NEW YORK CITY.

THE COURTS.

UNITED STATES DISTRICT COURT.

Decision in the "After Dark" Controversy—Palmer & Jarrett Restrained from Representing the Railroad Scene in Their Play.

Before Judge Blatchford.

Augustin Daly vs. Henry D. Palmer and Henry C. Jarrett.—This is an application for a provisional injunction to restrain the defendants from the public performance and representation, and from the sale for dramatic representation, of a scene called the "railroad scene" in a play called "After Dark."

Judge Blatchford, after reviewing the relative status of the parties in the suit, the law of copyright as applicable to dramatic performances and representation, the cases in the law books similar to this, the decisions rendered thereon, &c., concludes a lengthy decision as follows:—

Now, in consonance with the principles laid down by Lord Lyndhurst, the plaintiff is as much entitled to protection in respect of a substantial and material original part of his "railroad scene" as he is in respect of the whole. Under the act of 1856, construed in connection with the act of 1831, he is entitled to be protected against piracy in whole or in part by representation as well as by printing, publishing and vending. Although the act of 1831, in regard to printing, publishing and vending, uses the words "in whole or in part," and the act of 1856, in regard to representing, does not use those words, yet the act of 1856, by referring, as it does, to the right conferred by the act of 1831 as the "sole right to print and publish" the copyrighted composition, when such right is, on the face of the act of 1831, the sole right to print and publish "in whole or in part," and by then conferring "the sole right, also, to act, perform or represent the same, or cause it to be acted, performed or represented on any stage or public place," must be held to confer the right to represent in whole or in part. All that is substantial and material in the plaintiff's "railroad scene" has been used by Boucicault, in the same order and sequence of events, and in a manner to convey the same sensations and impressions to those who see it represented as in the plaintiff's play. Boucicault has indeed adopted the plaintiff's series of events to the story of his play, and in doing so has evinced skill and art, but the same use is made in both plays of the same series of events to excite, by representation, the same emotions in the same sequence. There is no new use, in the sense of the law, in Boucicault's play, of what is found in the plaintiff's "railroad scene." The "railroad scene" in Boucicault's play contains everything which makes the "railroad scene" in the plaintiff's play attractive as a representation on the stage. As in the case of the musical composition the air is the invention of the author, and a piracy is committed if that in which the whole meritorious part of the invention consists is incorporated in another work, without any material alteration in sequence of bars, so in the case of the dramatic composition, designed or suited for representation, the series of events directed by the author in any particular scene is his invention, and a piracy is committed if that in which the whole merit of the scene consists is incorporated in another work without any material alteration in the constituent parts of the series of events or in the sequence of the events in the series. The adaptation of such series of events to different characters who use different language from the characters and language in the first play is like the adaptation of the musical air to a different instrument, or the addition to it of variations or of an accompaniment. The original subject of invention—that which required genius to construct it and set it in order—remains the same in the adaptation. A mere mechanic in dramatic composition can make such adaptation, and it is a piracy if the appropriated series of events when represented on the stage, although performed by new and different characters using different language, is recognized by the spectator through any of the senses to which the representation is addressed, as conveying substantially the same impressions to and exciting the same emotions in the mind, in the same sequence or order. Tested by these principles, the "railroad scene" in Boucicault's play is undoubtedly, when acted, performed or represented on a stage or public place, an invasion and infringement of the copyright of the plaintiff in the "railroad scene" in his play. The substantial identity between the two scenes would naturally lead to the conclusion that the latter one had been adapted from the earlier one. The charge of actual plagiarism on the part of Boucicault made in the bill is not denied. It is hardly possible that the resemblances are accidental, and that the differences are not merely colorable, with a view to disguise the plagiarism. The true test as to whether there is piracy or not is to ascertain whether there is a servile or evasive imitation of the plaintiff's work, or whether there is a bona fide original compilation made up from common materials and common sources, with resemblances which are merely accidental or result from the nature of the subject. (Emerson vs. Davies, 3 Story, 768, 793.) Nothing that has been adduced on the part of the defendants affects the validity of the plaintiff's copyright on the question of the originality and novelty of the "railroad scene" in his play. The sale of Boucicault's play to other persons, with a view to its public representation, makes the seller a participant in causing the play to be publicly represented. An injunction must, therefore, issue restraining the defendants from the public performance or representation, and from the sale for public performance or representation, of the "railroad scene" in the play of "After Dark," or of any scene in substance the same as the "railroad scene" in either of the two plays, as such scene is herein defined.

Thomas S. Alexander, William Tracy and J. F. Daly for the plaintiff; William D. Booth and J. W. Clark, of Boston, for the defendants.

The Watson & Crary Distillery Case—The Defence.

Before Judge Blatchford.

The United States vs. The Rectifying Distillery Nos. 171, 173 and 175 Christopher Street.—The trial of this case was resumed yesterday with the examination of witnesses for the defence. At the opening of the court there was the usual array of counsel, of witnesses and parties interested that have watched the proceedings from the first day of the trial. This is the fourth day, and it is evident that the trial will occupy the whole of to-day, if it shall even be concluded at the rising of the Court then.

Several witnesses sworn for the defence were on the previous trial witnesses of the prosecution, and their evidence varied but very little from that given by them before, the main of which was fully reported in the Herald at the time.

The case was adjourned till this morning.

A New Way of Running Off Whiskey.

Jacob Dupuy and Moses Dupuy were yesterday brought before Judge Blatchford to execute bonds for their appearance for trial when called on. The circumstances of the case are:—The defendants were some time ago indicted by the Grand Jury of the United States Circuit with having rescued and run off with fifty barrels of distilled spirits from the distillery, Fifty-fourth street, while the premises and the spirits in question were under seizure by the government for violation of the Internal Revenue law. The parties gave bail to appear for trial in $1,500 each.

UNITED STATES COMMISSIONER'S COURT.

A Coasting Captain in Trouble.

Before Commissioner Osborn.

Captain Uriah Lawson, of the schooner A. R. Thompson, was yesterday arrested by Deputy Marshals McCay and Dwyer, and brought before Commissioner Osborn, under the following circumstances:—The schooner was on the 10th instant seized and taken in charge by the Marshal to await action for a collision, in which the schooner was alleged to be the defaulter. The Marshal had a deputy in charge who left the vessel for a temporary purpose, but which was sufficient to give Captain Lawson a chance to slip her anchor and to give the officer the slip at the same time. When the officer returned the vessel was scudding before a favoring breeze for New Haven. Unfortunately, however, the schooner ran against a rock at Hell Gate, and the captain was forced to come to at Astoria, where he was arrested and brought to New York. The charge against him is "obstructing an officer of the United States in the discharge of his official duty and impeding the administration of justice in the courts of the United States." The accused was held for trial.

