protection, and such a verdict as the merits of the case demand. There was no informer here; the District Attorney was not at the time in a situation to hear of the disaster. The Grand Jury, of their own accord, considered it, themselves called the witnesses, and directed the District Attorney to frame an indictment, under the twelfth section of the act of 1838, charging that Charles W. Farnham, the captain, and John Howlett, the engineer of the steamboat Reindeer, did so unskilfully and negligently manage the fires and steam on board that vessel as to cause an explosion which resulted in the death of thirty-five human beings, then and there passengers on board of that boat, and confiding in the diligence, capability, and good conduct of the officers, in whose hands they had placed the lives of themselves and of those most dear to them. But, gentlemen, you have been told that this unhappy event resulted in no way from inattention or neglect on the part of Captain Farnham or his officers, but arose entirely from a defect in the iron composing the boiler, which no human foresight could provide against; and you are now asked, gentlemen, if there is to be another victim? The law seeks no victims; but its endeavor is to prevent the offering up of other victims by the recklessness of masters—victims, whose blood has so stained the Hudson, that all its waters cannot wash it out. If Captain Farnham is to go clear, because he is a respectable man, there will be no safeguard against like offences hereafter, and the human cargoes will still be subjected to the ruling passion for competition, and utter disregard of life, on our great thoroughfares of travel. The counsel has, in my judgment, wholly mistaken the law, its object and whole scope. In my view of it, the captain, as well as the engineer, is amenable, under the statutes of the United States, for this culpable and fatal affair. No one in his senses—either the counsel for the prosecution or the Judge on the bench—supposes for an instant that Captain Farnham designed to destroy his boat. The law supposes no design but his duty might, notwithstanding, have been inattentively discharged. The witnesses say that they never obeyed the law, and that the captain has no control over the acts of his engineer. I do not think that the duties of the captain are so circumscribed. If so, why not employ a man of a station in life inferior to that occupied by Capt. Farnham. It is said that the pilots have one duty to perform, and the engineer another; and then what has the master to do? To stop the headway, to get out the gangway plank, to take the tickets, and assist his passengers? Is that all that the law requires? I think not, gentlemen. The captain has control over his vessel; and a general supervision over the actions of his officers and crew comes within his duty. He has as much authority to confine the engineer, if reckless and inattentive, as he has to confine the firemen and deck hands. The whole scope of the law is to put under the power of the captain the full control of the boat. (The District Attorney here examined, with great care, each section of the act of 1838, and insisted that Congress had thrown upon masters of steamboats peculiar duties and peculiar responsibility, and had charged upon them especially, the lives and safety of passengers entrusted to their care.) The acts of Congress say, it shall be the duty of the master to employ skilful engineers, and on failure to do so, hold him responsible. He has a word to say as to their capability—but my friend, instead of going to these acts of Congress, sets up North river law, which I suppose to be a branch of the "higher law," and he says that, by "North river law," the owner appoints the engineer; but I say to Captain Farnham, and all others, that he has a voice in the matter, and is not bound to submit to unsuitable appointments. The jury can know no higher law than that which is on the statute book. The Reindeer runs with the Alida, the Alida with the Henry Clay; hundreds are sent to "that bourne whence no traveller returns;" and yet the captain is but a gentleman on board, with nothing to do but collect the tickets and assist the ladies. The proper vigilance in transporting passengers is not thrown upon the engineers and crew, but upon the master; and who but Capt. Farnham ever stood up and said otherwise than that "I am master of my own vessel?" The law says that whenever the boat is stopped (which is acknowledged to be by direction of the master) the safety-valve shall be opened, and the captain could say to the engineer, "I charge you, sir, at every landing to raise your safety-valve; I am responsible for that." But the North river engineers say, "We will not do it; we will open the doors, and thus keep down our steam." And what are the reasons assigned for this disregard of the law, which imperatively makes it the duty of the master to raise the safety-valve when the boat's headway is stopped? Why, economy in water and economy in coal! And one of the witnesses assigns as a reason the annoyance of the noise. Noise! What sound was that which, like the trump of the archangel, burst into the ears of thirty-four confiding human beings, on the fourth of