## More of the Astor Place Opera Alleged Libel.

SUPERIOR COURT—GENERAL TERM.

Present—Chief Justice Oakley, and Judges Campbell, Duer, Bosworth and Hoffman.

MARCH 10.—*Ed. P. Fry vs. Jas. Gordon Bennett.*—This was a motion on the part of the plaintiff under these circumstances: At a general term of the court on the 17th of February last, a new trial was ordered, on the ground, among others, that the absence of Maurice Strakosch, whose deposition was read on the trial, was not satisfactorily proved. On the 6th instant, the plaintiff obtained an order of Judge Campbell, calling on the defendant to show cause this day why he, the plaintiff, should not be at liberty now to introduce testimony to prove that Strakosch was in fact absent from the city of New York at the time of the trial. This order was obtained on affidavits—of Salvator Patti, setting forth that he and Strakosch were travelling together from the month of November to about the 20th of December, 1853, in the States of Ohio, Virginia, Indiana, and in Canada—of the plaintiff, that he believed Strakosch was absent from the city at the time of the trial, and that he had applied to one Sheridan Corbyn to make an affidavit, and he had refused because he said Mr. Galbraith, the defendant's attorney, told him that he would make an enemy of the defendant if he volunteered his testimony—and of the plaintiff's attorney, that he believed he could prove Strakosch was absent.

Messrs. D. D. Field, John Townshend, and Benj'n Galbraith, appeared as counsel for Mr. Bennett, and read the following affidavits and deposition, and made the following points:—

*City and County of New York, ss.*—Benjamin Galbraith, of said city, makes oath and says:—That he is the attorney for the defendant in this action, and has had the sole conduct of the defence of this action since its commencement; that this cause was, to the best of deponent's remembrance and belief, on the day calendar for trial, and was called on the 15th day of November, 1853, but deponent well recollects that it was expected that this cause would be on the day calendar for the 15th day of November, 1853; that some time in the afternoon of the 14th day of November, 1853, deponent was served with the copy of an order of Judge Emmet, for the conditional examination, at 8 P. M. on that day, at the private residence of said Judge Emmet, of Maurice Strakosch, as a witness in this cause; that the said order was not served on deponent until late in the afternoon of the said 14th day of November, 1853, and that immediately after the said order was served, he (deponent) went in search of Edward Sandford, Esq., who was then of counsel for the defendant in this action, and who was well acquainted with the facts and circumstances of this action, but by reason of the brief interval between the service of the order and the examination deponent was unable to procure the attendance of said Edward Sandford, and was obliged to employ other counsel of less experience and skill, and not so well acquainted with the facts and circumstances of the cause, and who had no opportunity for preparing for said examination; that deponent attended pursuant to said order, and the examination of said Maurice Strakosch as a witness, was proceeded with and taken, and the said Strakosch, in such examination, deposed—"I am about to leave the city on a professional tour, which may last from two to three months;" and that the plaintiff had informed him, said Strakosch, that he, the plaintiff, thought this cause would positively be tried to-morrow, (that is, the day after the said examination,) or the day after; that, as deponent is informed and believes, the said Maurice Strakosch did leave the city of New York on or about the 15th of November, 1853, and deponent believes that no attempt was made on the part of the plaintiff to detain the said Maurice Strakosch as a witness; that he was never served with a subpœna to attend as a witness in this cause, nor any attempt made to serve such subpœna; that for some cause, which deponent does not now distinctly recollect, this cause, although on the day calendar for the said 15th day of November, 1853, was not called on, but was, as deponent believes to meet the convenience of the counsel in the cause, set down for the first day of the following December term, and this cause was called and commenced to be tried on the 1st day of said December term.

That Mr. Sherman, the attorney of the plaintiff, on the 14th of November, 1853, and when he obtained the order for the examination of the said Maurice Strakosch, knew that the cause was likely to be on the day calendar, and to be called on for trial on the 15th day of November, 1853; and that the said Sherman could, if he had been disposed so to do, have procured the attendance of the said Maurice Strakosch as a witness on said trial.

And deponent says he believes the said Maurice Strakosch left the city of New York, and remained absent therefrom until after the termination of the trial of this action, for the purpose of avoiding a viva voce examination on the trial, and that his pretended musical tour was only an excuse to give color to his absence.

That since the trial in this action deponent has obtained a knowledge of the existence of testimony in addition to that adduced on the trial of this action, and which will prove facts alleged by the answer to exist, and to constitute, with others, a good defence to this action, and deponent expects and believes, that with the addition of such newly discovered evidence, deponent will be enabled, on a subsequent trial of this cause, to prove the truth of the alleged libels; and further, that he will be able to prove the said Maurice Strakosch wholly unworthy of belief.

That on the 2d day of March, 1855, deponent obtained an order of Mr. Justice Campbell, calling on the plaintiff or his attorney to show cause, on the 5th day of March, 1855, why a commission should not issue to take the testimony of certain persons as witnesses in this action, two of whom were not examined on the previous trial; and deponent and the plaintiff's attorney attended, on the return of the said last mentioned order, when the plaintiff's attorney applied to deponent for leave to countermand a notice of trial served by the plaintiff's attorney on deponent, and to adjourn the motion for a commission, to both of which requests deponent assented.

