THE WAR AMONG THE DEMOCRATS.

REPLY TO THE BRONSON AND O'CONOR LETTERS

SUPPOSED TO HAVE BEEN

WRITTEN BY SECRETARY MARCY.

WAR TO THE KNIFE,

&c., &c., &c.

The Washington *Union*, the chief organ of the Spoils Cabinet, yesterday gave publicity to the following document, to which the editor directed attention by saying "the writer is a distinguished citizen of New York." It is almost unnecessary to add that the author is understood to be Secretary Marcy, as was previously announced in our telegraphic despatch:—

NEW YORK, Oct. 21, 1853.

TO THE EDITOR OF THE UNION—

I have read the letters of Messrs. Bronson and O'Conor with great satisfaction; for they enable the public to understand the real ground upon which these gentlemen propose again to withdraw from the democratic party, for this is not the first movement of that kind on the part of either of them. Their letters are characteristic. Mr. Bronson's is full of misrepresentation, and Mr. O'Conor's of special pleading. It is due to the latter to say that his personal integrity is unquestioned. He is a mere lawyer, and his political course has always been governed by professional rules. Ignorant of the politics of the nation and State, he takes the first retainer offered, and then serves his client with zeal and fidelity. I have always regretted that the Union democrats did not engage first his services.

Both of these gentlemen, the one covertly and the other frankly, take the position that the union of the democratic party in New York was a mere coalition for unworthy purposes, which, as honest men, they cannot countenance; yet their letters concede it to be very desirable that those who separated on an exciting question in 1848 should hereafter act together in support of the great principles of the democratic party, and they come down to the point that the manner only of reuniting the party in this State was objectionable. This difficulty has been discovered at the end of three years of union. The consciences of these gentlemen, like the courage of their friends at Syracuse, seem to be subject to intermittent attacks of horror and dismay, after long periods of reflection and repose.

It is apparent that neither Mr. Bronson nor Mr. O'Conor could object to the return of any one to the democratic party after opposing its principles or its candidates. Their own antecedents forbid their doing so. The only advantage they claim over those whom they so loudly condemn is, that they came back to the party, after a long estrangement from it, in a more regular way. Allow me to illustrate Mr. O'Conor's idea by his own case. He is too modest to do this himself, and borrows the name of another gentleman for hat purpose. In 1839-'40 he followed Mr. Tallmadge's defection on the currency question, opposed the independent treasury, supported General Harrison, gave his assent to the doctrines of the whig party, and made war against that Baltimore platform upon which he now stands. Now, mark the right way, according to Mr. O'Conor of getting back into the democratic party when it is again successful. Instead of coming into the party formally, he thinks those who have opposed its candidates and principles must drop into the ranks in a miscellaneous way, as Mr. Bronson and himself have done heretofore. This is the whole point of his letter.

Now that it is proposed to break up the democratic party in New York, with a view to having it re-united according to the practice of these gentlemen, it is worth while to consider if there are no obligations of good faith and common honor that will be violated by the act. Mr. O'Conor is most unfortunate in his statement of facts. There can be no misunderstanding about the history of the union of the democratic party in New York. Those who supported Mr. Van Buren in 1848, did not, as is asserted by Mr. O'Conor, propose the re union of the party. In the spring of 1849, Mr. Edwin Croswell drew up a proposition for the adjustment of the political differences in the State of New York. It was signed by Messrs. Peckahm and others, who constituted the State executive committee of the Cass section, and sent to the central committee of the opposing organization. A reference to the columns of the Albany *Argus* will show that during the spring and summer of 1849 that paper constantly reproached the other section for its reluctance to unite under a common organization.

The two distinct conventions held at Rome in 1849 were called in consequence of this movement of Messrs. Croswell, Peckham, Beardsley, and others. The official proceedings show that every proposal for union came from Messrs. Cutting, Beardsley, Peckham, Bowne and others. So earnest were these gentlemen, that they made a variety of propositions to the other convention in the endeavor to unite upon doctrine.

Their organ, the *Argus*, denounced the other convention because it declined these propositions. The following preamble and resolution offered by Mr. Cutting, completely show how inaccurate is the statement of Mr. O'Conor, that the union of the party was sought only by the opposite section and by some time-serving hunkers:—

This convention having exhausted all honorable means to conciliate and harmonize the differences which have unfortunately distracted the democratic party, and the convention at the Baptist Church having rejected the overtures made to them with a view to secure that object, and this convention having thereby failed to accomplish a result so anxiously desired by the great body of the democrac throughout the State, it is now compelled to adjourn without having been able to establish a reunion; therefore be it

Resolved, That we appeal to our brethre throughout the States on behalf of the sincerity and earnestness of our exertions to heal existing dissensions, and we cordially invite all true democrats, whatever may have been their former differences, to lay them aside and unite with us upon the principles declared by this convention.