September, and summoned them, in an instant, "unanointed and unannealed," from all human tribunals to that dread judgment which all must encounter, to answer for deeds done here? Captain Farnham thinks it a hardship to be called before an earthly judge for acts of omission and commission; but where are the accusing spirits who confided their lives and safety to his skill, his precaution, and his care? Ah! gentlemen, the places that have known them shall know them again no more forever. But the engineers say that they have another and a better mode of guarding the boiler than that pointed out by Congress, and, instead of raising the safety valve, as the law requires, they open the doors, and cool the flues by letting in a current of cold air. This, doubtless, has the effect to check the generation of steam; but what is its effect upon the boilers themselves? Why, Hawes, the engineer of the Frank, says that this stream of air cools one surface of the iron while the other is expanded, and so inequalities of contraction and expansion are produced, which greatly weaken the iron. And is this an improvement upon the mode adopted by the law? Why, their economy in fuel and their preservation of steam lead to the weakening of the boilers, and thus aggravate the evil which Congress have attempted to guard against. And if the boilers are thus weakened by this process, so much the greater reason why the safety valve should be raised. The law is positive and peremptory upon this point; Captain Farnham disobeys it at his peril. The theory of contraction and expansion, applicable to the present case, is well illustrated by the frequent breaking of tumblers when brought suddenly in contact with hot water. If the water be put inside, they expand on the inside, while the ordinary contraction is maintained outside, and a fracture follows as a matter of course; if the position is reversed, and the water be on the outside of the tumbler, then expansion and contraction take place oppositely. But the weakest point was not where they say it was. Iron, bent or corrugated, as in Francis' life boats, is the strongest, and the testimony showed, besides, that the fracture was nine feet long and about twenty-seven inches wide. There is no pretence that all that space was imperfect—that no part of it was properly welded. But what was the character and what were the habits of this boat called the Reindeer? Why, the evidence is, that she often went a hundred and fourteen miles within five hours, including thirty minutes consumed at the landings. Twenty-two or twenty-three miles an hour was her ordinary speed; but on the day of this dreadful disaster she had reduced her gait to twenty miles an hour; and Morey, the pilot, says that this is what he calls "pleasant boating." It might have been pleasure to him, gentlemen, but it was death to others. But Morey also says that she was not ordinarily alone, but generally "kept company." And what sort of company do steamers keep upon the North river? Why, such company as the Henry Clay kept with the Armenia, rushing at her and by her, grappling by the guards, piling on fuel until the boat glows like a furnace, straining every nerve for superiority, and finally consigning her passengers to a grave of fire, from the aged and lamented Stephen Allen down to the helpless child in its mother's arms. And this is what they call "keeping company" upon the North river. At an earlier period of steam navigation, twenty pounds pressure to the square inch was considered as great an amount as could with safety, be carried. Now, in low pressure boilers, even, you frequently find them carrying forty, fifty or sixty pounds, until they have become nothing more or less than moving volcanoes. Reflect, gentlemen, upon the power of this terrific agent. Steam will rend the earth. It is that which causes the eruption of Mount Vesuvius, generated as it is by cold subterraneous rivers flowing in upon fierce and extensive fires. No strength of iron can resist it if improperly guarded; and yet the owners and builders of these boats do not use proper iron, because it is expensive. They do not ask, how thick can you make the iron, but how thin can you make it to bear the pressure? A strong appeal has been made to your sympathies, in favor of Captain Farnham, because he is a husband, a father, and a good citizen. I am glad, for his own sake, that he is thus favorably presented before you; and if you can conscientiously acquit him of all blame in this transaction, those who know him best will rejoice most. But Captain Farnham is but one of a class of responsible agents; and if he can, with impunity, thus fatally disregard the law, so may all others standing in the same attitude of responsibility. If he be guilty of this charge, you cannot, upon your oaths acquit him, because your hearts beat kindly in his favor. We say that it was by a culpable neglect of duty on the part of Captain Farnham, that thirty-five human beings were, with the quickness of the lightning's flash, hurried into eternity; and if the jury shall be of this opinion, they cannot, and upon their oaths they dare not, arrest the uplifted arm of justice which is now impending over his offending and devoted head.