That to the best of deponent's knowledge and belief he has never seen Sheridan Corbyn, in the affidavit of the plaintiff referred to, more than twice—first, on the trial in this action; and secondly, since the said trial, and that was under these circumstances:

The defendant was and still is the holder of a promissory note payable on demand, for money lent by the cashier of the defendant to Wardell Corbyn, the father of the said Sheridan Corbyn and —— Buckland, and of which note the said Wardell Corbyn and the said Buckland were the makers; and the said note being overdue, and in the hands of deponent for collection, the said Sheridan Corbyn called on deponent, and informed deponent that his father, the said Wardell Corbyn, was in Europe, and that his father had several notes out, and inquired of deponent what proceedings the holders of said notes, when overdue, could take against the property of said Wardell Corbyn in his absence, and deponent informed said Sheridan Corbyn that he could not answer for what others might do, but as to the notes held by deponent, as the attorney of the defendant, he might be assured that the defendant would take no steps which would injure his father or his property; and deponent then remarked to said Corbyn, that he, deponent, did not know whether or not such consideration was well merited, as he, said Corbyn, had volunteered to qualify himself as a witness to appear against the defendant; but that could have no effect either upon deponent or on the defendant; and deponent says that no proceedings have been taken to enforce payment of said note, although the same is long overdue, and it remains wholly due and unpaid, and nothing has ever been paid thereon; and he denies that he ever stated to said Sheridan Corbyn that the defendant could injure him, or that he made any threat whatever to the said Sheridan Corbyn, or said more on the subject of the said Sheridan Corbyn being a witness in this action than is above set forth.

BENJAMIN GALBRAITH.

Sworn before me this 10th day of March, 1855,
JO. ELLIOTT, Commissioner of Deeds.

*City and County of New York, ss.*—John Townshend, of the city of New York, makes oath and says:—That he was present as counsel of the defendant at the taking of the examination *de bene esse* of Maurice Strakosch, and cross-examined the said Strakosch; that the examination was continued until after midnight of the 14th of November, 1853, and that during the said cross-examination, the said Maurice Strakosch several times requested deponent to be as brief as possible, as he desired to go home and pack his trunk, and prepare for leaving the city early on the following morning; and deponent says that as well from the manner and observations of the said Maurice Strakosch during said examination, as his knowledge of the character of the said Maurice Strakosch, and his knowledge of the facts and circumstances of this action, he believes the said Strakosch left the city of New York and remained absent therefrom until after the determination of the trial of this action, for the purpose of avoiding a viva voce examination on the trial of the issues in this action, and that the pretended musical tour of the said Maurice Strakosch was only an excuse to give color to his absence.

JOHN TOWNSHEND.

Sworn before me this tenth day of March, 1855.
BENJAMIN GALBRAITH, Commissioner of Deeds.

*City and County of New York, ss.*—Benjamin Galbraith, of said city, attorney for the defendant in this action, makes oath, and says:—That a motion in this action is now pending in which the defendant has to show cause on the 10th instant, and, as deponent believes, it is necessary for the defendant to have the deposition of Ole Bull as a witness on his behalf, on the hearing of said motion; that the said Ole Bull is now within the jurisdiction of this court, that is to say, is now within the city of New York, and that he, deponent, has made application to said Ole Bull to make his deposition as to the matters in difference on said motion voluntarily, and the said Ole Bull has refused, and still refuses, to make any deposition voluntarily, nor make any deposition except under an order of the court, and that if any order for him to be examined, or to make a deposition, be made, he is ready and willing to obey the same.

BENJAMIN GALBRAITH.

Sworn before me, this 9th day of March, 1855.
JO. ELLIOTT, Commissioner of Deeds.

At Special Term the 9th day of March, 1855—Present, Hon. Murray Hoffman, Justice.

On reading and filing the affidavit of Benjamin Galbraith, and it appearing that a motion is pending in this action in which it is necessary to have the deposition of Ole Bull, a person within the jurisdiction of this court, as a witness, and that he has refused to make a deposition voluntarily: Ordered, That the said Ole Bull do, and he is hereby, summoned and required to attend before a Judge of this court, at the court house of this court, on this the 9th day of March, inst., at 12 M., then and there to make deposition, upon oath, of his knowledge of the matters in difference in said motion.

MURRAY HOFFMAN.

DEPOSITION OF MR. OLE BULL, TAKEN BY VIRTUE OF THE ANNEXED ORDER MADE IN THE ABOVE ENTITLED CAUSE, BY MURRAY HOFFMAN, ESQ., ONE OF THE JUSTICES OF THIS COURT.

Question—What is your occupation, and where do you reside?

Answer—My occupation is a musical artist; I reside in the city of New York.

Question—Do you know either the plaintiff or defendant?

Answer—I do; I know them both.

