A HISTORY OF THE U. P. RR. CO.

How the Credit Mobilier Came to Control the Former Corporation.

A Representative of the Herald Interviews Dr. Thomas C. Durant, Ex-President of the U. P. and C. M.

A PLAIN TALK.

The Hoxie and Williams Contracts.

Ames' and Alley's Connection with the Union Pacific.

THE NEILSON SHARES.

A representative of the HERALD, in the laudable pursuit of his professional duties, recently called upon Dr. Thomas C. Durant, and had an interview with that officer of the Union Pacific Railroad, on the subject of the relations of the Crédit Mobilier of America to the former corporation. The result of the conversation, while it exhibits great caution on the part of Dr. Durant in answering our representative's questions, furnished an inside view of the struggle under which the Union Pacific Company labored in prosecuting their work, while, of course, it must be accepted only as a representation of the transactions and relations of the two corporations from Dr. Durant's standpoint, which, in view of the present attitude of the two corporations before Congress and the country, and his pecuniary and official relations to both, is as much as could be expected from him to the public. Without further introduction the interview will speak for itself as follows:—

THE INTERVIEW.

REPORTER—Dr. Durant, I have called to make some inquiries relative to a suit which you brought against the Union Pacific Railroad Company in 1867, some of the court records of which have recently appeared in the HERALD. There are several matters merely referred to not explained in the records which I do not fully understand. You will oblige me by a brief explanation.

Dr. DURANT—The object for which this suit was brought having been accomplished long since, I do not see what interest you or others can have in the matter.

REPORTER—Public attention is just now called to the whole subject of the new Pacific Railroad Company by reason of the extraordinary developments made in the McComb suit, pending in Pennsylvania, and the more recent action of the United States House of Representatives on the subject. It is natural that the public should express anxiety on such a subject. As a journalist I call upon you, first, as a matter of courtesy, because you have been vice president and general executive officer of the road and have since been president of the company, and held that position, if I mistake not, at the time the important legislation in aid of the corporation took place, and about which the inquiry is now being had at Washington; secondly, you, being the plaintiff in the suit referred to, I deemed it proper that I should consult you. The connection, Doctor, of the Crédit Mobilier with the Union Pacific Railroad Company is exciting not only the attention of the National Legislature but of the entire business community. The suit brought by you has an important bearing upon some of the transactions between the two corporations and individuals, and the purpose of my interview with you at this time is to obtain, if possible, all the facts from the beginning relating to the operations of the two corporations. The HERALD wants facts.

Dr. DURANT—Without admitting your right to inquire into the affairs of a corporation in which you are not pecuniarily interested I will say that I have no objection to satisfy your curiosity, so far as may be proper, but to go into details would require more time than I wish to devote to the subject and more than the HERALD would be willing to give to it; so make your questions as few as convenient.

REPORTER—Thank you, Doctor. Then to business, and I will be brief and begin at the beginning. When and how was the Union Pacific Company organized?

Dr. DURANT—The commissioners appointed under the act incorporating the Union Pacific Railroad Company, having obtained the necessary amount of subscriptions, called a meeting of the stockholders for organization and the election of directors on the 29th day of October, 1863. The amount of stock subscribed was $2,187,000, on which there had been paid an instalment of ten per cent, amounting to $218,700. The books of subscription had been open from November 5, 1862, to September 25, 1863. The Board of Directors elected by the stockholders consisted of thirty members, and two were appointed by the President of the United States.

REPORTER—When was the work commenced by the company?

Dr. DURANT—Work was commenced as soon as possible, and ground was formally broken at Omaha on the 2d of December, 1863, not with any idea that the road could be built under the provisions of the charter, as it then existed, but to show that they were in earnest in undertaking it. They applied to Congress for aid, and obtained, by the act of July 2, 1864, such additional legislation thereby as was deemed necessary in order to insure the success of the company, although at the time the friends of the enterprise, in and out of Congress, had little faith that the work could be prosecuted to its completion without further aid from the government.