UNITED STATES MARSHAL'S OFFICE.

Pardoned by the President.

A few weeks ago John Osbrey was tried in the United States District Court on a charge of having executed a false and fraudulent bond with intent to defraud the government, and was convicted thereof by a jury. The Court sentenced him to imprisonment for ten days and to pay a fine of $1,000. Osbrey has fulfilled the term of his imprisonment, but yesterday, on representations made by influential parties and from extenuating circumstances in the case and on account of the inability of Osbrey to pay the fine, the President directed to Marshal Murray his order remitting the payment of the fine, and ordering the discharge of the prisoner, which was yesterday obeyed and Osbrey discharged.

SUPREME COURT—CHAMBERS.

The Credit Mobilier Case—Application for Removal to the United States Court.

Before Judge Cardozo.

James Fisk, Jr., vs. The Union Pacific Railroad Company and the Credit Mobilier of America.—This action, it will be remembered, was commenced in July last, the plaintiff, who claims to be a stockholder of the Union Pacific Railroad Company, alleging that the Credit Mobilier was a corporation created under the laws of Pennsylvania; that its corporators were mainly the directors of the railroad company; that it was a sort of close corporation, and that the Union Pacific Railroad Company had contracted with said Credit Mobilier for the construction of a large portion of its road at certain rates per mile; that such rates were excessive and would result in large profits to the stockholders and others interested in the Crédit Mobilier, and that the railroad company was not authorized to make such contracts; but that, on the contrary, by performing the work itself, the large profits which the Crédit Mobilier derived from the work would accrue to the railroad company and result to the benefit of its stockholders. He further charged that the organization of the Crédit Mobilier was collusive, and that the arrangements between the two corporations were fraudulent and made for the benefit of the corporators. An injunction was granted enjoining the completion of any existing or the making of any further contracts and restraining the payment of bonds to the Crédit Mobilier by the railroad company. An accounting was also prayed for.

Yesterday the case came before this court on a motion by the defendant, the railroad company, for the removal of the cause to the United States Courts, under the act of Congress of July last in reference to the Union Pacific Railroad Company.

It was opposed on the ground, substantially, that the course of action implicated both defendants conjointly in a series of transactions which prevented any separation of the subject matter of the complaint. It was further claimed that in any event the other defendant was not entitled to removal and both must stand together.

Decision reserved.

A New Affidavit by Mr. Belmont—Answer of Mr. Diven—Arguments of Mr. Vanderpoel and Mr. Rapallo—The Argument to Proceed To-Day.

August Belmont and Another vs. The Erie Railway Company and Others.—The argument in this case was resumed yesterday after the conclusion of the regular calendar. On Tuesday a new order was made to show cause why Judge Sutherland's order should not be vacated and set aside. Mr. Vanderpoel opened the proceedings yesterday by reading the order to show cause and a short affidavit that the papers in the suits brought by the Erie Railway Company against Vanderbilt, Work, Schell and Drew and the papers in The People's suit, with Judge Balcom's order and opinion, had been served on the receiver and the plaintiffs. These matters were all well known to the other side and were not properly new matter.

Mr. Rapallo said that they had a short affidavit to present (Mr. Macfarland said they had sent for it, but it had been delayed), and also the answer of Mr. Alexander S. Diven, which had been only just put in.

Mr. Diven's answer sets forth that the certificates of stock signed by him last spring were signed by him in blank for the ordinary transfers of stock and not to be issued in conversion of bonds, and that that use by the treasurer was without his knowledge or assent; that his duties as vice president in the management of the traffic business were very onerous, and that he did not take an active part in the financial management and knew nothing of the issue of any but the first $5,000,000 of convertible bonds.

Mr. Vanderpoel then commenced his argument. He did not see that Mr. Diven's answer made any change in the facts. The first point he would discuss was the practice question of whether such a reargument was proper. He had always supposed that the re-examination of interlocutory orders during the pendency of suits was a common and ordinary practice. It was a common practice to have a motion denied with leave to renew. It had been equally common when the parties subsequently discovered new evidence or were surprised to move on such new facts for leave to the court to renew the motion, and this was commonly granted and not necessarily before the same judge. Mr. Vanderpoel read several authorities to show that such leave was granted if the parties were surprised or the decision was erroneous, and claimed that they came within these rulings. It was alleged by the defendants that all the new facts in this case were existing and were known by them at the time of the making of the motion before Judge Sutherland. One of the cases cited in Smith and Spaulding held that a judge might permit a renewal of a motion on same facts.

Mr. Macfarland—That is a proposition we have never denied.

Mr. Vanderpoel—We certainly understood Mr. Emott to deny it. If they admitted it it would only be necessary to briefly refer to the case. Certainly the quoting of the Livingston case could have been only for the purpose of denying that proposition and asserting that an order could be only reviewed by appeal. In the matter of Livingston the order made on the petition was a final, not a provisional order. There seemed to have been some idea floating through counsel's mind that an interlocutory receivership differed from other provisional remedies. Such an idea was without foundation. One rule applied to provisional remedies. The rule laid down in Livingston's case was in regard to a final determination of the proceeding. He then cited various cases to show that the doctrine of *res adjudicata* did not apply to interlocutory orders, and called attention to the fact that only two of the defendants—Fisk and Lane—had been served before the argument before Judge Sutherland. Could it be heard that the other seventeen gentlemen could be removed—for that was the practical effect—and not be allowed to ask to be heard here because the two had appealed?

Judge Cardozo said that he need not spend further time on that point, as he was satisfied that the fact of an appeal to the General Term did not take away the power of the court.

Mr. Macfarland here said that to meet certain insinuations that had been made they desired to read the following affidavit:—

City and County of New York, ss.—August Belmont, being duly sworn, says that he is one of the plaintiffs in this action; that the same was commenced by him and his copartner solely for the purpose of compelling a proper administration of the affairs of the Erie Railway Company, the said plaintiffs then owning 4,000 shares of the stock of the said company, which they had purchased in good faith for cash and without any knowledge of or suspicion at the time of such purchase as to any of the matters which are not set forth in the complaint in this action. That the said action was and is prosecuted in entire good faith and solely for the purpose of establishing the rights of the plaintiffs in the premises, and that no other person (or persons) had or has any interest in the said litigation other than the plaintiffs, and that the same was not commenced by the plaintiffs, nor is the same prosecuted in the interest of or for the benefit of, in any way, directly or indirectly, any person other than said plaintiffs. That neither deponent nor his said coplaintiff is now or has at any time been engaged in any speculation or transaction in the stock of the said company, except with reference to said 4,000 shares of stock set forth in said complaint, and that neither of them has at any time made or been interested in any short sales of said stock or in any business, speculations or transactions touching the same, except as connected with and growing out of their aforesaid purchase of said 4,000 shares.