THE JUDGE'S CHARGE.

Judge Betts then said—In this case, gentlemen of the jury, which you have listened to with very great attention, to all the evidence offered for the prosecution and the defence, and the arguments of the public prosecutor and the counsel for the accused, you are no doubt acquainted with all the particulars as they have appeared. The indictment was originally found against two persons—the master and the engineer of the steamboat Reindeer—but, at the instance of the parties accused, it proceeded against the master alone. Although the case has excited much interest, yet I think we may congratulate ourselves that it is approached calmly and dispassionately. In the first place, it is not put in question before you that Captain Farnham was not fully competent for the station he was employed in. It is stated in evidence that he was an experienced navigator—that he had a familiarity, more or less, with steam machinery. He is universally reputed to be skilled in the performance of his duty; and, again, there is no imputation against him—there is no suggestion that he had been guilty of any act intentionally wrong—there was no malice designed, either of omission or commission. On the other side, it was said to be the result of accident. This lamentable accident occurred at about one hundred miles from this city, five or six months back, and however you may have been alarmed at the time, there is no reason to suppose that your feelings are engaged further than what you must have participated in as mere citizens of this community—you had no relative, no friend, that suffered by the calamity. Under these circumstances, the court congratulates you on coming to a cool and dispassionate consideration of the case. In the first place, there was a question raised whether this court—being a federal court—could take cognizance of it. That question was very properly left to the court, and you will consider it no longer before you for consideration. The court will now proceed to act upon the case, and it will be your duty to dispose of it, whether it be to the conviction of the accused or his acquittal. The State tribunals, if the matter was not transferred, might have proceeded to hear it, or they might have proceeded by some special indictment. In this court we cannot look for any other but the written law. It may, perhaps, aid us, in appreciating the facts, to take a general survey of the law. We are to consider what the law was that induced Congress to interpose, and how we are to apply it to the case before us. This act was passed in 1838; then, as you are aware, steam navigation had been employed for a period of upwards of thirty years; it had been accompanied by a great series of disasters, and so great was the excitement created, that Congress was induced to interpose an act which might tend to the safety of life and the safety of property. The object of Congress was to look to the sources from which those evils sprung, to provide for the sufficiency of vessels to sustain the weight of boilers, and to avoid the danger that might arise from the management of the machinery, the breaking of the vessel, or shipwreck, or other disasters. Congress required every vessel belonging to citizens of the United States, before it could be navigated on the waters of the United States, to be enrolled, or registered, and no vessel shall be enrolled or registered unless such provisions are complied with; nor could it be put in motion until registered or enrolled. The act of Congress imposes a fine of $500 for every vessel which is put in motion without being registered or enrolled. Unto that end they constituted a Board of Inspectors, and the duties of the Inspectors are pointed out by the statute; they are to examine the vessel—they are to determine her strength and efficiency—they are to examine her boilers, and determine if they are of sufficient strength for the use to which they are to be employed. If they are sufficient, they are to give a certificate to that effect to the master, which is a certificate of enrollment, and which it is necessary for him to have for the employment of the vessel. When put in motion the vessel would be entitled to a higher state of confidence than under the law as it previously existed. If you look to the title of the act, it would seem they had most specially in view a provision as to the lives of the passengers. But first see how scrupulously Congress provided for property on board. In the first place, it is not only necessary for them to go through this form, but Congress has made an express enactment—they must be provided with boilers—an engine—an apparatus to quench fire—they must have the tiller apparatus of metal, and not of rope, in order that it shall not be severed by fire. [The Judge then cited the thirteenth section.] The seventh section declares that the safety valve shall be raised. I will read it, because there seems to be a qualification put on it by the counsel as to its construction:—

Section seven of the act of July, 1838, says:—"And be it further enacted, that whenever the master of any boat or vessel, or the person or persons charged with navigating said boat or vessel, which is propelled in whole or in part by steam, shall stop the motion or headway of said boat or vessel, or when said boat or vessel shall be stopped for the purpose of discharging or taking in cargo, fuel or passengers, he or they shall open the safety valve so as to keep the steam down in said boiler as near as practicable to what it is when said boat or vessel is under headway, under the penalty of two hundred dollars for each and every offence."