This preamble and resolution were unanimously adopted in a hunker convention, of which Messrs. Beardsley, Dickinson, Cutting, Ward, Peckham, Bowne, Follett, and Mitchell, were members. All these gentlemen in their speeches declared that they earnestly desired the success of the negotiations in which they were engaged, and they reproached the other organization with a reluctance to meet them upon the terms offered.

A month later, at the convention held at Syracuse, composed exclusively of delegates from those who supported General Cass in 1848, the proposals for union made by Messrs. Cutting, Beardsley, and others, were renewed and accepted by the opposite section. Each section named half the candidates and adopted its own resolutions.

It is, then, evident that the idea of this "foul coalition" originated with those who are now acting with Messrs. O'Conor and Bronson, although it is due to the great majority of those who voted for General Cass in 1848, to say that they are determined to abide by the terms of the union in good faith, and they will not follow the example of certain gentlemen who have abandoned the democratic party because they were unsuccessful suitors for the favor of the supporters of Mr. Van Buren. The records show that the movements for the reunion of the democratic party were mainly directed by those who now direct the movements of Messrs. Bronson and O'Conor, and their motives at this time will be explained.

Mr. O'Conor complains that since the union the former divisions have been kept alive by the division of the nominations and by separate caucuses at the State conventions. But who created this difficulty? Immediately after the union, Mr. Dickinson proposed to a prominent supporter of Mr. Van Buren that he should be nominated for the office of Governor, and Mr. Dickinson be returned to the United States Senate. Mr. Beardsley was very active and open in his efforts to make the same arrangement with the friends of Gen. Dix. When the district delegates to the late Baltimore Convention selected the two State delegates, Messrs. Dickinson and Beardsley proposed that the last named gentleman should be associated with Mr. John Van Buren as representatives of the State. In the State Convention of 1852, Mr. Birdsall, the confidential friend of Mr. Dickinson, was known to be cordially co-operating with Mr. Van Buren to procure the nomination of a leading free soiler to the office of Governor.

Mr. O'Conor also complains of the separate caucuses of the "two sections" at the State conventions; yet he knows that while he took part in these very caucuses which he now finds it convenient to condemn, those who wished to obliterate all traces of former divisions protested against the system of separate caucuses; and because they would not participate in them, or be bound by them, in 1851, they were denounced in unmeasured terms.

Is the position taken by Mr. O'Conor in his letter consistent with a nice sense, or indeed with any sense, of personal honor? He admits that he was a member of the State convention in 1850, held under the terms of the Union; that he reported the resolutions, and took part in making the nominations, and made no objection to them at the time; but he claims to have been consistent because he bolted from them when he returned home, and united with the whigs at Castle Garden. The bolting may have been "consistent with his former course;" but was it honorable? When Mr. O'Conor was elected to this convention, he knew that gentlemen would sit as members who had opposed General Cass in 1848. Why did he go to a convention in which he knew they would sit? Why did he endeavor to procure the adoption of certain resolutions by the aid of their votes, or to be binding upon them in spite of their votes? Why did he seek the nomination of candidates whom he liked, and to place the whole united democratic party of the State under an obligation to support them, when all the time he meant to repudiate the whole transaction, unless every end he went to serve, and no others, was accomplished by the convention? To have pursued an honorable course, ought he not to have said, "As I am opposed to the union of the democratic party, and will not acquiesce in it, I cannot, with propriety, sit in a convention which is organised under the union. Mr. O'Conor was, however, a candidate for election to the Union State Convention of 1851, and he served on a committee of that body. In 1852 he was made one of the State electors by the "foul coalition," as associate with Mr. Piper, who was a Van Buren man in 1848. In the election of 1852 he attended public meetings, and identified himself with the union democratic party of New York. He spoke from the same stand with General Dix and others, who had supported Mr. Van Buren. In 1853 he took office under the national administration with Messrs. Fowler, Cochrane, and others. But he was not made a member of the Cabinet, and the office of District Attorney is not lucrative. He has now discovered that the union of the party is a mere coalition.

In his communication, Mr. Bronson effects to be very much surprised that he is called upon to carry out the policy of the President and his cabinet. Now, it is notorious that Mr. Bronson expressed, in the most open and unequivocal manner, his approval of this policy, and his determination to carry it out, until the decision of Secretary Guthrie that the Collector of New York was not entitled to any forfeitures or other profits beyond his salary of $6,000 per annum. Since that time he has carried on a guerilla contest against the administration. He has appointed hard shells who were in open opposition to it; he has appointed some barnburners; but he has utterly proscribed the hunkers who were in favor of the union of the democratic party upon the principles of the Baltimore Convention—men who have always been true, and rendered most essential services to the democratic party.

It would have been foolish in the last degree to resign the office simply upon the ground that its compensation was unsatisfactory. He, therefore, takes issue upon his accountability to the administration for his appointments. Certain gentlemen have been loud in their denunciations of those who repeated in the convention held at Syracuse in September, last the very propositions which they themselves made at home in the very same year. Why a change of place and the lapse of one month's time deprived these propositions of their vitality I am unable to understand. But has the reunion of the democratic party proved to be a false or mischievous movement? In 1849 the democratic party was overwhelmed in the State and nation. Most of the democratic Senators from the Northern States (Gen. Cass included) were under instructions to vote for the Wilmot proviso.