Sworn, &c. AUGUST BELMONT.

Mr. Vanderpoel resumed his argument to show that the course of the argument had surprised them. The cases stood on the Chambers calendar as 213 and 214. If the calendar had been called down to 138 in the ordinary course these cases would not have been reached for some days. He did not deny the power of the Court over its calendar, but as far back as 1859 this calendar had been instituted to have cases called in regular order. If these cases were to be called up out of their regular order, then, at least, they should have had notice of the intent. They had come in here with their affidavits unprepared. Mr. Vanderpoel read from the stenographic minutes to show the way in which they had been forced on to the argument, and read from Mr. Gould's affidavit to show that a large number of the matters which were denied in his completed affidavit were, as it stood before Judge Sutherland, undenied. He called attention to other facts which appeared now which did not appear before Judge Sutherland, and among the rest that now they had before the Court the fact that Judge Davies, however estimable as a man and lawyer, was unfitted by his connection last spring as counsel with those hostile to the company for the receivership of this company.

Mr. Rapallo said the part allotted to him was the discussion of the merits, to show to his Honor that if he had the power to rehear there was no meritorious reason to disturb Judge Sutherland's order. Mr. Rapallo then discussed at some length the jurisdictional question raised on the statute as to the removal of directors. It was not a limitation on the old powers of the Court of Chancery to release and protect stockholders, but an extension of that power to give other persons, not before entitled to bring such suits, the right to bring them. It was generally understood that this act was passed in consequence of a decision of Chancellor Kent, in Attorney General vs. The Bank of Utica, that the Attorney General could not proceed in equity, but must proceed at common law. The charter was the contract between the stockholders and directors, under which they acquired rights of property which the courts may be called upon to protect. Under the old idea of corporations as partaking of sovereign power a different view had been taken of the law, but that idea clearly lay at the root of all the restrictions in the powers of relief which the courts could give. Now, when corporations had become, in fact, convenient partnerships this idea was swept away and the restrictions must fall with it. There was nothing contrary to that view in Chancellor Kent's decision, which affirms the right of the court to control the directors as trustees of the stockholders. The Chancellor denied the Court any general visitatorial power, and it was to supply this lack that the statute was passed. The scheme of the statute was to give a milder remedy than the destruction of the corporation. It enumerates the powers of the Court of Chancery over corporations, those it possessed before the statute as well as some then given. This enumeration was not so connected with the subsequent provisions as to make them the only way of exercising those powers.

Mr. Rapallo next discussed the several sections of the statute, claiming that its effect was to sweep away the governmental idea of corporate administration and reduce it to the relation of trustee and *cestuy que trust*. This interpretion, he claimed, had been affirmed judicially, and cited cases to show it. He also cited a United States case to show that the change in the position of corporations had given the right to the stockholders to proceed against directors for breach of trust, and to proceed in some cases against the company, and cited a large number of cases to show that in such cases the Court had jurisdiction. If the Court had jurisdiction it could use all its tools. A receivership was one of those tools, and in a case where it was necessary should be used, and the Court was the only judge of that necessity. There was no peculiar sanctity in the property of a corporation. Receivers had before been appointed of corporate property. Where property is in the hands of persons who are misusing it a receivership is the most proper remedy, not an injunction. In this case they alleged that the other directors left the property of the corporation in the hands of three men and that these three men were wasting and mismanaging the property. A receivership was the only remedy.

Mr. Field inquired if Mr. Rapallo had ever heard of a railroad being run by a receiver.

Mr. Rapallo said not except in a mortgage case; but he could give a stage company case with which his Honor was familiar.

Judge Cardozo said in that case he was satisfied that the company was insolvent and had authorized the receiver to run the stages long enough to wind it up.

Mr. Rapallo said in that case the court acted from its general equity jurisdiction, and not from any statutory power. At present they were engaged in discussing the proposition that the court having no jurisdiction to make this order it must be set aside here. He thought that question would be more properly argued on a regular appeal; but he was now arguing before his Honor that the Supreme Court had this jurisdiction, and that his order should not therefore be set aside unless he were satisfied that Judge Sutherland had overlooked some important points—a matter for which he would have to go to Judge Sutherland's mind. There were some matters in this suit not controverted. These three men had obtained for themselves the control of this vast company. They had issued twenty-five millions of stock unlawfully; they had used the property so controlled for their own private gains, producing public distress and inconvenience and risking the property of its company and the interests of its stockholders. This was the evil against which this suit was directed. It was averred by Mr. Belmont and not denied that his purchase of stock was in good faith and the suit itself. There had been some charge that this suit was brought in the interest of some other persons. He did not wonder at their vindictiveness. Mr. Drew had been a friend and had gone over to the opponent, but that he was a friend of that opponent was a different matter. If Mr. Drew had aided Mr. Belmont with a dollar it was the most foolish investment he had ever made. He could gain nothing from this suit. He (Mr. Rapallo) had not received one dollar of his money. As to the other gentlemen named it was not proper or necessary for him here to speak of them. The fear of Gould and Fisk was that if a proper receiver were appointed they would be called to an account of matters which they did not desire. Actions had been commenced against some of those named which would no doubt be answered in proper time and place.