REPORTER—Were Messrs. Oakes and Oliver Ames and John B. Alley original subscribers to the road?

Dr. DURANT—No, sir, neither of them.

REPORTER—When did they come into the direction of the road?

Dr. DURANT—Mr. Oliver Ames became a director in 1866, after 300 miles of the road had been completed. Oakes Ames and John B. Alley became directors sometime subsequent.

REPORTER—Was the road being constructed at this time and under what contract?

Dr. DURANT—The company were doing all they could, without any general contract, under the supervision of their engineer, and continued to do so until they had exhausted all their funds and were largely in debt, and it was found impossible to let small sections of the work to responsible contractors without some guarantee other than the obligations of the company for payment.

REPORTER—It was at this time, was it not, that the Crédit Mobilier came in with the Hoxie contract, about which so much has been said; and is it not a fact that the Crédit Mobilier, of which I believe you were one of the incorporators, was organized to operate wholly within and for the Union Pacific Railroad Company?

Dr. DURANT—No. The connection of the Crédit Mobilier with the contract for building a portion of the Union Pacific Railroad was purely accidental, and was brought about by force of circumstances which rendered it absolutely necessary to call to aid in the prosecution of the work some such organization or to abandon the enterprise, and this was not done until long afterwards, as you will see upon looking at the schedules in the suit of 1867, already referred to.

REPORTER—Have you any objection, Doctor, to state what circumstances you refer to or in what way the Crédit Mobilier Company became connected with and held the Union Pacific Railroad Company so completely under its control during the construction of the road, or is that a delicate question? I believe you were President of the corporation during most of the time that the road was under contract.

Dr. DURANT—You are the first reporter I have seen who would hesitate about asking any question. I was President of that corporation from the time it assumed the Hoxie contract until its completion—in fact, during the whole time the Crédit Mobilier had any voice in or control of the construction of any portion of the Union Pacific Railroad, and will say to you distinctly that during the whole time there was not a transaction that the Corporation need be ashamed of, or which its managers are not perfectly willing should be made public. It had no contract west of the one hundredth meridian, at which point the "Ames Contract" commenced, that being managed by seven trustees, as appears fully in the copy of contract and assignment already published in the HERALD. The circumstance which led to the use of the Crédit Mobilier in the construction of the road are, I think, set forth in the Court records, which you have; if not, I will explain them as fully as you desire. You must know that the public are entirely ignorant of the true state of the case, and you all think you have found a "mare's nest" in these contracts, whereas, upon investigation, you will not find material enough to furnish a wren with a temporary habitation. I refer to all transactions up to the time the contract with the Crédit Mobilier was completed, and during which I was its President. At the time last referred to, when the company were struggling to keep up the construction of the road, a committee was appointed (I think on the 12th of May, 1864) with instructions to let the work for 100 miles, but up to August they had received no proposition. I was not a member of that committee. In the month of August Mr. Hoxie made the proposition to build 100 miles of the road, a copy of which has appeared in the HERALD. No member of the committee had any knowledge that the same was to be made, neither did any member of the Board except myself know it, to my knowledge. After it was made Mr. Hoxie was disposed to withdraw the same, but knowing the importance of adopting some plan that would enable the company to keep at work I urged Mr. Hoxie to let it remain, and offered to guarantee him against loss if he retained it, trusting that some of the sub-contractors would join him, which, with others who then proposed to join, would bring money or credit enough to the concern to ensure the completion of a section of the road, on which the company could obtain the government bonds and issue their own. The proposition was made on the 8th day of August. The accepted proposition was modified in some particulars, and, as Mr. Hoxie was obliged to leave at once for the West, he constituted Mr. H. C. Crane his attorney with power to act for him. This contract was subsequently extended to the 100th meridian, a distance of 247 miles. It soon became apparent that contractors had no faith in being able to carry on the work under all the adverse circumstances, and that something must be done at once. I then procured an agreement from Mr. Hoxie to assign the contract to me, or any parties I might direct, who would furnish the necessary funds to carry out its requirements. A copy of this document has also appeared in the HERALD. On the 7th of October a subscription was started to raise $1,600,000 wherewith to carry out the contract, and the parties thereto being interested in the contract to the amount of money they put into the same. A copy of this subscription appeared in Monday's HERALD. It was not, I think, until December that the required amount was made up and notice given to Mr. Hoxie. In the meantime the work had been progressing, although the contractor had been obliged to raise funds for the same by assigning his interest in the contract, subject to the agreement, of course, to assign on notice. Payments of the first instalment were made, and the work pushed on; but when calls were made for the second payments many who had become interested refused to respond. The prospects of their ever receiving their money back were so doubtful, the future looked so gloomy, that it was impossible to enlist capital, and the reason given by those who were already declining to pay up was that the risk was too great. As it then stood all who put money in were simply general copartners and were liable for all they were worth in case of failure. While they were willing to risk ten, twenty, or a hundred thousand dollars, as the case might be, in a venture of this kind, ordinary prudence would dictate the wise course of stopping the work rather than go on as general copartners. It was then that the parties interested sought some way whereby the risk of having an interest in the contract might be limited to the amount of money subscribed, and finding the Crédit Mobilier a corporation already organized availed themselves of it as the means of overcoming the objections and making no party liable except for the amount of stock subscribed. The capital was made $2,000,000, all cash, and subsequently increased. The whole plan was to allow each subscriber to restrict his liabilities and to carry out a contract the results of which were so doubtful at the time that parties could not be found to take more than a limited risk in the same. The agreement with the Crédit Mobilier was not made until March, 1865, a copy of which you also have.