The adjustment of the difficulties in New York was of great service to the democratic party. It reanimated its hopes and its courage, it destroyed the "third party" in other States, and was the first step towards the great political revolution of 1852. Were these advantages purchased by any sacrifice of national principles? The resolutions adopted in the State conventions since the union are more in accordance with the Baltimore platform and the inaugural address of the President than the sentiments expressed by Messrs. Beardsley and Dickinson in the convention at Rome. It was at this convention that Mr. Dickinson made his remarkable anti-slavery speech, in which, among other things, he said: "On this territorial question my position is this: I am, as an individual and a legislator, not in favor of the extension of slavery; but out and out, up and down, live or die, I am opposed to its extension. I repudiate the institution in all its forms, and in all places—whether at the North or South, the East or West—whether the bondman be black or white, and whether the limb or the mind be held in servitude." Most abolitionists are satisfied with merely repudiating slavery, but Mr. Dickinson's intensity throws even Garrison and Gerrit Smith into the shade. He repudiates it "out and out," "up and down," "live or die."

The committee appointed to conduct the negotiations at Rome, upon the part of the hunkers, consisted of Chancellor Walworth, Francis B. Cutting, R. W. Peckham, Samuel Beardsley, S. S. Bowne, and others. They proposed to commence the negotiations by laying down the following propositions:—

Resolved, That we believe that the people of the North are opposed to the introduction of slavery into Territories now free; but we deem it unwise and impracticable, and cannot consent to make that question a party test, or to incorporate it as an article of the political faith of the democracy of this State.

Have the resolutions since adopted at the State conventions been less rational than this?

Look at the resolutions of the first convention of the reunited democracy, held in 1850:—

Resolved, That the democratic party of New York are proud to avow their fraternity with, and their devotion to, the great principles of the democratic party of the Union, as declared at the National Democratic Conventions of 1840, 1844 and 1848; and they look forward in hope and confidence to the complete triumph of that party in 1852.

Resolved, That we congratulate the country upon the recent settlement by Congress of the questions which have unhappily divided the people of these States.

Resolved, That the democracy of the State of New York, appreciating the value of union, fraternity, and concord, standing upon their ancient principles, present their candidates with a confident reliance upon the united and cordial support of their principles in the State and national councils.

These resolutions, together with others, were offered by Mr. O'Conor, voted for by him, and adopted by a majority of 66. Was not this a direct endorsement of the reunion of the democratic party and its candidates by that gentleman, as well as the rest of the convention?

The same resolutions, word for word, were adopted in the united convention of 1851. The convention of 1852 unanimously adopted the Baltimore platform, and—

Resolved, That it is a subject of sincere congratulation that entire and perfect concord is restored to the democratic party of New York, and that it again speaks with one voice, acts from a united will, and moves forward to victory with a uniform and unbroken front.

The convention of 1853, the action and candidates of which are opposed by Messrs. Bronson and O'Conor, adopted the following resolutions:—

Resolved, That we approve of the policy indicated by President Pierce in the inaugural message and in the formation of his cabinet; and the administration is entitled to, and will receive, our individual co-operation and support, while faithfully adhering to national principles, essential to the best interests of our country and to the permanent union of the democracy of the State and nation.

Resolved, That we reaffirm, as a fixed and settled feature of the political creed of the democracy of New York, a firm adherence to the broad national position established by the resolution constituting the Baltimore platform of June, 1852, and the sound and patriotic declaration announced to the world in the inaugural address of President Pierce.

Resolved, That under the sacred pledges of the constitution, our sister States possessing the institution of slavery are entitled to efficient remedies to enforce their constitutional rights to the surrender of fugitive slaves—a right which the democracy of New York unhesitatingly recognize and are ever ready honestly to support; and that the laws to enforce the same should be respected and obeyed, not with a reluctance encouraged by abstract opinion as to their propriety in a different state of society, but cheerfully and according to the decisions of the tribunal to which their exposition belongs.

Resolved, That the democracy of this State, having, in letter and spirit, adopted the principles embodied in the resolutions of the national platform, now in convention, assembled, repeats a portion of that platform, as indicating a past compact, and present belief.

The ninth section of the Baltimore platform is here inserted:—

Resolved, That Congress has no power, under the constitution, to interfere with or control the domestic institutions of the several States, and that such States are the sole and proper judges of everything appertaining to their own affairs, not prohibited by the constitution, and that all efforts of the abolitionists or others, made to induce Congress to interfere with questions of slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences; and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanency of the Union, and ought not to be countenanced by any friend of our popular institutions.

Resolved, That the democratic party will resist all attempts at renewing, in Congress or out of it, the agitation of the slavery question, under whatever pretext the attempt may be made.

Since the union, have Messrs Dickinson, Beardsley, Peckham, and the rest, deemed it necessary to express their abhorrence of slavery? On the contrary, have not they and all others come up to the principles of the Baltimore platform, and suffered the question to rest?