Question—Were you asked to make an affidavit in this case, and what was your answer?

Answer—I was, but refused, unless compelled to do so by the court.

Question—Why did you refuse?

Answer—On account of the mutual position of Maurice Strakosch and myself, as artists, I would not like, unless compelled, to say anything that would be used to his disadvantage.

Question—How long have you been acquainted with Maurice Strakosch?

Answer—I became acquainted with him in the year 1852, whom I met at Washington.

Question—Have you had numerous business transactions with him?

Answer—I have.

Question—Have you ever given concerts with him throughout the United States or elsewhere? and if so, where and when?

Answer—Throughout the West and South, and also in California and elsewhere.

Question—Have you had any opportunity of becoming acquainted with his character generally?

Answer—Yes, I have.

Question—Were the concerts given by Maurice Strakosch and yourself for your mutual benefit?

Answer—Yes.

Question—Did he make honest or dishonest returns of the proceeds of these concerts?

Answer—I have no proof that he made dishonest returns.

Question—What were the pecuniary circumstances of Maurice Strakosch when you became acquainted with him?

Answer—I have no other means of knowing except from his own statement.

Question—What was his statement?

Answer—In 1852, when he began to give concerts with me, he stated that he was several thousand dollars in debt, in consequence of his having been unsuccessful in opening a music store in Broadway, in the city of New York, where he sold pianofortes.

Question—Has Mr. Strakosch been doing any other thing but giving concerts with you since 1852, when he was unsuccessful in the music store?

Answer—Nothing, with the exception of composing small musical pieces for Wm. Hall & Son, to the number of six or eight, for which he told me he received pay.

Question—How much did he say he received for them?

Answer—He told me that the highest sum he received was a hundred dollars for a piece; that was the highest sum; some of them not so much.

Question—Have you any means of knowing what he is worth now?

Answer—I have been informed by a gentleman residing in the New York Hotel that he has lately invested $22,000.

Question—What were the net proceeds of your concerts given with Mr. Strakosch, as far as you could ascertain? I mean the portion that you received.

Answer—I have no means of ascertaining.

Question—Have you been able to invest as much as $22,000 clear profit out of these concerts?

Answer—Oh, no.

Question—Who had the collecting, keeping, and expending of the money received from these concerts?

Answer—Strakosch, always.

Question—Have you been connected with him in the late opera season in the Academy of Music?

Answer—Yes.

Question—What was the nature of that connection?

Answer—Mr. Strakosch was furnished with $8,000 in drafts to proceed to Europe and engage artists to be directed to me at the Academy of Music.

Question—Did he do as he agreed to do in that respect?

Answer—I am sorry to say that he did not.

Question—Has he ever directed any artists to you or to the Academy of Music?

Answer—No.

Question—Have you received any letters from him informing you what he had done?

Answer—No.

Question—Who was Brignoli sent to?

Answer—Not to me, nor to the Academy of Music; when I heard he had arrived I sent my agent to him, and Mr. Brignoli's reply was, that Strakosch had not mentioned my name in the engagement made with him; nor had he heard of me as being in any way connected with Strakosch; that Mr. Strakosch represented himself to him (Brignoli) as the director of all the theatres of New York and environs.

Question—What were Strakosch's directions when he left for Europe?

Answer—He agreed to engage the artists, and return immediately to New York.

Question—Was that the only thing he was to do with the $8,000?

Answer—Yes.

Question—Where is Mr. Strakosch now?

Answer—Mr. Brignoli informs me, and I believe the information to be correct, that he has gone to Austria to visit his friends and relations.

Question—Did Mr. Strakosch pay Mr. Brignoli's passage to this country?

Answer—It would seem that he has not done so, because I have had a bill sent to me for his passage money and his friend.

Question—Have you sufficient information of Maurice Strakosch's general character, to enable you to form an opinion of what it is?

Answer—I have.

Question—Have you heard people at this time speak of Mr. Strakosch's general character?

Answer—Yes, I have.

Question—Has his character been spoken about freely?

Answer—Yes.

Question—Is his character good or bad?

Answer—I decline to answer the question.

Question—I must repeat the question, and insist upon an answer, whether his general character is good or bad?

Answer—I do not feel bound to answer the question.

Question—Question repeated; an answer insisted upon, otherwise I shall have to apply to the court to compel you to answer. Are you aware, Mr. Bull, that the court has power to commit you to prison, if you refuse to answer all proper questions?

Answer—I was not aware of that fact; but if I am bound to answer, I will do it.

Question—Is his general character good or bad?

Answer—Not good.

Question—Do you know his general character for truth and veracity?

Answer—Recent circumstances lead to the confirmation of what I have often heard, that he is not a man of truth and veracity.

Question—Would you believe him under oath?

Answer—It would be difficult for me to believe him.

Question—You have before said that you have heard people speak freely of Mr. Strakosch's general character: what have they said?

Answer—I have been continually warned by many persons against Mr. Strakosch, as a bad man, for a long time past, but I indignantly refused to believe it until recent incontrovertible facts have forced me to believe the general report.