Mr. Rapallo then went into the discussion of the right of the company to issue convertible bonds, using substantially the same arguments as were used in the cases last spring. In May, 1866, they had exceeded the authorized issue of stock by the issue to Drew of $5,800,000. Then last spring there was a further issue of ten millions of stock and another of two millions, which was the basis of the July settlement. This made $34,000,000 of stock. Since then, it is claimed, they had issued twenty-six millions of stock additional. The whole framework of the law, with its provisions as to how the stock should be increased, was in direct conflict with the claim of the defendants. There was no provision in the act that the directors might create stock, even in conversion of the bonds. Counsel claimed that the decision of Judge Sutherland in last spring's cases was directly on the question of the power of the directors to so increase the stock. That was the only point raised in the case of the people last spring. The injunctions did not refer to fraudulent issues, but to all issues, and necessarily were based on the decision that there was no power to make the issues. Mr. Rapallo reviewed the issue of bonds made last spring, and claimed that the issue of $5,000,000 of bonds produced to the company but 72½, while Mr. Fisk got for the stock 80, thus making $375,000, which did not come into the treasury. Who got that profit might be inferred from an agreement made when the bonds were issued, between Drew, Fisk and Gould, to divide the profits of unnamed transactions. Fisk does not deny that he claimed from Drew a share in these profits. He had not dared to deny this matter, because two men could be witnesses to it. The vindictiveness with which they pursued Drew was explained from the fact that but for his "peaching" they would be safe. When they quarrelled counsel would have failed in his duty to his clients not to have used the information thus thrown in his way. That was the connection of Mr. Drew with this case—that of an accomplice, who was willing to turn State's evidence. Then they fled, and later came the compromise with Mr. Schell. Schell was not a director. Drew, Fisk and Gould were. Gould swears he withdrew his opposition reluctantly. What overcame his reluctance? Was it a promise that he should be treasurer and president? Why did they, if this was such a foul transaction, reluctantly consent? Could they plead they were "byebabies?" Fisk and Gould were not famous for allowing anything to be done they disliked. The answers they made were in fact admissions of facts and denial of motives. They presented a remarkable series of coincidences, resulting in placing them in control of the company, and all against their wishes. They say they obtained the control without any design, and have not used it in an improper manner. But they have used the power and have done various acts. When they came into power the stock was at $34,000,000. Immediately after this they received from Mr. Drew $5,000,000 and upwards. It is averred that they kept the directors in ignorance of their acts. They say it is not true in the sense in which the charge is made. They do not say what that sense is. Mr. Diven's affidavit shows that he was kept in ignorance of the issue of convertible bonds. It was charged that after this settlement $3,000,000 was issued previous to October, and since the election $23,000,000. Mr. Gould's answer was that he had not issued stock to that extent, which would be true if they had only issued $25,990,000. It amounted substantially to an admission. There was a denial of the issue of $20,000,000, to influence the election. Probably that proposed issue never got beyond the form of convertible bonds in the hands of a confederate. But the other $26,000,000 was not denied except as to the extent. They had a right to infer from Mr. Gould's petition in the McIntosh suit that $20,000,000 of illegal stock had been issued. It is coupled with a statement that there was just that amount of stock in the market. It was not probable that so disinterested an officer as Mr. Gould could have intended to aid a corner in that way. They say that the convertible bonds were issued before the election, but they don't say how long before, nor that they were issued before he was President. He denies that the stock was issued secretly, but he does not deny that it was kept from the stockholders, the parties who had the right to know it. It was not denied that the market price of the stock was reduced by these issues. The stock sold below fifty cents, and Mr. Gould sought the aid of the court to permit it to be bought back at par. Such kind of things it was that alarmed stockholders and made them desire to have their property taken from such hands. Was there any fact undenied which supplied a motive for these actions? Mr. Rapallo read that part of the complaint which avers that they have sought to obtain control of large sums of money to lock it up and thus break down the markets. This, Mr. Rapallo contended, was not denied. They did not deny the sale of the stock or the schemes or the locking up, but they deny that the stock was issued for that purpose.

Mr. Vanderpoel—And he denies the allegations in that behalf made in the complaint.

Mr. Rapallo—That, then, is the denial joining several things conjunctively, so that it is not a good denial of any one of them. Mr. Rapallo contended that the whole answer was evasive in denying the connection of facts, but not the facts themselves.

Judge Cardozo here directed the case to stand over to this morning at eleven o'clock.

COURT OF GENERAL SESSIONS.

Burglaries and Felonious Assaults.

Before Recorder Hackett.

The Grand Jury brought in a large number of indictments yesterday morning.

John Ford was tried and convicted of burglary in the third degree, the charge being that on the 10th inst. he burglariously entered the premises of Morris Abrahams, No. 375 Third avenue, and stole hats and suspenders worth nine dollars. When the officer was taking the prisoner to the station house he (Ford) said, "We have killed Smedick," meaning an officer who was recently murdered in the neighborhood, "and we will kill you."

The Recorder in passing sentence said that Ford was a dangerous character, and sentenced him to the State Prison for five years.

Charles Van Blarcom and John Thompson, who pleaded guilty on Wednesday to an attempt at burglary, were each sent to the State Prison for two years and six months.

Mary Briggs, who was charged with cutting Fanny Wheeler with a razor when in a cell with ther, pleaded guilty to assault and battery and was sent to the Penitentiary for six months.

William Schubaner pleaded guilty to a simple assault, the complaint being that on the 27th of October he stabbed John H. Bischoff in the thigh with a knife. As there were extenuating circumstances, and as the complainant interceded for him, the Recorder sentenced the prisoner to the Penitentiary for thirty days.

Elizabeth Walker, indicted for stealing eighty dollars' worth of bedclothing from Mary Simons on the 7th inst., pleaded guilty to petit larceny. She was remanded for sentence.

SURROGATE'S COURT.

The Patullo Estate.

Before Surrogate Tucker.

In the Matter of the Estate of David Patullo, deceased.—This matter having been reached in its order yesterday, the Surrogate said:—I have been served with an alternative writ of mandamus from the Supreme Court, issued on the relation of the Public Administrator and commanding me to decide the questions raised before me by this application according to a certain construction of law and fact which that court has indicated in its writ. I have made my return to the writ, respectfully denying the power of the Supreme Court to command me in advance to construe statutes or decide issues of fact in any particular manner or in favor of any litigant party, and I have further submitted that the Surrogate has the exclusive jurisdiction to decide all questions pending before him, subject to the action of the Supreme Court only on appeal. The argument upon my return has been had before that honorable court and the papers taken for a decision. Pending that decision the action of the Surrogate is not free, and every judicial tribunal, however humble, should be free, that it may be independent in its action. I desire, therefore, not to try this case at this time or to take any action upon the contested administration. The application made by the Public Administrator and the objections made to it by the party interested in the estate will therefore stand adjourned till the January term of this court, unless the mandamus shall be sooner decided by the court above.

COURT CALENDAR—THIS DAY.

Supreme Court—Special Term.—Nos. 176½, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 204, 205, 206, 207, 208.

Supreme Court—Circuit.—Part 1—Nos. 5891, 5895, 4517, 4823, 4849, 5071, 5523, 5577, 5619, 5837, 5865, 6019, 6025, 6157, 6159, 1741, 1985, 2235, 3055, 3809, 4313, 4735, 4777, 4799, 4809, 4813, 4907, 4985, 5055, 5097, 5277, 5341, 5361, 5499, 5535, 5607, 5649, 5693, 5791, 5819, 5823, 5827, 5843, 5857, 5869, 5897, 5911, 6153. Part 2—Nos. 5848, 5862, 5890, 6040, 5406, 5408, 5470, 2692, 3998, 4222, 4223, 4260, 4352, 4464, 4484, 4788, 4804, 4916, 4952, 4964, 4984, 5044, 5112, 5148, 5180, 5208, 5246, 5290, 5360, 5362, 5380, 5458, 5492, 5536, 5552, 5614, 5638, 5640, 5864, 5866, 5906, 5908, 5936, 5988, 6046, 6070, 6080, 6100, 6146.