It is not necessary in New York to discuss the proposition of Judge Bronson in regard to the superior morals of his friends—such, for example, as Sickles, Barr, and Burr. If he prefers their association, no one has a right to interfere with his taste or inclinations. The recorded history of the democratic party of New York shows that its reunion was brought about by the supporters of Gen. Cass in 1848; that it quieted the dangerous agitation upon the subject of slavery; that it restored the ascendancy of correct political principles in a number of States; that it made New York democratic against the strenuous efforts of Mr. Dickinson and his friends, and contributed largely to the success of Gen. Pierce in 1852. All this has been gained by the re-union of the democratic party, and every democrat may well look with distrust upon any one who seeks to destroy that re-union and revive a sectional party.

JUNIUS.

THE HENRY CLAY STEAMBOAT CALAMITY.

United States Circuit Court.

Before Hon. Judge Ingersoll.

OCT. 25.—*The United States vs. Thos Collyer, John F. Tallman, John Germain, Edward Hubbard, Jas. L. Jessup, James Elmendorf, and Charles Merritt.*—[Mr. Merritt has not appeared during the trial.]

Pursuant to adjournment the Court met at 10 o'clock. The first witness called was

William N. Wilkes, examined by Mr. Dunning, who deposed—That he lived in the town of Bethnal, in Albany county; I have lived there in the neighborhood of twenty years; I was employed on board the steamer Henry Clay as fireman; I was employed by John Germain; I was employed on board the Clay for thirteen or fifteen days; they were in the month of July, 1852 I ceased being fireman in July; I went up on her on the 27th July; I ceased to be fireman on the 28th; I went to Albany in her on the 27th; I had been fireman from thirteen to fifteen days before I left her. Q.—Who were the officers having charge of her? A.—Capt. Tallman. [Objected to, admitted.] A.—John F. Tallman, Capt; John Germain, Engineer; Jessup Charles, I think his name is, was clerk; I have seen him here in court; I do not know his given name.

Counsel for defendant admitted that it was James L. Jessup.

Witness continued—Mr. Hubbard was first pilot; I don't know his first name; Mr. Elmendorf second pilot; I don't know his first name; they are both sitting there in court; Charles Merritt was assistant engineer; I went up in the Clay to Albany on the 27th July; the officers I have just spoken of were the officers of her; I saw Mr. Collyer that day; the Armenia dropped astern of us on the 27th, as we were going to Albany; the Armenia went to Albany that day; the Armenia left the dock first on the 27th

Q.—Did you hear any conversation between Mr. Collyer and Captain Tallman on the 27th in respect to the speed of the boat? A.—I did not hear anything about the speed of the boat, but I heard Mr. Tallman say they intended to beat the Armenia on the trip up.

Mr. Jordan objected to the testimony, as it had reference to another transaction.

Mr. Dunning said he intended to connect it with the trip down.

Mr. Hall said the evidence had reference to both trips. [Admitted.]

Witness continued—I heard Mr. Tallman say to Mr. Collyer that he intended to beat the Armenia up and down.

A Juror—Did Mr. Collyer make any reply to this?

Witness—I heard no reply.

To Mr. Dunning—Collyer and Tallman at that time stood forward of her boilers, on the main deck; the Armenia was pretty near the side of us, but further off on the westerly shore.

Q.—At what point of the river was this? A.—It was just above York here; I was at the boat on the dock at Albany on the morning of the 28th July; I saw Mr. Collyer there; he was at the gangway; when the boat left Albany I said to Mr. Collyer, "She won't reach New York."

Mr. Wheaton—Is he a prophet?

Mr. Dunning—He seems to have prophesied rightly on that day.

Mr. Wheaton—A prophet hath no honor in his own country.

Q.—By Mr. Dunning—Why did you leave the boat; why didn't you continue as fireman?

A.—Because I didn't think she was a safe boat.

Q.—Did you at any time while on board observe the inspector's certificate?

A.—Yes sir; it hung a little in front of the engine room on the larboard side; she was permitted to carry thirty pounds of steam by that certificate.

Q.—Were you in the habit of observing the steam guage while fireman on board?

A.—Very often. Mr. Jordan objected to the testimony of the guage while he was on board. We object to it because it was illegal, and we are afraid of it because we know the witness.

Mr. Dunning offered to show their habitual custom in carrying more steam than warranted by the certificate.

The Court did not see that it was connected with the transaction at issue, and ruled the question out.

Mr. Dunning asked the Court if he would be permitted to show by this witness that the vessel took fire on former occasions. And then it would be for the jury to say whether it was from the improper structure of the boat, or some defect in the machinery or boiler?

[Not admitted.]

Cross-examined by Mr. Wheaton—Q.—You used to live with Mr. Mott, near Albany? A.—Yes, sir.

Mr. Wheaton—I thought you was the man.