OLE BULL.

Sworn this 9th day of March, 1855, before me,
MURRAY HOFFMAN.

*City and County of New York, ss.*—Edward D. Conery, of said city, makes oath and says:—That he is, and for nearly eighteen years last past has been, connected with, and employed on, the NEW YORK HERALD, and for nearly fourteen years has been foreman of the job printing office of the defendant, and writer of the theatrical notices for said newspaper; that he knows and is perfectly familiar with the manner in which the business of said job printing office is conducted, and deponent, as such foreman, has had the superintendence of all the theatrical printing, or printing for the theatres, done in said office while deponent has been such foreman; that deponent has seen and read the deposition of one Maurice Strakosch; and as to that part of said deposition wherein said Strakosch testifies that somebody employed in the HERALD office said that if Mr. Fry would not have his printing done there he would incur the revenge of the HERALD, deponent says that he never made use of any such language, or any language of that or a like meaning, and that he never heard any person in the employ of the defendant use that or any such language, on any occasion, and that if it should have become known to deponent that any employe of the defendant had used such language, or any language of a like intent, he should consider it his duty to discharge such employe; that during the time deponent has been in said office, he has never, in anywise, solicited any person to bring his printing to be done at said office, and no person has ever incurred the enmity or revenge of deponent, nor, as deponent believes, of the defendant, by omitting to bring his printing to be done at said office; and deponent says he does not believe that any employe in said office, or any employe of the defendant, ever spoke to the said Maurice Strakosch the words in his deposition set forth, or any words of a like intent or meaning; that during all the time deponent has been foreman in said office he has had the making out of the accounts for printing done in said office, and the charges for printing done therein have never exceeded what he considers just and fair charges for said printing, and that the defendant, on the whole, has been a lower by having performed the printing for the various opera companies in New York.

EDWARD D. CONNERY.

Sworn before me, this 10th day of March, 1855.
JO. ELLIOTT, Commissioner of Deeds.

*City and County of New York, ss.*—Joseph Elliott, of the said city, makes oath and says:—That he is foreman of the printing office of the NEW YORK HERALD, and has been so for seventeen years last past; that he knows and is perfectly familiar with the manner in which the business of the said office is conducted; that he has had the superintendence of the printers and making up of all the reading and advertising matters in the said paper; that deponent has been shown and read the deposition of one Maurice Strakosch, and particularly that part of said deposition wherein he testifies that somebody employed in the HERALD office said that if Mr. Fry would not have his printing done there he would incur the revenge of the HERALD; that deponent says that the said statement, so far as deponent knows and believes, is wholly and unequivocably false; that he never either heard Mr. Bennett or any other person in the office, during the whole seventeen years he has been there, threaten any person, and he does not believe they ever did so; it is contrary to the whole spirit of the office, and any one who made use of such an expression, if it had been known, would have been immediately dismissed.

JO. ELLIOTT.

Sworn before me this 10th day of March, 1855.
BENJAMIN GALBRAITH, Commissioner of Deeds.

*City and County of New York, ss.*—James Gordon Bennett, the defendant above named, makes oath and says:—That he has read the testimony of Maurice Strakosch, taken in this action conditionally, and that so much of it as states that he (deponent), in the presence of said Maurice Strakosch, made use of words the meaning of which were, that he (deponent) would finish very soon Mr. Fry, is utterly and wholly false; and deponent says that he denies that he at any time, or on any occasion, made use of any words of the meaning, purport, or intent, or which were properly capable of the meaning, purport, or intent, that he (deponent) would finish Mr. Fry, or that he ever, prior to the commencement of this action, made use of any words indicating any hostility towards Mr. Fry, or any desire or intent on the part of this deponent in any wise to molest or injure said Fry; and deponent says he never, directly or indirectly, authorized any person to say, and never, directly or indirectly, said or intimated that if the said Fry did not have his printing done at the HERALD office he would incur the revenge of the HERALD, or any words of a like intent or meaning; and further, that neither the said Fry, or any other body, would or did incur the revenge, enmity, or ill will of deponent by reason of omitting or refusing to have his printing done at the printing office of deponent. And deponent says he does not believe that anybody in the employ of deponent did say to the said Maurice Strakosch, or any other, if Mr. Fry did not have his printing done there (that is, at the printing office of deponent), he would incur the revenge of the HERALD. And deponent says that he has no knowledge of any transactions which have been done in his name with Sheridan Corbyn or Wardell Corbyn, except that he is informed his late cashier lent moneys of deponent to said Wardell Corbyn, without the knowledge of deponent, and took a note signed "Corbyn and Buckland," and that said Sheridan Corbyn is personally unknown to deponent, and he has no feeling for or against him.

JAMES G. BENNETT.

Sworn before me, this 9th day of March, 1855.
BENJAMIN GALBRAITH, Commissioner of Deeds.

POINTS FOR DEFENDANT ON PLAINTIFF'S MOTION NOW TO BRING IN WITNESSES TO PROVE STRAKOSCH'S ABSENCE.