I shall remark upon the latter more particularly presently—but, enough to say now, Congress manifestly designed to impose upon the master of a vessel the necessity of having the safety valve raised when the vessel stopped. Whether he can show that there is another mode, adopted by him more successfully, it will be for you to see. But, gentlemen, Congress did not stop there. After they had laid the personal penalty, they framed the law as in the twelfth section, in these words:—

SEC. 12. And be it further enacted, That every captain, engineer, pilot, or other person employed on board of any steamboat or vessel propelled in whole or in part by steam, by whose misconduct, negligence, or inattention to his or their respective duties, the life or lives of any person or persons on board said vessel may be destroyed, shall be deemed guilty of manslaughter; and upon conviction thereof before any Circuit Court of the United States, shall be sentenced to confinement at hard labor, for a period of not more than ten years.

It is on this that the indictment has been framed, and the government seek to prove that by the neglect, carelessness or inattention, the life of a certain person, named in the indictment, was lost. In the first place, gentlemen, this law does not require it to be proved by the public prosecutor that the defendant has been guilty of any misconduct or malconduct designedly—that he had, by design of purpose, done what led to this calamity. It is enough to ascertain, in point of fact, whether he has been guilty of misconduct, negligence, or inattention; and to arrive at that, it will be necessary to have in mind what Congress intended by the term. We are to suppose that Congress intended the omission of those acts which would naturally lead to the consequences that would be criminal misconduct. It matters not the degree of the misconduct; if the facts satisfy you that the acts were the consequences, why, then he is guilty of all the consequences resulting from the disaster. It is important, then, to ascertain what duties are charged on the master—of what duties is he relieved? When do his duties, and the duties of the other officers, begin? Was it the duty of the master to see the quantity of steam in the boiler, and to see the boiler relieved of steam at landing, or was it the duty exclusively of the engineer? You have heard the testimony of experienced officers, and it seems they allot to pilots certain duties; that, in taking a vessel in or out, the pilot is deemed to be the master of the vessel. The engineer has his department, and it is said he is not subordinate to the captain; and if that be so, he is responsible. I apprehend the rule, as to officers on board these vessels, to be precisely that as on ordinary sailing vessels—the master is commander-in-chief, and the engineer has no more right to disobey the order of the captain than the mate has; the pilot has no more right to disobey them than the mate has. If this be a duty arising from his command of the vessel, the captain cannot escape from it. If he has put competent persons to perform it, why, then, the law would not imply culpable neglect on his part. It is a great mistake to think that the pilot is the commander. The captain is responsible for the pilot and engineer—the law recognizes no other master. The law requires the owner and master both to see that proper persons are assigned to those duties. Although the owner may settle the amount of compensation, and may select the officers, yet the owner has no right to take the responsibility off the master. Suppose the engineer was pushing ahead too much, and put on too much steam, the engineer is under the control of the captain. The law says you are bound to see all those persons under your command conduct themselves properly. It may be that the engineer is the more intelligent man, and more competent to judge of the quantity of steam, but the captain is as responsible for it as if it sprung from his own judgment. If the pilot could say "I will take such a course; I will reach Liverpool on such a range;" or the engineer was to say "I'll not keep down the working of the steam to 20; I'll work 40 or 60," could such a state of things be permitted? Certainly not. It is to be believed that the captain recognized whatever is done, unless it be shown that he prohibited it. One of the great questions here is, whether you have a right to say that the neglect to raise the safety valve is sufficient to supply evidence of misconduct. The Judge then referred to a decision in the Supreme Court, where it was laid down that an explosion did not supply *prima facia* evidence of misconduct. But that Judge probably based his opinion upon the fact that it was not made out to the satisfaction of the Court that the explosion resulted from neglect of the safety valve. However it may be, the question was not before that Court as it is here; the trial was not against the master. It is said that this is the duty only under certain circumstances—only when the steam is raised above the head when the vessel is running, and in this case that it is shown there had not been any augmentation of steam. Judge Betts again read from the seventh section, and continued—The law will not contemplate that the captain can run a vessel up to a dock under any head of steam, and then keep her there at that same head. The object was to keep the steam down, and this safety valve was resorted to for that end. Some construction must be given to the language of Congress. We ascertain, probably, that the meaning, the object of the inspection, was for this purpose; the law nowhere forbids the captain or engineer to carry a certain amount of steam. The law authorizes the inspectors to advise in the matter, but it is left to the discretion of the captain. Probably he would be left to more difficulty in defending himself if he carried more than the inspector advised him to carry. Congress had not conferred on the inspectors any means of testing what was the apparent strength of the pressure—they could not force the steam up fifty or sixty pounds to see if the boiler could bear that. They formed their opinion from the best of their judgment. This inspection of