REPORTER—Was not the price paid for the construction of the road under the Hoxie contract excessive?

Dr. DURANT—Not by any means. I doubt whether it would have been taken by any other parties in the United States upon the same terms. The work of construction of the part of the road embraced in this contract was heavier and more expensive than upon the 100 miles next west thereof. The excavation alone on one section of thirty miles was greater than upon the 100 miles next west of the 100th meridian. Gold at the time was worth 145. The country was involved in a costly civil war. Iron was enormously high, laborers scarce, no railroad communication through Iowa. The currency bonds to be issued to the company by the government were of doubtful value; the bonds of the company were unsaleable, and a general belief prevailed throughout the country that the time was not far distant when the road would be finished, if at all. The time for the construction of the line to the 100th meridian was limited, else the company forfeited the right to subsidies beyond that point.

REPORTER—You say, Doctor, that the Crédit Mobilier Company was not organized specially to operate within and control the affairs of the Union Pacific Railroad Company. Will you let me inquire whether the former corporation ever did any business outside of the Union Pacific Company?

Dr. DURANT—I never did.

REPORTER—If it is a fair question, Doctor, was it not the policy of the Crédit Mobilier to rely more upon the credit of the Union Pacific Railroad Company than upon its own resources; and, if so, was not the Crédit Mobilier, as operated by the Ames, Alley, Bushnell, Williams ring, a constant absorbant of the government subsidy bestowed upon the Union Pacific, and which constituted its chief capital?

Dr. DURANT—The Crédit Mobilier in the first instance used her capital; afterwards the securities of the Union Pacific Railroad Company became available.

REPORTER—Was it the usual practice for a certain number of gentlemen who were stockholders and directors in both companies to vote all profitable contracts, like that of Williams and Oakes Ames, into the lap of the Crédit Mobilier Ring?

Dr. DURANT—No such resolution was carried out to my knowledge.

REPORTER—I do not refer to any resolution in particular, but to the action taken in a meeting of the Union Pacific Railroad directors with reference to the Williams contract and how it was obtained. I should be glad, Doctor, to learn your opinion of the alleged Congressional bribery *exposé* contained in the memorandum given to Colonel McComb by Oakes Ames, a subject now under consideration before a committee of the United States House of Representatives.

Dr. DURANT—The testimony of Mr. Ames before the committee will probably settle that question.