First.—The motion is entirely unprecedented.

Second.—It supposes, first, that if it had been made at the argument on the appeal, it would at the last term have been successful; and second, that though not made then, the Court will hear it now.

Third.—The Court will not re-open the case for the purpose of letting in this motion:—

1. Is it clear that the Court has the power to order a re-hearing of the appeal? For this is in effect an attempt to obtain a re-hearing. The Code declares—sec. 38—when an appeal shall be re heard. Does not that by implication exclude a re-hearing for any other cause?

2. But supposing it to have the power, yet the restraints it imposes on itself will not allow it to re-hear this case. Its own dignity, and the respect which it requires, and the orderly conduct of its proceedings, forbid it. The parties have had their day in court. If re-hearings are allowed in one case, they will be asked in all. The constitution of the Court makes it particularly inconvenient, only three judges generally sitting at the general term, (4 McLean, 264; 4 Wend., 188; 25 Wend., 253.) and if re hearings are allowed, they will always be attempted when the six Judges are on the bench.

3. The courts have always leaned against re-hearings. There is a sort of tradition on the bench that they are injurious, and to be discouraged.

4. There were other points in the case argued at the general term, on which no opinion was expressed.

5. The plaintiff has acquiesced in the decision, and under it noticed the case for trial at the present term. It is submitted, therefore, that the Court will not grant this application, for these reasons, if there were no others, that the case has been once fully heard, carefully considered, the order for a new trial entered, and the cause noticed for trial.

Fourth.—If, however, the decision of the general term were to be re-opened, the application to examine witnesses, to supply the defect of proof at the trial, should not be granted:

1. The jurisdiction of the general term is purely appellate, and that implies that it shall decide the case upon the same grounds as the special term—Code sec. 37.

2. The deposition of a witness taken conditionally can only be read "after it has been proved that he is absent." The proof of absence cannot be made or supplied after the deposition is given in evidence—2 R. S. 392, sec. 7.

3. The cause was heard at the last term upon exceptions, as well as upon a case. An exception cannot be obviated by proof at the argument of the appeal.

4. The instances in which proof has been heretofore permitted to supply omission at the trial are those in which the proof was documentary and could not be contradicted, and the motion was addressed to the discretion of the Court—3 John. cas., 125; 13 Wend., 526; 2 Sandf., S. C., 719.

Fifth.—The Code gives no countenance whatever to this motion; it is not a case of "amendment." If it were otherwise one might always supply defective proof on an appeal; and proof might as well be introduced on one side as the other, to reject a deposition, as to admit it. The word "proceeding," in the view of the Court of Appeals, does not include an affidavit—1 Coms., 611. "To supply an omission in any proceeding," in section 174, refers to an omission in a record or paper—otherwise one might supply an omission to appeal or to give evidence—See S. S. 174, 327; 7 P. R. 108, 8 P. R. 301.

Sixth.—If, however, the case were one in which all the obstacles before mentioned were removed, and the court would re-open the case and the omission might be supplied by proofs at the bar, yet it would be a matter resting in the discretion of the court, and governed by considerations affecting the furtherance of justice. In this case justice would not be promoted by the admission:

1. The circumstances under which the deposition was taken could not then be shown for the purpose of discrediting the testimony of Strakosch.

2. Nor could it be shown that the deposition was not entitled to be read, as might be done upon a new trial.—2 R. S., 393, sec. 8.

As it stood upon the last trial, the defendant's counsel rested upon his conviction that the testimony was improperly admitted and gave no proof on his part as to the deposition or the witnesses. The affidavit on which the order to examine was made, does not show the residence of Strakosch, as was required by law.

3. The witness might be impeached on a new trial. The deposition of Ole Bull shows that this might probably be done with success.

4. The witness may be contradicted on a new trial. The defendant's affidavit, stating positively that Strakosch's testimony was false, should lead the court to think that justice required a re-examination of the case.

5. The witness was examined in extraordinary haste, the notice being so short that the defendant could not get his counsel to attend.

6. There is reason to think that the application for the examination was made collusively—2 R. S., 392, sec. 4. There is no positive testimony in plaintiff's affidavits that Strakosch was not in the State on the 5th December. Patti, the only person who pretends to know, testifies from a memorandum but by whom the memorandum was made does not appear.

The Court reserved its decision.

## Mayor Wood's Proper Jurisdiction.

TO THE EDITOR OF THE HERALD.

NEW YORK, March 7, 1855.

Your remarks in this day's HERALD in relation to the powers of Mayor Wood are worthy of careful consideration by our worthy Mayor. Mr. Wood, so far, has accomplished great good; but he should be careful not to interfere with the courts of justice, and thereby destroy his usefulness otherwise. Speaking of complaint making, such as wives charging their husbands with desertion, servants being ill treated by their employers, &c., &c., you very justly remark that "over none of these cases has the Mayor the least control or jurisdiction, and whenever he acts upon them in his official capacity, he transcends the limits of his authority."