CITY INTELLIGENCE.

The Weather Yesterday.—The following record will show the changes in the temperature for the past twenty-four hours, as indicated by the thermometer at Hudnut's pharmacy, Herald Building, Broadway, corner of Ann street:—

3 A. M.	39	3 P. M.	44
6 A. M.	39	6 P. M.	43
9 A. M.	39	9 P. M.	41
12 M.	43	12 P. M.	40
Average temperature			41
Average temperature Wednesday			39⅝

Sudden Deaths.—Notice was received yesterday at the Coroners' office that Charles Mooney, a native of Ireland, aged twenty-six, had died suddenly at his home, 64 Bayard street. The sudden death of Barney McGowen was also reported as having taken place at 158 West Eighteenth street. As both deaths resulted from unknown causes inquests will be held to-day.

Ferryboat Collision.—The Fulton ferryboat America was run into by a steamtug while leaving the Brooklyn slip yesterday morning, at five minutes to eight o'clock. The bow of the tug struck the America on the chafing piece, cutting it in twain and springing it from the bow to the door of the ladies' cabin. No person was injured and as usual nobody to blame.

Ball of the Metropolitan Chapter.—The annual ball of the Metropolitan Chapter, No. 140, R. A. M., came off on Wednesday night at Apollo Hall with great *éclat*. About 300 persons were present. The ball was presided over by M. E. Companion Isaac Feichman. Mr. B. Croner being chairman of the Committee of Arrangements. The ball was pronounced the grandest affair that has been witnessed in Apollo Hall during the present season.

The Midnight Mission.—Mr. De Cordova will deliver his new and exceedingly humorous lecture, entitled "The Spratts at Saratoga," to-night at Steinway Hall, for the benefit of the Midnight Mission Association. The Mission is doing a good work, and is entitled to a generous support by the public. Owing to the depression in business, and consequently the difficulty in making collections, they are obliged to resort to this means to replenish their overdrawn treasury.

Alleged Fraud on the Revenue.—F. Liebes, of No. 6 Ridge street, was arrested by revenue officer Bernard Hess and taken before United States Commissioner Osborn yesterday, on the charge that he was the owner and proprietor of a sugar manufactory which was in reality owned by Julius Knapp, and executing a false and fraudulent bond to the amount of $3,500. The accused was required to furnish bail in the sum of $5,000, in default of which he was committed to await examination on Monday next.

Fires.—About three o'clock yesterday morning a fire broke out in the dry goods store of Richard Grey, No. 680 Third avenue, and before it could be extinguished the store and fixtures were damaged to the extent of about $7,000; insured for $10,000 in International and Home Insurance companies. The second floor was occupied by Mrs. Esther Merritt, whose furniture, which was not insured, was damaged $100. An adjoining apartment, on the same floor, occupied by a Mrs. Roach, sustained a similar loss. The building is owned by Abraham Kine, of 158 East Forty-ninth street, and is damaged to the extent of $2,000; insured for $9,500 in the Park and Union Insurance companies.

A fire was discovered about six o'clock on the third floor of the building in the rear of No. 229 Mott street, which slightly damaged the rooms occupied by James Blanigan. The building belongs to Patrick Begg and was damaged about $200; fully insured.

Sudden Death of a Physician.—Coroner Keenan held an inquest yesterday, at 129 East Twenty-fourth street, on the remains of Dr. Isaac Cummings, who died from the effects of an overdose of morphine. The deceased gentleman was house surgeon in the Demilt Dispensary, on the corner of Twenty-third street and Second avenue, and on Tuesday evening was unable to sleep. As he had frequently taken morphine for the purpose of producing slumber the Doctor took an extra sized dose and went to bed. At half-past ten o'clock P. M. his landlady, Mrs. Hugg, discovered him to be in an unconscious state, so she summoned medical aid, which arrived too late to be of service, for Dr. Cummings lingered until two o'clock A. M. of Wednesday and sank beneath the effects of the drug. A verdict in accordance with these facts was rendered. Dr. Cummings was a native of Massachusetts, aged thirty-six years, and warmly esteemed by all who knew him. His loss will be severely felt by those frequenting the dispensary where he so long and successfully practised.

POLICE INTELLIGENCE.

Passed a Worthless Check.—Charles Henkel, of No. 91 Seventh avenue, appeared before Justice Ledwith, at the Jefferson Market Police Court, yesterday and accused George Schaeffer of giving him, on the 10th day of April last, in payment for certain goods, a check for thirty-six dollars on the Portchester National Bank which he represented to be "as good as gold." Placing implicit confidence in these statements, the check was accepted, but subsequently it was found to be worthless. The complainant subsequently met the accused and asked him to "make good" the amount, but he always received him with some flippant remark, and in the last interview he obtained the check by a "trick and device," when he destroyed it. Upon this complaint Schaeffer was arrested and held to bail in the sum of $500 to answer the charge.

Young Marsh Discharged.—The counsel for the prosecution in the case of Messrs. Heiser, of No. 38 Wall street, against J. Augustus Marsh, accused of having obtained from that firm $15,000 in United States bonds on a check signed Temple & Marsh, given on the 23d of November, on the National Bank of the Commonwealth, made an address to Justice Hogan yesterday, in which they stated that as the prosecution would doubtless fail to secure a conviction, by reason of defective evidence of criminal intent, they desired to withdraw the complaint, and so give young Marsh a chance to redeem himself. The accused had already endured a painful imprisonment of several weeks, and as he had a widowed and invalid mother depending upon him for support the prosecution would rather, if allowed by the magistrate, withdraw the charge and give him one more chance. Justice Hogan stated that he agreed with counsel, and as the lesson would do Marsh good, and it would probably be ineffective if allowed to go further, he would dismiss the complaint. Marsh was accordingly discharged.

Alleged Highway Robbery.—John J. Burke, of 145 Thompson street, unfortunately fell in company with Patrick Gough on Wednesday night, a man well known to the police, and against whom there have been charges without number in the criminal courts of the city. During their promenade they journeyed in Mercer street, and while there talking with his companion Burke was suddenly struck with some weapon that knocked him down and made him for a moment insensible. As soon as he recovered he missed Gough and also the watch and chain which he had worn, valued at $105. It suddenly flashed through his mind that his friend had not only assaulted him, but had kindly taken his property, and calling into service officer Eakins, of the Eighth precinct, they searched for the pleasant-mannered youth, and found him about an hour subsequently in a lager beer saloon on Spring street, where he was quietly quaffing a glass of beer. He was at once arrested, but denied all knowledge of the property. When arraigned before Justice Ledwith at the Jefferson Market Police Court yesterday morning he reiterated the statement, adding that when Burke was assaulted he was also knocked down and badly hurt. He was committed to answer the charge in default of $1,500 bail.