REPORTER—You speak with positiveness. Pray can you tell me if you know what Mr. Ames testified to?

Dr. DURANT—I base my judgment upon the supposition that Mr. Ames has sworn to the truth.

REPORTER—Is it a fact that Mr. Ames was allowed to dispose of the stock of the Crédit Mobilier without accounting for it fully?

Dr. DURANT—Mr. Ames had some of the stock to distribute among his friends at par, I think.

REPORTER—Is it a fact, Dr. Durant, that Oakes Ames professed to distribute Crédit Mobilier stock to Congressmen and others, which stock is still charged to him, and which he has never satisfactorily accounted for to the company?

Dr. DURANT—Most of the stock referred to has remained on the books in the name of "Oakes Ames, trustee."

REPORTER—Doctor, in the list recently published in the HERALD of the stockholders of the Union Pacific Railroad Company and Crédit Mobilier of America, the name of "Charles H. Neilson" appears twice—once as the holder of fifty shares, and again as the holder of 100 shares of Crédit Mobilier. Do they refer to one and the same man, and is he the gentleman referred to by Congressman Brooks as his son-in-law?

Dr. DURANT—The 100 and the fifty shares referred to stand in the name of the same party.

REPORTER—Will you let me ask you, Doctor, if the large marginal profits which followed the delivery of this stock to Mr. Brooks, or his son-in-law, was understood to be a consideration for services rendered or expected, and, if either or both, were they Congressional or journalistic services?

Dr. DURANT—That is not a proper question for you to ask.

REPORTER—Have you any doubt, Doctor, that Oakes Ames gave Colonel McComb the list of names of Congressmen alleged to have received stock in Crédit Mobilier which was published?

Dr. DURANT—I presume such a list was given.

REPORTER—What quantity of stock does Oakes Ames assert that he distributed to the lobby, in Congress or out?

Dr. DURANT—I do not know.

REPORTER.—Doctor, do you believe that all the parties in Washington to whom it has been reported that stock was given for purposes of bribery by Ames, Alley & Co. ever got any of it?

Dr. DURANT—You ought to interview "the parties in Washington" on that subject. They can answer that question better than I can.

REPORTER—If it should eventually appear in evidence that the great Crédit Mobilier stock carriers, like Congressman and ex-Congressman Ames and Alley have not parted with the quota confided to them for distribution, what is that corporation going to do about it?

Dr. DURANT—I suppose they will require it to be given back to the company.

REPORTER—You have served as president, vice president and executive officer, or as a director during most of the time since the Union Pacific Railroad was organized, have you not, Doctor?

Dr. DURANT—I was vice president from the time of organization until the last rail was laid upon the road.

The interview closed at this point and the Doctor resumed his cigar, evidently feeling relieved in his mind on the subject of Crédit Mobilier.

Another Interview with Dr. Durant—He Has Not Been Subpœnaed Before the Committee.

A representative of the HERALD called upon Dr. Durant yesterday and had a brief interview with him concerning the immediate situation. The following was the result:—

REPORTER—Will you inform me, Doctor, if it be true, as reported, that you have been subpœnaed before the committee of the United States House of Representatives to testify relative to the affairs of the Union Pacific Railroad Company and the Crédit Mobilier of America?

Dr. DURANT—I have not been subpœnaed before the committee, and I do not think that I could be of any service.

REPORTER—You will discover ere long, Doctor, that the committee will differ with you in opinion on that subject; but we ask you another question. Have you read the testimony of [illegible] Oakes Ames, and, if so, what is your judgment relative to their representations?

Dr. DURANT—I have not read their testimony in full and prefer not to express an opinion at present.

REPORTER—Can you inform me, Doctor, if the report is true that suits have commenced in this city against James Brooks and Oakes Ames for the recovery of shares of the Crédit Mobilier stock, and if so, for what number of shares in each suit, and has a summons been served upon the parties named?

Dr. DURANT—Whatever suits may be in contemplation or have been commenced are matters of a delicate nature at present, being interests between the parties concerned, and are not the property of the public until they become Court records.