Mr. Wood has done more for the citizens than any other man in the same office—I except none;—but, as you say, there is still a wide field for action. Take the dry goods stores, for instance, in Catherine street and in Grand—in fact, in almost every street they are in, the city ordinances are violated every day with impunity, and to the great annoyance of shopkeepers who happen to be unfortunate enough to be alongside of one of them. Large cords are tied to the store and awning posts, and the same strung full of dry goods of different kinds, so that adjoining stores, in some other business, are almost hid from public view. The police officers are well aware of this, but scarcely ever report the matter.

The citizens rely on Mayor Wood to apply the remedy, and have no doubt he will do it in time.

A SUFFERER.

## Theatres and Exhibitions.

ACADEMY OF MUSIC—The benefit of the employes of this institution takes place to-morrow evening, when the opera of "Lucia di Lammermoor" will be performed. Signor Brignoli will make his first appearance as Edgarco, Bodiali as Ashton, and Mad. Bertucca Marsteizec as Lucia. Report speaks highly of the vocalability of Signor Brignoli, who is said to possess a tenor voice of great compass and sweetness.

BROADWAY THEATRE.—The manager of this theatre has engaged Miss Bridges, who will make her first appearance on any stage, to-morrow evening, in the play of the "Wife." She will sustain the character of Marianne, and Mr. Conway as Julian St. Pierre, Miss Price will appear in a favorite dance, and the amusements will close with the farce of a "Blighted Being," Davidge as Job Wort.

BOWERY THEATRE—Mr. J. R. Scott will commence an engagement at this theatre to-morrow evening as Rob Roy, in the favorite musical drama of that name. Mr. R. Johnson will also appear as Phillip Gabois in "102," and the inimitatable Dutch representative, Mr. Glenn, will perform the Yankee character of Deuteronomy Dutiful.

BURTON'S THEATRE—"Aggravating Sam" will open the amusements of to-morrow evening. The successful dramatic anecdote of the "Black Swan," and the humorous piece of the "Wandering Minstrel" will follow, in the latter of which Mr. Burton will perform his great character of Jim Bags.

WALLACK'S THEATRE.—The fine comedy of "John Bull," with a powerful cast will, by special desire, be reproduced. "Teacher Taught," received on Friday evening with the greatest enthusiasm, will be repeated.

AMERICAN MUSEUM.—The selections for to-morrow afternoon consist of the popular work of "Hot Corn" and the farce of "Ichabod's Come;" and in the evening, of the drama of "Honesty the Best Policy." Clarke, Miss Mestayer, Hadaway, and other artists of celebrity in the cast. The "Double Bedded Room" concludes the amusements.

WOOD'S MINSTRELS.—The burlesque on Shakspeare's tragedy of Macbeth, is again announced for to-morrow evening. Also, various melodies and instrumental pieces.

BUCKLEY'S SERENADERS—"Lucia di Lammermoor" will be produced again on Monday evening in splendid style; by special request, G. S. Buckley will sing, for the first time, "My Old Kentucky Home."

HOPE CHAPEL.—Mr. McIntyre will give one of his evenings with Burns, at the above place, on Wednesday evening.

THE BLACK SWAN is announced to sing at the Tabernacle on Monday evening.

FERRAN'S OPERA HOUSE.—This establishment will re-open to-morrow evening, for which occasion a grand programme has been provided.

## Superior Court.

SPECIAL TERM.

Before Hon. Judge Hoffman.

MARCH 10.—*Anna E. Stone, by her next Friend, vs. Christopher L. Stone.*—In this suit, which was brought to obtain a divorce on the ground of adultery alleged to have been committed by the defendant, a reference having been ordered, the referee reported in favor of the plaintiff and against the defendant. On the referee's report, Mr. John B. Fogerty, counsel for the plaintiff, applied to the Court for a final decree against the defendant. Judgment ordered accordingly that the plaintiff be adjudged an absolute divorce from the defendant, with alimony, and the custody of the issue of the marriage.

GENERAL TERM.

DECISIONS.—*Eliza J. Busby against Wm. Wright.*—Order dismissing complaint overruled with costs in the court below.

*Robert Crosley against Frederick E. Radcliff.*—Order appealed from affirmed with costs to plaintiff, to abide event.

*Anastatius Nicholas against George Griswold.*—New trial granted; costs to abide event.

## NEW YORK LEGISLATURE.

### Senate.

ALBANY, March 10, 1855.

PETITIONS, BILLS REPORTED, ETC.

Mr. WHITNEY presented a petition from the Council of New York against the Harlem Bridge Charter.

Mr. DICKINSON reported a bill to permit the Sackett's Harbor and Saratoga Railroad Company to connect certain lakes with their road by canals.

An invitation was received from the Commissioners of Emigration to visit the institution under their charge in New York. Accepted.

Mr. DANFORTH gave notice of a bill to insure the return by railroad companies of produce delivered at tide water.

A bill was passed to incorporate the New Granada Commercial Company.

GENERAL ORDERS.

The Committee of the Whole took up the Rochester Mills Claim bill.