PUBLIC EDUCATION.

Musical and Elocutionary Exercises at Grammar School No. 58.

The pupils of the male and female departments of Grammar School No. 58, on West Fifty-second street, yesterday afternoon entertained a large number of the friends of the school and of education generally with a display of musical and elocutionary ability second to none which can be shown by any school in the city. The programme prepared, while it embraced a large number of the most interesting, amusing and really exquisite gems of music and poetry and prose, was faulty, perhaps, in one particular. It was too long. Not that the visitors tired of the display or at the time wished it to be curtailed. The evidences of gratification frequently bestowed showed plainly that they could have listened patiently to almost as much more. And it is safe to say that the exercises could readily and creditably be enlarged. But, in charity to the pupils, it must be said that the exhibitions at the public schools are generally too lengthy. No doubt each of the pupils would be glad to wait a little longer and show what he or she could do; but the strain upon the young nerves is too much and should not be kept up merely to give entertainment to a number of visitors, who could find plenty of interest by visiting the schools almost any day or hour during the school sessions.

To speak of the exhibition yesterday as it deserves the entire criticism might be put in three words—it was excellent. It would be almost invidious to make any comparisons where all acquitted themselves so admirably; but the musical portion of the programme by Miss Hoffman could not be overlooked. The comical "Singing Lesson," by Miss Hoffman and Mr. Nash, was capitally given, and the trio, "How Gently," by the same lady and gentleman, in company with Mr. Barrows, was remarkably fine. Messrs. Cook, Jr., Ahrens, August, McIntyre, Gathman, Plumb, Lockwood, Perry, Hunter, Pieto, Unz, Deyke, McKinley, Garrety, Gallagher, Green and Guthrie in the declamations and dialogues assigned them merited the plaudits they received. A piano solo by Mr. Howard Kingsbury, a voluntary on the new school organ by Mr. Isaac Kiersted, a solo, "A Curious Circumstance," by Mr. Henry P. Soloman, and another, "Sleep Well," by Mr. Barrows, together with the choruses given by the pupils, were well rendered and received. Mr. Robinson and Miss Jasper, the principals, have evidently given to the citizens of the Twenty-second ward a schools of which they may well feel proud.

CHAMBER OF COMMERCE.

A Meeting that Was No Meeting—A Panic, but Not the Panic Expected—Curious Combination of Red Tape, Indignation and Impudence.

It is very rarely that the Chamber of Commerce and its old fogy members, with their old fogy notions upon questions of commerce, trade and finance, give forth anything but dry and unintelligibly abstruse addresses, discussions and memorials, made up of melancholy arrays of statistics and statements and conclusions smacking more of antiquity than accuracy.

A meeting yesterday, however, was an exception to this general rule. It was a call for a special meeting. The call was in the form of a circular, and affixed were the names of some two dozen members of the Chamber. It was announced in the circular that Dr. James C. Hallock, Jr., would deliver an address in explanation of "a practical plan for the complete, immediate, and permanent control of all disturbances and obstructions in commercial payments, otherwise culminating in panic." A subject of such vital importance to the commercial community, and particularly in the sexepadalian style of its announcement, would naturally suggest a broadly comprehensive and exhaustive handling of this most agitating topic, and the gathering of a considerable number to hear the exposition of a plan promising such assured prevention, if followed out, of any financial panics from this time forth in the monetary world. The audience came together—a small one though, which doubtless was accounted for from the fact of very many who otherwise would have attended staying away to work out plans of their own to prevent personal financial panics.

At one P. M., the hour at which the meeting was called, Mr. Wm. E. Dodge, the President, took the chair, or rather shoved the chair aside, which, by virtue of his office he should have taken, and took the floor, and, as the result showed, speedily took the assembled gathering by surprise. This surprise was the product of a speech he made. Mr. Dodge is not very tersely spoken in his oratorical efforts, and he therefore began with a rather diffuse explanation of his endeavor with respect to the calling of the present meeting to observe all the pertinacious proprieties of the red tape rules of routine in such cases laid down and provided in their constitution and by-laws. This meeting, he showed, had not been thus called. The signers were those who rarely attended the meetings of the Board. Not long since they were humbugged into just such a special meeting. He was tired of it. As things were going any one having an ambitious desire to bring forward before the public any special advantageous scheme in which they were personally interested could easily accomplish the calling of a special meeting, and through the potential aid of these gentlemen—(turning about and most benignantly smiling and bowing to the gentlemen of the press present)—and the thing was done—sharply, quickly, neatly done. If this mode of doing business and special advertising was to be continued he should feel impelled to resign his position as President of the Chamber.

Mr. Charles Butler moved that the meeting adjourn.

A feeble-looking young man, of feeble stature and particularly feeble mustache, expressed in a feeble tone of voice the hope that the meeting would not adjourn.

"Who are you?" asked the President.

"Dr. James C. Hallock, Jr., son of Mr. Hallock, Sr.," answered the young man.

"Don't know anything about you," spoke up the President.

"No one knows anything about him," broke in Mr. Butler.

"But I would like to explain to the meeting," interrupted Mr. Hallock, Jr., "so that they'——

"No explanations can be listened to," quickly and tartly interrupted the President.

"As a significant rebuke to this young man and all others like him I now renew my motion for adjournment," said Mr. Butler.

"Can't I say something?" pleaded Mr. Hallock, Jr.

"Won't you listen to a word from me?" plead Mr. Hallock, Sr.

"There is no use in either of you wasting words," answered the President. "All in favor of adjourning say aye—(several ayes); opposed, no—(many noes). Ayes have it. Meeting is adjourned."

Both Mr. Hallock, Sr., and Mr. Hallock, Jr., endeavored after the adjournment to make explanations to various members privately, but they met with poor success. The meeting, as regarded themselves, had culminated in a panic they did not anticipate.

MUNICIPAL AFFAIRS.

BOARD OF ALDERMEN.

This Board convened yesterday afternoon pursuant to adjournment, but as there was not a full quorum present they adjourned without transacting any special business.

BOARD OF COUNCILMEN.

A Stand of Colors for a Cavalry Regiment—Streets to be Paved with Belgian and McGonegal Wooden Pavements—Donations to Churches.