REPORTER—I see that I shall have to wait until Judge Poland, of the Washington committee, subjects you to one of his searching judicial examinations. Good afternoon, Doctor! So ended the interview.

LITERARY CHIT-CHAT.

THE SIX leading literary magazines of the United States—namely, *Harper's Monthly*, the *Atlantic*, the *Galaxy*, *Scribner's Monthly*, *Lippincott's Magazine* and *Old and New*—circulate an aggregate of over 250,000 copies, and are read, probably, by upwards of two millions of readers.

J. B. LIPPINCOTT & Co. have nearly ready "A New Dictionary of Poetical Annotations," covering the entire field of British and American poetry, from the time of Chaucer to the present day, with a variety of useful indices, both authors and subjects alphabetically arranged. By S. Austin Allibone, LL.D.

MRS. SARAH LANDER, a sister of the late General Lander, died a few days since at Salem, Mass. She had fine literary ability and taste, particularly in juvenile literature. Of her series of sketches of foreign countries, published under the title of "Spectacles for Young Eyes," 35,000 copies have been sold.

THE BAZAR STOCK COMPANY have offered Frank Lipperheide, of Berlin, 250,000 thalers for his paper, the *Modenwelt*. The negotiations have not yet been concluded, as the *Modenwelt* refuses to sell out for less that 300,000 thalers. It was thought the *Bazar* will make its own bargain in a few days at most. This famous fashion journal of Germany was the model for Harper's *Bazar*.

MISS GOULD'S "Marjorie's Quest" gets from the *Athenæum* the praise of being full of interesting incident and "the most delightful children with whom we are acquainted." The same journal pronounces Hopkins' illustrations to the work to be "scratchy in execution," and the figures like simpering wax dolls.

"ENIGMAS OF LIFE," by W. R. Greg, is one of the most eloquent, forcibly written and thoughtful books ever produced on ethical subjects.

"TRAVAUX PUBLIQUES DES ETATS UNIS D'AMERIQUE EN 1870," is the title of the official report by M. Malézieux, Chief Engineer and Professor at the Ecole Nationale des Ponts-et Chaussées, just published at Paris, by order of the Minister of Public Works.

PERCY FITZGERALD'S "Life of Alexandre Dumas" is an elaborate endeavor to prove the famous French novelist a quack, a monstrous plagiarist, a despicable adventurer and a dishonest man. It is true that Dumas organized a firm of novel writers, and produced novels by the wholesale through other men's pens, which were published as his own. But then he candidly avowed this, and did not attempt to conceal his numerous borrowings and even plagiarisms. According to Mr. Fitzgerald, out of the hundred or more books published under his name, Dumas had a distinct claim to only three works—The "Count of Monte Cristo," "Mademoiselle de Belle Isle," and "Un Mariage sous Louis XV." This is carrying matters rather far; and though this biographer undertakes to show up M. Dumas as the greatest literary quack who ever appeared on the face of the earth, more candid students will recognize in him both genius and merit.

A WORK by General Trochu, entitled "Mes Mémoires Militaires," contains some curious details respecting the French campaigns in Italy, Africa and the Crimea.

DR. STILLMAN, who testified to Mrs. Fair's insanity, was asked if he ever read "Stobel on Insanity." He said he had, and was then told that there was no such author—which is the fact.

THE AMERICAN SPECULATORS who engaged Edmund Yates and Mr. Froude as lecturers are said to have lost by their enterprise.

"HUGH NOBLE'S FLIGHT," a late English novel, is written in the purest Carlylese. So says the *Athenæum*, and adds that the story is full of insight and observation and keen analysis of character, spite of the rugged and grotesque mannerism of the style.

THE ATHENEUM mildly denounces Mr. Edmund Yates' last novel, "The Yellow Flag," as a "careless," "weak" and "ghostly" regulation three-volume novel, the work of a man who "could, if he chose, write a better book."

THAT literary coxcomb, the late Prince Puckler Muskaw, has been biographized—not at all to his honor—by Miss Ludmilla Assing.