The amendment requiring that the testimony taken with regard to these claims shall be returned to the next Legislature for examination, was adopted.

Mr. DICKINSON moved a reconsideration. Agreed to.

Mr. HOPKINS now moved to report progress. Senators wished to be heard on the amendment.

Mr. DICKINSON said that Senators could be heard as well when the bill came up for a third reading. He hoped the bill would be reported to the Senate.

The motion to report progress prevailed.

The bill to amend the charter of the New York and Shawangunk Mining Oompany was ordered to a third reading.

INDIAN TITLES TO MANOR LANDS.

Mr. CROSBY had consent to introduce the following preamble and resolution, as a substitute to the one moved by him yesterday:—

Whereas, since the report of the Attorney General Chatfield, referring to manor titles, March 14, 1853, decisions have been made in the courts of last resort in this State, concerning all questions in reference to these titles; and whereas, a high statement and doubt still exists in the minds of many of the tenants on the manor of Rensselaerwyck, whether the Indians yet have any rights which can by possibility impair their titles; and whereas, this subject is agitated often by designing men, to the injury of the tenants, and the whole subject is now before the Committee on Indian Affairs in the Senate; therefore, for the purpose, as far as possible, of relieving these doubts,

Resolved, That the Committee on Indian Affairs be requested to report forthwith, and that the Attorney General be and hereby is requested to report to this body the facts in reference to these decisions of the courts, and whether or not such decisions and the government grants of these manors are final, so far as regards any title which any Indian may have or had to these lands.

This preamble and resolution was laid on the table.

The bill amending the General Insurance law was ordered to a third reading.

Also, the bill to prevent prize fights, and fights among game animals.

Adjourned till Friday next, at 12 M.

### Assembly.

ALBANY, March 10, 1855.

BILLS INTRODUCED, ETC.

Mr. GATES asked consent to introduce a resolution raising a select committee to invest gate the charge made by Senator Putnam, that the eighty-one members of the House who voted for the Temperance bill, did so in the expectation that the Senate would reject it. Objected to.

Mr. IVANS gave notice of a bill in relation to Courts in Brooklyn.

Mr. BLATCHFORD reported a bill for aid to the New York Institution for the Blind.

Mr. ODELL asked consent to introduce a resolution declaring as the opinion of the House, that any amendment made by the Senate to bills sent from the House to the Senate and returned for concurrence, are amendable and debatable on motion to concur. Objected to.

Mr. BLATCHFORD, to extend the time for appeal in the case of Walter Joy and others.

Also, in relation to the New York Institution for the Blind.

Mr. STUYVESANT, to amend the Revised Statutes relative to removal of judicial officers on charges.

Mr. BLAKESLEE, to prevent abuses on the subject of equalization.

Mr. STEBBINS, to provide for filling the vacancies in the offices of sheriffs and county clerks.

The House adjourned to Friday next, at 12 o'clock.

## Arrival of the Steam Frigate Susquehanna at Philadelphia.

LIST OF HER OFFICERS—HER FIVE YEARS CRUISE.

[From the Philadelphia Bulletin, March 10.]

The United States steam frigate Susquehanna, the crack steamer of our navy, arrived at the Philadelphia Navy Yard, from the Pacific, this morning. She sailed from Valparaiso January 14, and from Rio Janeiro February 11. The Susquehanna has been absent for several years, during which she has been attached to the East India squadron, has played an important part in the Japan expedition, has visited the Sandwich Islands, San Francisco and other Pacific ports, and now returns to the port where she was built, having proved herself the best steamer in the navy, and, as some think, the finest war steamer afloat.

The following is a list of her officers.

List of officers of the United States steam frigate Susquehanna:—

Franklin Buchanan, commander; Garrett R. Barry, purser; Thos. T. Hunter, lieutenant, ex. off.; Napoleon Collins, do.; J. Hogan Brown, do.; John K. Duer, do.; George H. Cooper, do.; J. Messersmith, surgeon; Charles F. Fahs, assistant surgeon; Edmund C. Bittinger, chaplain; Reuben Harris, master; Wm. B. Slack, brevet captain marines; Samuel Archbald, chief engineer; Charles E Hawley, midshipman; Robert L. May, do.; Geo. F. Hebard, first assistant engineer; Henry H Stewart, first do.; Edwin Fithian, second do.; J. C. E. Lawrence, second do.; Thomas A. Shock, third do.; Alexander Henderson, third do.; Stephen D. Hibberd, third do.; Charles B. Oliver, gunner; John Green, carpenter, John H. Hartzell, purser's clerk.

The Susquehanna was built at the Philadelphia navy yard, and was completed in 1850. The cruise from which she has just returned was her first one, and has been a very long one. She sailed from Philadelphia on the 26th of December, 1850, for Norfolk. In June, 1851, she sailed from Norfolk to take her place in the East India squadron. Some difficulty occurred in the working of the engines, but this was overcome by the skill and intelligence of the chief engineer.