the Reindeer was made four or five months previous to the disaster. The inspection must be resumed every six months and the explosion took place only a few weeks before the next inspection should have been made. This constant working would naturally impair the boiler, and the captain should adapt her steam to her condition—he could not use the same quantity of steam as he did when she was new. The law no where says that the amount of steam certified by the Inspector shall always be carried. They are both left under the responsibility, as to prudence and discretion, as to the amount of steam that they are to use. The certificate gives no authority to them to carry that amount of steam. The question here will be whether, upon the evidence before you, the vessel was under a prudent and safe state of steam before the explosion took place; then, if so, if she had water, the master will have a right to his construction of the act. It is contended that if you can reduce the amount of steam, by any other means which will effect the same result, the party is exempted from complying with the act. I do not put that construction on it. The master has no right to deviate from the directions of the act. The law commands that the master shall raise the safety valve. Congress had a right to enact this law, for the protection of lives and property, as much as they had to compel a vessel to be registered. There is a great deal of evidence before you, by men of eminence and high standing, that this mode of raising the safety valves is altogether useless. This may be very well in theory, as lawyers say; but the law says you must do otherwise. You will recollect that gentlemen of craft are always very jealous of Congress interfering with them—physicians, lawyers, are the same, but particularly mechanics. But Congress has a right to lay down the law—it is for others to obey it. I do not think that long usage in opening the doors of the furnace has rectified what Congress intended. There will be a law, which will come into force in a very few days, requiring vessels to have three safety valves instead of one, which are to act by themselves. After thirteen or fourteen years, Congress still adheres to the opinion, that it is absolutely necessary. I do not understand the testimony of the engineers to be, that, generally, it is enough to open the doors; but that if they have been negligent they must have the safety valve open as well as the doors. If experience had demonstrated that the use of the safety valve was attended with more danger the attention of the legislature ought to have been called to it, and they would, by some modification, or declaratory act, have relieved officers of boats from complying with that law. You must be very well satisfied, upon evidence that is undeniable, that this opening of the doors is at all times as safe to passengers as the opening of the safety valves. It matters not whether it is more expense to the owners to open the safety valves, or whether there is more delay in doing so, if it is not proved that it is more relieved in effect. Unless you find it demonstrated beyond all reason, you must resort to the law as it stands, and the captain must resort to the law as it stands, and relieve the vessel in the way the law points out. I think it the duty of the captain to see that the person who has charge of the safety valve raises it; and if he neglects it he is guilty of misconduct. It is not enough for him to say that he depended on the skill of that man. The party under indictment here had no intention to do wrong. The indictment does not depend upon that interpretation; it says you might have done something which would have prevented the explosion. I say, from my interpretation of the law, that it was the duty of the captain to have promulgated to the men having charge that it was their duty to discharge the steam. It was not necessary for the captain to do it personally. It may be more conducive to the service to have the captain allotted to one duty and the engineer to another. The captain may attend to the passengers; he may be sitting in his room; it is not necessary that he should be standing at the wheel; but it is his duty to order that these duties should be performed. If Congress enact that a vessel shall not go in a certain part of the Hudson river, it is not enough for him to say that the pilot did so. You will say, gentlemen, whether you can fairly imply, from the evidence, that the captain directed the engineer to raise the safety valve when they stopped; if not, it is my opinion the indictment must be found. [The Judge then referred to the thirteenth section.] That shall be evidence of wrongful act, but it is not to be taken as proof against the captain; but it shall be taken in connection with other proof. The great question is, whether omitting to raise the safety valve was a proximate cause of the explosion; and on that you are to take into consideration the state of the boiler. If there was a defect, and the explosion took place in consequence of that, then the offence here is not proved. The defendant is called on to answer for his negligence or misconduct, and not when an explosion takes place from other causes. If the defence has proved that the boiler was unsafe, and not reliable, then the defendant is not responsible. He had no means of knowing it. But you must be satisfied that he had no more than a reasonable head of steam at the time. It must be shown that there was a prudent use of steam, and that the explosion took place notwithstanding that prudent use of steam. And you must be satisfied that the explosion took place from the defect of the boiler, and not from the neglect to raise the safety valve. To convict the defendant of misconduct, negligence, or inattention, you are to call to mind the evidence that he did not raise the safety valve, and you are to examine the evidence as to the condition of the safety valve; and if you think it is doubtful whether she would not have exploded, even if the safety valve was raised, why, then, he is not responsible. The Court has no doubt, gentlemen, of your discretion and sagacity, or of your disposing of the case according to the law and the facts.