JANE AUSTEN'S works, the delight of a former generation, are now regarded as classics in the school of sober, yet accurate observation and humor, of which Miss Evans, George Eliot and Mr. Anthony Trollope may now be said to be the chief exponents. But Miss Austen's novels differ from both; for, while equally delicate in depicting character, her books are free from the sadness and underlying depreciation of humanity which too frequently distinguish the first or the satire on the grasping meanness and littleness of mankind which pervades the other.

HORSE NOTES.

Mr. M. H. Sanford has purchased the bay stallion Glenelg, together with the brood mares Ulrica and Finesse, from Mr. Belmont, for $15,000. Glenelg will go out to Kentucky immediately to be bred to Mr. Sanford's Lexington mares.

The entries for the Dixie stakes, to be run at Baltimore in 1874, number sixty-seven.

A race has been made between the trotting mare Rosalind and the California horse Occident, mile heats, best three in five, to come off about the middle of February over the Bay District Association Course, and another race over the Oakland Trotting Park a week or ten days after the other. The above races are announced as matches for $5,000 a side each.

The American Jockey Club will close the following stakes on March 1:—The Hunter Stakes, a sweepstakes, to be run at the Fall meeting of 1874, for fillies then three years old, one mile and three-quarters; the Fordham Handicap, one mile and a quarter; the Jockey Club Handicap, two miles, and the Westchester Cup, two miles and a quarter. To the Westchester Cup there have been added some new penalties; the winner of any single race amounting to $2,000 to carry three pounds; of $3,000, seven pounds; of $4,000, ten pounds extra. This will penalize all the best horses in the country with the ten pounds extra.

The Louisiana Jockey Club will give a six days' race meeting in the Spring and add over $15,000 in money.

It is said that the well known hurdler and steeple chaser, Milesian, will be sent to England shortly by his owner, Mr. Bannatyne. Milesian will be found at home in the best company on the other side.

COOPER INSTITUTE.

Prosperity and Usefulness of the Library and Free Reading Room.

The Secretary of the Cooper Union has issued a report detailing the recent operations in connection with the Free Reading Room of the Union. The Reading Room has been now opened about fourteen years, and with each year its usefulness and prosperity have steadily increased. The Reading Room is open from half-past eight A. M. to ten o'clock P. M. It is open to all with certain restrictions. Drunkenness, filthiness and disorderly conduct will not be tolerated, and those who are guilty of them cannot remain in the rooms. It is proposed to add a free circulating library to the reading room, and an endowment has been already made by Mr. Peter Cooper for that purpose.

There are at present 277 periodicals and papers on file, foreign and domestic. The librarian reports 34,553 persons as having entered the Reading Room during the past month, 1,060 of whom are females. These visitors, in addition to the use of the papers and periodicals, called for 9,207 books and 1,410 magazines. The library also contains directions, maps, the weather charts of the United States Signal Service, the post-route maps of the different States and the Patent Office Reports. The number of visitors during the past year has been greater than that of any preceding year.

MRS. WHARTON.

Counsel for the Defence Resolve to Go On and the Continuance is Set Aside.

MRS. CHILTON FAILS TO ARRIVE.

Appearance and Reception of Mrs. Wharton in Court.

Fifth Day of the Trial and Only Five Jurors Sworn.

Judicial Decisions as to the Opinions Jurors May Entertain.

MRS. WHARTON'S ANXIETY FOR A VERDICT

ANNAPOLIS, Md., Jan. 10, 1873.