The Susquehanna left in port at Rio, on the 11th ult., the U. S. frigate Savannah and the U. S. storeship Relief.

After the first visit to Japan the Susquehanna returned to Hong Kong 2d April, 1854, and was placed at the disposal of the Hon. Robert M. McLane, Commissioner to China, and carried him and suite to Shanghae 26th April. She was then detached from the command of Commodore Perry; about a month afterwards she sailed up the Yang-tzi-Kiang to Chusan and Silver Island, where the Imperial Admiral visited her with the usual Chinese salutes.

She then anchored off Chin-Keang-foo, where a shot was fired by the rebel batteries on shore and immediately apologized for, saying it was fired by a young man, a convert, whose hair had not yet grown. The imperialists shave their heads, leaving a tail, and the rebels allow all the hair to grow without the tail.

The next morning proceeded to Nankin, where two parties of the officers visited the Porcelain tower and met, to their great joy and surprise, in the heart of the city of Nankin, the only officers, perhaps, who have ever been far inside the walls of the city. One of the midshipmen climbed up the perpendicular wall, 50 feet high, by scooping out the decayed bricks and mortar, at the imminent peril of his life, and had just strength enough left to get over the top.

Here some interesting correspondence took place between Captain Buchanan and the Tae-ping-wang, or rebel chieftains. She then proceeded about 75 miles higher up the river to Woohu, where the officers were very kindly received and allowed to go wherever they pleased.

The natives told our interpreters that they had never seen a Christian before, and that they did not know that a Christian had ever been in Woohu except ourselves. We commenced our return to Shanghae the next morning, and came down the current of the Yang-tzi-Kiang with great velocity, and passing the mouths of the grand canal and the many pagodas on both sides of the river, we arrived at Shanghae on Sunday, the fourth of June, without accident—a most daring feat of navigation, when it is considered that this ship is the largest war steamer in the world, yet afloat, that the river had never been surveyed accurately even to the mouths of the grand canal, and that we depended upon the little steamer Confucius, in charge of one of our officers, Lieut. Brown, to go ahead and warn us of danger, and the judgment of Capt. Buchanan in selecting the channel.

She then sailed to Foo-chow-foo, Amoy and Hong Kong, and on the 4th of September sailed at last for home, towing the Southampton, loaded with coal, to Simoda, in Japan, whence she arrived, in twenty-three days, at Honolulu. On Sunday, 8th October last, passed the meridian of 180 into the Saturday of the Western World, and thus had six Sundays and thirty two days in the month of October last. Arrived at San Francisco 11th of November, and sailed 25th, leaving the Mississippi getting in coal, to sail soon after us; but as she is a slow boat, she may be expected about the end of next month.

Touched at Acapulco, where she arrived in ten days from San Francisco, and Valparaiso, where we arrived in nineteen days from Acapulco on the 1st of January—said to be a very short passage. We then doubled Cape Horn, and arrived at Rio Janeiro 4th February, in twenty-one days, which everybody told us was an unprecedented passage. Left there 11th February, and returned to-day to Philadelphia in twenty-six days. The new beam sent out to us was found to be very serviceable in ballasting the ship. It was lashed across the forecastle, where it now is, and helped to keep the ship in trim. We burned out the coal.

On Wednesday morning last, the first and only man fell overboard, while blowing a heavy gale in the Gulf stream, but he was very soon picked up and brought on board in safety by the intrepidity and skill of Lieut. Cooper, who was himself knocked overboard by the tackle as the boat touched the water. It afterwards required great delicacy and skill to hoist up the boat in the heavy sea, which was every moment increasing, and in fifteen minutes more it would have been impossible to have saved the man.

Last night one of the small boys who were trying who could put his foot nearest in the crank in motion, had his ankle caught, and the bone of the leg was fractured, the only accident occasioned by the machinery during the whole cruise.

Left the St. Lawrence at Valparaiso to sail when relieved; the Independence had sailed from Rio for that purpose about the middle of January. Most of the original officers who continued attached to the ship have passed five Christmasses and five New Years on board.

## City Intelligence.

ANOTHER ALLEGED EMBEZZLEMENT—PACIFIC BANK SWINDLED OUT OF $18,000.

Considerable excitement was created yesterday by a report which was circulated on 'Change, that a defalcation had been discovered in the funds of the Pacific Bank, corner of Broadway and Grand street, and that the supposed guilty party, a book-keeper by the name of John B. Urmy, had absconded, and left in the George Law, last Monday, for California. It is said that suspicion has for some time attached to Urmy, as his habits were reported to be very expensive, and his means comparatively limited. He was fond of aquatic sports, and kept a small yacht to gratify his seafaring propensities—a very commendable taste, by the way, provided it is not indulged at other people's expense. On these excursions, it is said, he was often accompanied by the cashier, and other officers of the bank, as guests. Being a handsome man, pleasing and engaging in his manners, he gathered around him troops of friends; and the fact of his being always liberal to profuseness with his money, made him quite a lion in the circle in which he moved. It appears that he has been interested in a theatrical exhibition,