The jury retired at half-past twelve o'clock, and not having agreed at a quarter past seven o'clock, they were discharged by consent of counsel on both sides.

It was understood the jury stood seven for conviction and five for acquittal.

Assault with a Dangerous Weapon.—Thos. H. Lee was then placed upon trial, for cruel and unusual punishment, at sea, on one of the crew of the ship James Hall.

William Elliott, examined by the District Attorney, deposed—He was born in Ireland, but has been eighteen years in this country, and is now only twenty-one years of age; I was employed before the mast of the James Hall, in November last; she was lying in St. Jago de Cuba, about three miles from the city; Thomas H. Lee was the first officer; he called me and another, about four o'clock in the morning, to go to St. Jago; I said it was too soon to go to work; he then said, "You son of a b——, I'll let you know it is not too early," and he struck me across the jaw with the handle of a broom, which broke my jaw; after he struck me I threw the stanchion at him.

On cross-examination by Mr. Geo. F. Betts, the witness said he did not strike the mate with the stanchion; he only threw it at him; witness went into the forecastle for his knife, and if he had found it, he certainly would have used it on the mate. [Witness produced a piece of bone that came out of his jaw.]

The jury found the accused guilty, with a recommendation to mercy, because the sailor (Elliott) refused to do duty, and also because he had assaulted the mate with the stanchion. The Court sentenced Lee to pay a fine of $10, which he paid, and was discharged.

Superior Court—Part Two.

Before Hon. Judge Campbell.

TRADE COMBINATION—A CHECK ON HIGHER LAW.

JAN. 19.—*James Cosgrave, vs. C. G. Bird.*—This was an action for assault and battery. It appeared that the defendant is one of the firm of a respectable statuary manufactory in the Bowery. In March last, the plaintiff, with other workmen, about one hundred in number, turned out for increase of wages, and went to the premises of the defendant to endeavor to intimidate him. The foreman ordered them out, and they refused to leave. Mr Bird was then informed of the transaction, and on coming in, directed the men to retire; this they refused to do and he armed himself with a piece of lead pipe, and in the rencontre that ensued, struck plaintiff a blow. The defence is, that the assault was justified in repelling aggressors. The Judge charged that the defendant was justified in using a certain degree of force to repel the intruders and it was for the jury to say whether he had used more force than was necessary; if not, the defendant was entitled to an acquittal. The jury, without leaving their seats acquitted the defendant.

Capt. Jesse Loveland, master of the bark Parthean, from Cedar Point, Maryland, committed suicide at New Orleans on the 11th inst., by shooting himself with a blunderbuss.