Witness—I lived with him a couple of years; I never was arrested for stealing; I have no brother of the same Christian name; I have two brothers; I was in his employ six or seven years ago; I have worked for him since then but not by the month; I have worked at different things for the last year; I was on the Greenbush ferry a while as deck hand; I only went in another boat once for a week; I have been on the river; I came down in a sloop; but I have not been well all the summer; I have been out under the sun pretty much all the summer; I was on a farm ploughing and planting, pretty much all the summer; I have been subpoenaed on this trial by the Grand Jury, and otherwise three or five times; that's as near as I can come to it; I say I quit the boat because I did not feel safe on board of her.

Q.—Did you not quit the boat because they got another man as a substitute for you?

A.—No sir.

Q.—Did you swear before the Grand Jury "I was employed on board the Henry Clay as a fireman, and left the boat in consequence of another man being employed to assist me?"

A.—No, sir, nor anything like it; I don't recollect that I swore to do the business, I left the boat because I thought I was competent myself.

Q.—Will you swear that you didn't?

A.—I don't recollect anything about it; I did not know that an assistant was employed; I always thought I was able to do my own work; I did not know another person was employed to do my work.

Q.—You say you were afraid to remain on the boat; what were you afraid of. Do you decline to answer?

A.—As far as I understand the question, I do sir.

Mr. Dunning said that he wished the question to be explained to the witness.

Witness, to the Judge—I do not understand what he means by "decline."

Judge—Do you refuse to tell?

A.—No sir.

To Mr. Wheaton—The reason I left was that I was afraid of my own life; I never have been an engineer on board of a boat; I have been in no other capacity but deck hand and fireman on other boats; I was first fireman on board the Isaac Newton in '52; that was before I was on the Henry Clay; I think it was about the 1st of May; I did not leave her because I was afraid of my own life; I left because I was unwell; I went back to her again, and left her again after the 4th July; I can't tell exactly how long my illness continued.

Q.—Dou you mean to swear you were not discharged from her? A.—Yes, sir, I do: it was a day or two after I left the Newton that I went on board the Clay; I was not long sick; the first time I acted as fireman was about the 1st of May, 1852.

Q.—Did you mention to the Captain, or either of the officers on board the Henry Clay, the reasons why you left the boat? A.—No, sir, I did not; I ceased working on board of her here in York; I shipped at Albany; I think I quit work on the 26th, between the hours of three and five in the afternoon.

Q.—Did you give notice to any of the officers? A.—I told some of the firemen; I gave notice to Charles Jessup on my way down from Albany.

Q.—Did you swear before the Grand Jury that the reason you quit was the fireroom was so hot, it being under the deck? A.—Wont say; I am not certain; I don't recollect that I swore anything before the Grand Jury about quitting, because I was afraid of my life; I don't know for certain who was the first person I told that I was about quitting; I was not before the Coroner's Jury; the first jury I was before was the Grand Jury in this city.

Q.—You went up on the 27th, as a passenger? A.—I went up to get my money; I went to Albany; I did not land at Newburg; I stood on the forward deck when I heard the conversation between Mr. Collyer and Tallman; there were others around; I recollect one of the firemen was on the forward deck; his name was Daniel Brown; don't know that he was near enough to hear the conversation; I was standing on the forward deck; I was doing nothing; I did not see Mr. Collyer and Capt. Tallman when they first came up together.

Q.—Was not Capt. Tallman sick that day? A.—I don't know, sir; I saw him on deck that day doing his duty.

Q.—You are sure of that? A.—I saw him around, sir; I do not know how long they were talking together; they stood together about five or ten minutes; I heard those few words I told you; I was about this distance (10 or 12 feet) from them; the boat was in motion at the time; I was passing by them when I heard the conversation; heard nothing but those remarks; it was out of New York a little ways, I heard the conversation; I think a little this side of Harlem—Manhattanville, I mean to say; I had served as deck hand before that, either in '51 or '52, on the Oregon; it was before the H. Clay was burned, or thought of being burned; I was two or three months on board of her; when I told Mr. Collyer that the boat would not reach New York, he was standing on the after gangway; I was on the dock.

Q.—Are you the man that poured the camphene down her boilers?

A.—No sir-ee. (Laughter.) I would like to know how you would get camphene down the boiler?

Q.—Is there no grating over the boiler? A.—I never observed it, that I recollect; probably there is—if there is, it is all wood; I don't recollect that there is a grating over the boiler, so as that I could pour camphene there; I never propheseied before that a boat would not reach New York I only said so, but I had no idea that it would be so when I said it; I won't say exactly what the boiler was covered with; I did not pay anything for my passage up; I went to some of my folks when I got to Albany—some of my acquaintances.