The Board met yesterday afternoon, and in the absence of the President Mr. Stacom was called to the chair.

A resolution to grant a stand of colors to the Washington cavalry was presented and laid over; also a petition for a donation of $15,000 to the New York Dispensary. A resolution heretofore presented in favor of increasing the salaries of the women employed in cleaning the offices of the city government from $1 50 to $2 was adopted.

Resolutions were adopted directing the Croton Aqueduct Department to pave the following streets with Belgian pavement:—Ninth street, from Sixth avenue to Broadway; Thirty-third street, from Fifth avenue to Broadway; Thirty-fourth street, from Ninth to Tenth avenue; Fortieth street, from Sixth to Ninth avenue; Seventieth street, from Third to Fourth avenue; Lexington avenue, between Twenty-first and Thirty-fourth streets; Second avenue, from Eighty-sixth street to Harlem river.

Resolutions were adopted directing that Fourth street, from the Bowery to Sixth avenue, be paved with the McGonegal wooden pavement, at an expense of five dollars per yard; also Astor place, from Fourth avenue to Broadway, and Rivington street, from Bowery to Mangin street.

Resolutions authorizing the Comptroller to draw his warrants in favor of the German Evangelical Lutheran church of St. Matthew for $280; in favor of the German Roman Catholic church for $586, and in favor of the First Baptist Mariners' church, in Oliver street, for $674, to enable them to pay assessments.

The Clerk of the Common Council was directed to procure a certified copy of the official canvasses of the November and December elections, and have 5,000 copies printed in document form.

The Board concurred in increasing the salary of the keeper of the City Hall to $3,750.

On motion the Board adjourned to Monday.

SALE OF CHROMO-LITHOGRAPHS.

A special holiday sale of choice American and foreign chromos was held last evening, at the American Chromo Gallery, 639 Broadway. The attendance was exceedingly good, the bidding excessively tame and the prices realized anything but satisfactory. If the auctioneer had any persuasive powers he kept them in reserve, generously allowing buyers to have everything their own way. The majority of those present were dealers, and since original oil paintings are now selling at considerably less than the cost of the frames, to say nothing of canvas, colors and that absurdly insignificant item, the labor of the artist, the prices paid for the chromos were anything but extravagant. "Mother's Cares," in a neat walnut frame, brought $2; a "Group of Children" sold for $3 50; a "Bouquet of Flowers" realized $4, and a handsome "Basket of Peaches" was given away at $1 50. A portrait of Washington was knocked down at $5, while General Grant (two sizes smaller and without the inevitable cigar) realized $11 50. "Morning" and "Evening," cattle pieces, after Rosa Bonheur, brought $5 each. "Light and Shadow," after Bierstadt, $7; a fruit piece, after W. M. Brown, $13; "Holy Family," after Raphael, with gold frame, $12; a copy of Corregio's "Magdalena," $8 50; "First Carresses," after Bougereau, with gold frame, $15; "Wistfulness," a companion picture, $15; copies of Guido's "Ecce Homo," and "Mater Dolorosa," $6 each; "Making the Scrap Book," after Miss J. Oakley, $8; "The Old Oaken Bucket," after Jerome Thompson, with gold frame, $20; "Home, Sweet Home," companion picture, $18; "Sunset," after Bierstadt, with gold frame, $17.

Troubles of a Hoop Skirt Manufacturer.—Some days ago we noted the arrest of H. E. Marchand, the quondam hoop skirt manufacturer, of this city, upon the grave charge of obtaining by false pretences $600 from Frank Williamson. After sundry continuances the case was adjudicated before Justices Matlack and Clement on Saturday. It appeared that Marchand represented that he had sent on to Washington an application for a patent for some kind of a corset-making contrivance and that he had received an answer from the proper source granting him letters patent for the invention. Upon this representation and a full statement as to the utility of the patent, Williams advanced the sum of $600 hard cash, to the inventive Marchand. Very soon thereafter Marchand decamped for parts unknown. It was soon learned that he had not applied for a patent, and he did not do so until some two months subsequent to his financial exploit. It may be added that he has never received the hoped-for patent. These facts being uncontradicted, Marchand was held in the penal sum of $600 to answer before the Jefferson Circuit Court. He gave the required bail and was liberated.—*Louisville Courier-Journal, December 15.*

WESTCHESTER INTELLIGENCE.

Annual Meeting of the Agricultural and Horticultural Society.—The annual meeting of the Agricultural and Horticultural Society of Westchester county was held at the Court House, White Plains, yesterday, and was attended by the largest number of members ever assembled on any occasion since the society was organized, and considerable excitement was manifested. A proposition was made a few months ago to sell or lease the Fair grounds, with the reserved privilege of holding the annual fair thereon. To this arrangement many members, especially those residing in the upper section of the county, were much opposed, and therefore came down in full force to defeat the movement, and promptly at the hour appointed for the meeting, and while the advocates of the scheme were patiently waiting for the arrival of President Leland, they called the meeting to order and adopted the report of a committee adverse, postponing all action in the matter for the present, and then appointed a committee to select the names of suitable persons for officers of the society. After a brief absence two reports were made, presenting the names of Fordham Morris and James Gibson for president—the former by the race-course advocates and the latter by the opponents of that scheme. At this stage Mr. Warren Leland, president, arrived and took the chair, just as the proceedings became unusually exciting. While a ballot was being taken a large number of new members were brought in and admitted on payment of their fees, which action was protested against by Mr. J. B. Cunningham and others, and a ballot was taken which resulted in the election of Mr. Fordham Morris, by a vote of 173 to 140 for Mr. Gibson. Mr. Cunningham and his friends then presented a formal protest against the officers for the manner in which the election had been conducted, and the protest was received and placed on file without reading it. The opponents then withdrew from the room, when another ballot was taken for the remaining officers, and it resulted in the choice of the following gentlemen:—For Vice Presidents—First district, Edward DeWitt; Second district, Josiah Macy; Third district, William Bailey. For Managers—Second district, Francis M. Randall; Third district, Abraham R. Strong; for Treasurer, N. Holmes Odell; for Recording Secretary, John Cowan; for Corresponding Secretary, D. K. Sherwood. The seceding party in the meantime repaired to Lafayette Hall and held a meeting of their own, at which Thomas H. Faries was called to the chair and Mr. Moran appointed secretary. A series of resolutions was reported and adopted protesting against the course pursued by their opponents. A committee of five, consisting of Messrs. Edwin De Witt, Dr. F. M. Hexamer, George P. Nelson, James Wood and W. Bolton, was appointed to take such action as they may deem necessary to test the validity of the ruling at the Court House meeting. The chairman was also appointed a committee to confer with the officers of the State Society in the matter.