Cross examined by Mr. McMahon—I was subpœnaed three or four times; I was first subpœnaed last fall. Q.—How did you come to be subpœnaed?—didn't you go to the District Attorney's office? A.—Not until I was sent for; I don't think I was here more than three or four days at that time; I was on the Newton some three or four months since I was subpœnaed; I was on the Newton before this accident happened, and after it; I was next subpœnaed I think, in January; I don't think I was here more than four or five days then: I went home sick; I had been sick for some time; I had taken cold, and it had settled all through me. Q.—Had you been taking any mercury? A.—No, unless the doctor gave me some while I was lying sick a-bed; after that I was driving a team for my brother for about sixty days; I did not go back as fireman, because my health would not permit it; I have worked at different work since. Q.—Did you work any two weeks together since the sixty days? A.—Oh, yes, sir; yes, sir—(Laughter); I was next subpœned in June, then went home, and was ploughing; I was firemen in all two months before the accident; I take a glass once in a while; I am not in the habit of getting drunk. Q.—Wasn't that one of the complaints made against you? A.—No, sir, never was such complaint made against me; as to the remark, I heard it while passing Mr. Collyer and Mr. Tallman; Taliman said to Mr. Collyer, "we must beat the Armenia up and beat her down;" that conversation took place right forward of the boilers on the main deck; not more than three or four or five feet farther than the boilers; Q.—Was it in either of the gangways? A.—It was about the centre of the boat; they were standing together. Q.—What way did they look? A.—They were looking to the west towards the Armenia; the Armenia was farther out in the river to the west; the Clay was a little ahead of the Armenia at the time; Q.—He was looking towards the west? A.—I think towards the westward is as nigh as you can get it; I don't know to whom I first made mention of that remark; I believe I did not before the Grand Jury give evidence of such remark; I can't say why I did not; Captain Tallman, I think, had on a black dress that day; I won't say for certain: I can't say whether it was cloth or bombazine; I think it was a black hat he had on, or a white hat with a black band; I am pretty sure he didn't wear a cap; I don't know that I ever saw him with a cap on; Mr. Collyer, I think, had on a drab coat; I won't say what kind of pantaloons; after I heard the remark I went forward; I can't tell how long I remained forward; can't tell if I remained forward an hour; I was backwards and forwards on different parts of the vessel; I am certain that I did not land before I got to Albany that day; I saw Capt. Tallman on different parts of the vessel; after we left Newburg, I saw him on deck; I wont say that I saw him on deck between West Point and Newburg; the vessel landed at Poughkeepsie that day; I think I saw Capt. Tallman when we were at Poughkeepsie; I am pretty certain I saw him at Hudson more than once; I think I saw him perform his duties as usual after we left Poughkeepsie; to my best recollection I think I did; I can read, but I can't write; I can read writing if it is very plain; if not, I can't

Q.—This certificate which you saw, was that in writing?

A.—Part in writing and part in print; I don't know that I saw any certificate in front of the captain's office; I saw it in front of the engine room; I can't recollect anything I saw in that certificate except thirty pounds of steam; I could not say for positive who signed that certificate; I saw it different times; I could not say when was the last time I saw it; could not tell what day of the week I saw it; I don't think I was more than once before the Grand Jury; I don't recollect that I swore before the Grand Jury that I saw Captain Taliman at the gangway when the boat left Albany.

Q.—Why don't you recollect that as well as other things? A.—You will often find it the case that a person will recollect one thing and forget another.

Cross examined by Mr. Jordan—I don't know William Radford; I could not say whether he was on board the Henry Clay on the 27th, as I don't know the man; I have heard of a man named Belknapp; I don't know him by sight; I can't tell if he was on board. I can't say whether it was at North Moore street or Harrison street the vessel was wharfed at; I could show you the wharf, but I could not tell you the name of the street; I don't know where Radford's store is; I can't say I ever was there. Q.—Do you know whether Radford was agent for the boat or not? A.—I couldn't say, only I heard the engineer say he was an owner; I saw the Armenia go out of New York that morning; the Clay was a little ahead; they were far apart; the Clay landed at Hammond street dock; it was after that I heard the conversation; I couldn't say how soon after she landed; I ate one meal on board the Clay; I believe it was dinner; I won't say that I had breakfast before I started; I am pretty sure I didn't; I don't know what hour they had breakfast on board; I don't know that Mr. Collyer and Captain Tallman went down to breakfast immediately after they left Hammond street dock; I did not see them go down to breakfast.

Q.—Do you know that it is the custom to have the breakfast ready, and for the officers to go down immediately after they leave the Hammond street dock? A.—I do not know; I could not say when breakfast was announced that day. I could not say whether it was before or after breakfast that I heard that conversation; the Armenia was astern of us a little when we left the Hammond street dock; she did not pass us; she did not land at Hammond street, I guess the first place she landed was Corlears dock.

To a juror.—The Armenia left the dock at the other side where the company's boats start from; I don't know the name of it.

Juror.—If you had been a fireman on board the Newton for two months, you ought to know some of the decks.

Witness continued—The Armenia started before the Clay; she was out of her wharf as the C. went out of her's; I won't say she was out of her wharf first, but I do say she was out at the end of the wharf when the Clay got out of hers; the Clay was ahead of her at Hammond street, when she took in her plank; I went to Van Weise's, in Albany, when I left the boat.

Q.—That's a drinking house. A.—No, sir-ee; they don't keep a drinking house; Van Weise lives at 151 Broadway, along the dock; it appears to me I stopped there that night; it was either there or at Schoonmaker's; I staid at either one of the places, but I can't tell which; Schoonmaker lives in Broad street; Broad street lays northwest from the Clay's dock. (Witness described the locality of Broad street, Albany.) Can't state positively whether I stopped at Van Weise's or Schoonmaker's that night; I got down to the Clay's wharf next morning before six o'clock; I had no business there, but went down; I had no business with any of the officers; I was not on board the Clay that morning, that I recollect.

Q.—Do you swear positively that you were not? A.—I don't think I was Mr. Jordan—I put the question to you again. Witness—I tell you I don't think I was.

Q.—Will you swear that you were not on board of her that morning?

A.—I will not swear that I was not, and I told you I could not swear that I was; she lay with her side to the wharf, headed down. Q.—Did you see anybody go on board that you know? A.—I saw Mr. Connor and his wife; they are all I recollect that I know; I stood on the wharf a little from the gangway when they went on board, probably fifteen or twenty feet from the gangway. it wasn't over fifteen or twenty minutes before the boat started after Connor and his wife went on board; I could not say where I went to when the boat started, I might have walked around.

Mr. Jordan—I know you might; you might have jumped into the dock. Can you tell any place you went to when the boat started? A.—I didn't go to any place that I know; Connor and his wife went on board at the after gang way, and I remained where I stood until after the boat started; I cannot say how long I had been standing at that place before Connor came; I can't state any place that I was at, or anything that I did that morning before Connor came, except that I walked around; I don't remember any place I stopped; I was not walking with Collyer when I made the remark to Collyer; the steamboat was passing me at the time.

Mr. Jordan—She had got under way when you made the remark?

Q.—Had you started from the place where you were when Connor came, when you made this remark to Collyer?

A.—I don't think I was much from it; Mr. Collyer stood at the gangway when I addressed him; the gangway was closed.

Q.—Were you afraid of your life when you went up on the 27th.

Witness.—Was I? Mr. Jordan—Answer the question.

Witness.—I was afraid of my life on that day; I don't know what other boats went up that day; the railroad cars went up, the Harlem and the Hudson; I made the remark to Collyer as the boat left the wharf; I don't know whether he heard it; I was not standing with my back to Connor when he came to the boat; Conner came from Broadway down to the steamboat; I couldn't tell which street he came down, but I saw he came from Broadway.

Q.—You saw him come from Broadway and go on the plank and you can't say what street he came down?

A.—No; you couldn't tell. He could come down Lydia street or Hammond street; I saw him cross lots with his wife to come to the boat; I was faced to the stern of the boat when I saw him; I was facing northerly; I was then a little south of the boat; I was near the forward gang plank; I had not been on the gang plank that morning that I recollect; there was a forward gang plank out that morning.

Mr. Jordon—I won't inquire of you if that gang plank was opposite the boilers. How near to the gang plank did you stand? A.—It couldn't have been more than fifteen feet; after Connor came I moved aft; I won't say I was ten feet from it: I don't think the steamboat was fifteen feet from me when I made the remark to Collyer, for I stood right on the edge of the wharf; I won't say how far I was from the edge of the wharf when Connor came; I could'nt have been over three or four feet; I don't think I was over two or three feet from the wharf when the boat started.

To a Juror—It was two or three feet from the string piece, or edge of the dock.

To Mr. Jordan—I was within two or three feet from the forward gangway; I can't say how far it is from the forward gangway to the after gangway; I don't think it is fifty feet.

Q. Don't you know that the wheelhouse, the barber's shop, the water wheelhouse, and water closets, are between the two gangways? A. There is but one water closet. Q. How far is it from the stern of the water wheelhouse to the stern gangway? A. I think it is not over ten or fifteen feet; I never measured the distance, and I won't swear certain. Q. Do you think it is over three feet? A. I should think it was, sir; a number of people stood at the gangway when Mr. Collyer was there; I don't recollect knowing anybody that was there. Q. How did you address Mr. Collyer? A. I said "she will never reach New York;" that is the way I addressed him, and that is all I said; I don't recollect anybody else speaking a word at the time; I don't recollect that Collyer said anything; he made no reply.

Mr. Jordan—Then we have it that when the boat was leaving, you said she would never reach New York; you said it to nobody and nobody said anything to you. Now tell me, didn't you swear before the Grand Jury that you had been on board the boat that morning?

A. I don't recollect.

Q. If you swore to it, was it true? A. I always swear to the truth; if I swore I was on board, it is true; I don't swear to a lie.

A Juror—How came you to go up on the Henry Clay that morning?

Witness—I went up to get my money; there was money due me.

To Mr. Jordan—Conner was no relation of mine; I was acquainted with Connor, not his wife; there was no intimacy between Mr. Conner and me; I believed the boat would not reach New York as I said; I made the remark to Mr. Collyer; he didn't seem to make any answer; I didn't halloo to Mr. Collyer.