LONG ISLAND INTELLIGENCE.

Brutal Assault.—John Kiernan, residing at College Point, was arrested on Monday last for beating his wife so severely that her life is despaired of. Coroner Hicks, of Flushing, took the wounded woman's deposition yesterday and Kiernan was locked up to await the result of her injuries.

Arrest on the Charge of Murder.—James Lyons, a resident of the town of New Lotts, was arrested yesterday on a warrant issued by Justice Snediker, of Jamaica, on the charge of having murdered a woman named Mary Spratz, a resident of East New York. It appears that on the 4th day of October, 1864, Lyons met Mrs. Spratz in the woods near the Cypress Hills Cemetery, and endeavored to commit an outrage upon her, in the struggle to accomplish his purpose throwing her violently to the ground several times, by which it is alleged that she received injuries from which she died on the 25th of January, 1867. Lyons, soon after the commission of the crime, was arrested and indicted for an assault with an attempt, and on trial found guilty of the assault and sentenced to pay a fine of $300. From the time of this trial Mrs. Spratz rapidly failed, and on the 5th of January, 1867, finding that her recovery was impossible, Coroner Smith, of Kings county, took her ante-mortem deposition, the jury finding that she came to her wounds at the hands of James Lyons. The same Coroner on the 26th of January, the day following the death of Mrs. Spratz, held an inquest on the body, the jury finding that she came to her death from wounds received at the hands of James Lyons. The accused, notwithstanding the finding of the Coroner's jury, as it is alleged by the friends of the deceased woman, has been allowed to remain at large, either through negligence on the part of the Coroner or the Queens county authorities, until her husband on Saturday last made application to District Attorney Downing for the arrest of Lyons, who at once directed him to Justice Snediker, with instructions to issue the warrant. The prisoner, after a hearing before the Justice, was discharged on the grounds, first, that the deceased had lived over two years after the commission of the alleged injuries and, second, that the prisoner had been tried on the charge. The prisoner claims that his prosecution at this time is solely for the purpose of extorting money.

A STORY BY ED. TERRELL, THE KENTUCKY GUERILLA.

Why He Changed the Confederate for the Federal Uniform—A Secret Chapter in His History as He Relates It.

[From the Louisville Courier and Journal, Dec. 15.]

The following communication has been handed to us by a gentleman who conversed with the notorious Ed. Terrell shortly before he died in the Louisville City Hospital. From memory the writer has employed the language of the deceased, and we give it for what it is worth:—

THE GUERILLA'S SUFFERINGS.

Shortly after Terrell's entry into the hospital of this city I visited him. I found him in a pitiable condition—his leg paralyzed, his bowels almost at a deadlock, and his arms not much thicker than willow wands. Indeed, his entire system seemed exhausted. His mind alone was unimpaired. About every ten or fifteen minutes he had what he called a shock of the nerves in his spine. During these paroxysms he would be rolled together like a ball and moan piteously with pain. He often expressed to me his desire that death would come quickly to relieve him from such agonizing torture.

HIS STORY.

The last time I saw him he fully related to me the cause why he had doffed the gray and donned the blue. It was as follows:—I lay at ——ville, in Tennessee. I was then in General Morgan's command. We were short of horses and an officer was despatched to southern and central Kentucky to press horses. He was instructed to take also whatever else he could find which would be of evident use to us. I was still with the command at the same place when he returned. I happened by some mischance to get a look at the seizures. I recognized by the marks quite a quantity of horses, beef cattle, work oxen, hogs and harness, which had been the property of good and true Southern men living near my own home, and in the immediate neighboring counties, every inch of which almost I knew. I felt awfully bad at this. My dander got up. I hunted up the officer who had impressed the property. He belonged to the ordnance department. I told him what he had done—that he had taken the stock and substance of friends instead of leaving them and coming down only on Yankees, of whom there were enough and more than enough where he had been to have harried them of ten times the quantity he had brought in. I told him in such a country as he had been operating in he needed not to have taken so much from a Southern man as a single porker or gobbler. He cursed me and I cursed him. Eventually he put his hand on or near a pistol and bowie knife he had. I at once shot at him with my revolver. He died instantly. I was then placed under arrest. I was court martialed. I was sentenced to be shot. The execution was to have taken place on a Friday. There were five or six more to have died at the same time. Two of them were Yankee preachers, accused of being spies or of despatching intelligence to our enemies. General Morgan felt awful bad about myself and two more of our boys. He did all he could with General Bragg. The officers and men all petitioned for us; but you might as well pray to a flintstone as ask mercy from General Bragg. I saw General Morgan often. He sometimes could only look at me, as he was speechless from vexation and sorrow. We were to be shot at sunrise on a Friday. I made up my mind to stand the thing. What else could I do. I could not help myself—ironed hands and feet and securely guarded by a strong detail of sad, mournful and mourning comrades from my own regiment, whose moistened eyes and husky voices but too plainly told of the agony they endured while mechanically performing the routine of provost guard duty in and around our prison. On Thursday afternoon, about sunset, I observed a commotion among the guard. They stood to their arms, faced northwards, and sent out scouts. These shortly returned. All retreated, by the right flank, on the run. They had not been gone many minutes when a party of bluebirds, on the double quick, from a station about nine miles north, surrounded the jail. They inquired for me and for the gospellers. They had a man ready with tools, &c., to knock off our irons, and then mounted us on led horses, which they had with them. They released all military prisoners, and invited all to escape with them. I did not require argument to convince me I should go to a healthier quarter. My two companions were also more ready to leave than remain. I was too anxious to get off to pay any attention to what disposition the rest of the jail boys made of themselves. The soldier prisoners were all released. The Yankees at once evacuated the town and retreated to their former station. Looking back I could see General Morgan's command entering and reoccupying their old posts in and around the city. Their flag again floated from the court house. We traveled slowly and comfortably back. Not a shot had been fired at or by the Confederates or federals in all this advancing, occupying or retiring. It seemed a mystery to all of us, Confeds and feds, then and since.

Sale Day in Edgefield, S. C.—In reference to the sale of property at Edgefield Court House, S. C., on the 7th inst., the *Advertiser* remarks:—As regards the sale of property, we have only to say that in many cases lands sold decidedly better than at any time since the close of the war. We have only room for one or two examples. A certain tract of 1,300 acres, lying off the Savannah river, brought over $10,000; while a tract of 1,000 acres, lying on the Columbia and Augusta Railroad, brought over $9,000. The Masonic and Odd Fellows building, in this town, was sold for $3,500. The large store at the upper corner of Park row was knocked down at $1,800.