Q. Did you swear before the Grand Jury that you were on board the Henry Clay that morning, and that you jumped ashore as she started? A. No sir.

To Mr. Dunning—The Armenia commenced running to Albany on the 27th of July; that was the first trip she made; she took the place of the Reindeer.

Mr. McMahon asked the Court to order Wilkes to remain until the conclusion of the trial. The Court assented.

Mr. Jordan suggested that if he should not remain, his testimony be stricken out.

Mr. Hall said he did not know any instance where the Court would interfere with a witness for either side, or compel his attendance.

The Court said it was in the discretion of the Judge to direct the witness to remain; he is subpœnaed here as a witness and he will remain.

Mr. Hall said that the Prosecuting Attorney is to certify that the witnesses attended to such a day. We cannot certify that Wilkes attended for the prosecution for three weeks to come. He submitted that the Court had not the power.

Wilkes—I want to say to the Judge that my family are sick at home, and I can't stay.

Judge—The counsel should say what object they have in view in detaining him.

Wilkes—If they telegraph me I will come down.

Mr. Jordan—You must stay until the Judge decides. We expect to prove by several members of the Grand Jury what this man swore to.

Judge—Can you examine the Grand Jury on any matters that come before them? I apprehend not except on a trial for perjury.

Mr. Hall read the oath administered to the Grand Jury, in which it says, "all of which you shall keep secret."

Mr. Jordan said that where a man was indicted for perjury, the counsel did not mean to say the Grand Jury could not testify.

The Judge—That is an excepted case; but you cannot examine the Grand Jury to contradict a witness.

Mr. Jordan said they also expected to prove by a witness that this man was on board the Henry Clay that morning, and he will be able to identify him.

The Court permitted Wilkes to go, as his wife was sick. Mr. Hall promised to notify the witness when he was wanted, and he has promised to come back.

James F. De Peyster, examined by Mr. J. Prescott Hall, deposed—I was a passenger on board the Henry Clay the day she was burned; I came on board at Newburg; on coming on board I met Mr. Gourley; I took my seat on the after promenade deck, and remained there reading until I was driven away by the falling of small coal; I was so annoyed by the falling of the cinders that I went below in front of the ladies' saloon, and took my seat there; I was reading and so continued until there was an alarm; at first I did not know of what, but soon I discovered it was an alarm of fire; the excitement was beyond anything I had ever seen before; almost every passenger was on his feet, and the noise reminded me very much, as I stated before, the Coroner's jury, of a hive of bees; I have been frequently on board boats when alarms were given; I went forward and heard a person at the gangway ordering the people to go aft; I asked him, "what is the matter, what is the row?" he said, the awning is on fire, and there is no danger; not doubting him, as I believed him to be one of the officers of the ship; I went back to the lady passengers and endeavored to allay their excitement; I told them I was assured by the officers that there was no danger, and that their safety depended upon their being quiet; I then turned and met Mr. Allen, who asked me what we were to do; I said I thought there was no danger; he thought there was; I went up, and the smoke was so dense I could scarcely see; I asked a hand where was the fire, and he said below; there was then a cry that the boat was sinking, and my idea was that she was sinking; previous to that I should say the smoke was increasing rapidly, which made it impossible to breath; believing the boat to be sinking I got on the upper deck, still ignorant of the boat being ashore; I pulled off one boot and was in the act of pulling off the other when I ascertained the boat was on shore; smoke was about the pipe on the starboard deck; though I saw some passengers go ashore, I providentially decided to remain where I was as I could swim; I carried a bench which I had in my hand so that I could take the water; I saw persons throw over the baggage; I sat down and put on my boots, not doubting that every passenger could be saved; I then looked after my baggage but afterwards concluded to drop down, and I afterwards saw those passengers whose fears I had previously attempted to allay, in the position that we all knew previous to that I was perfectly calm, though subsequently I became much disturbed.

Q. Did you see any of the officers assisting the passengers?

A. Not one, sir; not one; the only officer I saw was the person whose order we obeyed; I saw some of the passengers dead, but none that I knew; Mr. Allen was lost, but I didn't see him.

Cross-examined by Mr. Wheaton—I have not the least idea how long I was on the promenade deck, and as an instance, I will tell you, that when I thought half an hour had elapsed, I found it was only five or six minutes; the cinders dropped into my book.

Q. Was there not a good breeze? A. I found no discomfort from the wind; the boat went nearly perpendicular on the shore; the wind blew up the river; I observed nothing else until the alarm of fire; I have been in the habit of frequently going up and down the river, that was one reason I did not observe at first, as I was reading.

Q. Were you never annoyed with cinders falling on any other boat?

A. I never recollect being as much annoyed with the falling of cinders as I was on that occasion; I have not the least idea how long I was below when the alarm was given; I don't know that the person who spoke was either of the defendants; I only know he was an officer from his speaking with authority; he told the passengers to go astern; some of the passengers were desirous of going forward; but they were not allowed to go forward; they were ordered back; the man who gave the order was pointed out in court to me, but I don't pret