When the Court adjourned yesterday afternoon, with the understanding that the suspended continuance of the State vs. Mrs. Wharton should be made a rule in the event of the non-arrival of the missing witnesses for the defence this morning, it was unanimously decided that the matter would go over. Witnesses from a great distance brightened up wonderfully at the prospect of spending Sunday at home and

AT PEACE WITH THE DREADFUL LOOMING PROSPECT

of being obliged to give evidence in open Court, almost altogether cleared from their horizon. It was not a sagacious motion of the defence that created the emergency, as the sequel has shown. Mrs. Chilton has not arrived, and the trial goes on without regard to the hitch in the proceedings. It is understood that Mrs. Chilton promised and fully intended to be in Annapolis last Tuesday, but Judge Mason, of this city, whose cousin she is, telegraphed her at Richmond, Va., that she would not be needed before Friday, and in all probability the trial would not reach the stage at which she was to testify under a week from that time, so she did not come. When the ingenuity of counsel had been exhausted in testing the validity of the indictment and preliminary steps of the prosecution the non-appearance of Mrs. Chilton came to the fore, and Judge Mason, in a state of almost ludicrous excitement, made such explanation as he could, and did everything in his power to have

THE CONTINUANCE TILL NEXT TERM SET ASIDE

in favor of simple adjournment from day to day, alleging his belief that he could have the lady here this morning. To that end telegrams were sent to Richmond and elsewhere to secure her presence at Court to-day. If counsel for defence had insisted on continuance or refused to agree with the State in clearing the records of the entry as ordered by the Judges, we should already have heard the last of the Wharton case, for it never would have come to trial. But Mrs. Wharton desires something more than mere escape from the imprisonment the Medical College is trying to force her into. She must be vindicated; her good name must be

FREED FROM THE IMPUTATIONS OF CRIME

so liberally bestowed; she must be heard and her innocence as widely proclaimed as the charges brought against her have been, and though the result leaves her penniless it will not be a barren victory, for it spares that which is dearer to her than fortune—a spotless reputation. She therefore deprecates the advantage which a guilty person would have seized with avidity to go unwhipped of justice, and her wishes prevailed with her attorneys. The able gentlemen who appear for the State, Messrs. Attorney General Syester and State's Attorney Revel, would have seized with avidity the chance to let her go. The able gentlemen who represent the State would have been personally delighted had no steps been taken to dissolve the order of continuance, for they

WOULD HAVE BEEN RELIEVED OF A DISAGREEABLE TASK.

Had the case gone over it would, like all protracted trials, been regarded as an acknowledgment on the part of the State as a weak and uncertain prosecution, and the prosecuting attorneys could not, consistently, have called the case up for certain defeat. As it is they take no stock in the hopes of the Medical College that she will be convicted, and know well enough that if convicted the Court of Appeals would reverse the verdict half a dozen times on half a dozen exceptions taken by counsel for defence. The impression that the trial had for the time ended gained such ground that only half a dozen people, having nowhere else to go, straggled with shiftless gait into the Court House at half-past nine this morning. The day was too bright and warm to admit of an active man's being cribbed in the confines of a court room, unless imperative necessity chained him down. Some of the court officers themselves made slow haste to their duties, and lingered in the sunshine till long after the hour set for opening; so

THE COURT WAS NEARLY DESERTED

when the old crier made his proclamation, from the Oh, yes! to God to save the good State. Punctual to the minute the close carriage drew up at the Court House gate, and Mrs. Wharton and Nellie, accompanied by Mrs. Neilson, alighted, and Judge Welsh was on hand with his arm to escort the accused to her place within the bar. Mrs. Wharton was dressed precisely as on the preceding days. The ladies moved quietly and quickly to their seats, and were warmly greeted by the counsel for the defence and several friends who were waiting for them. The first inquiry was for Mrs. Chilton, and the friends of Mrs. Wharton were glad the lady had not arrived, for it must naturally be a little to the prejudice of her case that a whole week had been exhausted without a jury being empanelled, solely through the questions raised by her counsel. Those learned gentlemen have done naught but their duty in

MAKING MOTIONS AND FILING EXCEPTIONS,

but in some minds the impression, though erroneous, must be formed that the defence are procrastinating in fear of the issue, and those who sympathize with Mrs. Wharton were anxious that, at all sacrifice, the trial should go over, and thus end the possibility of her being convicted. The advice that her counsel should stand firm for continuance did not prevail, notwithstanding the apparent prejudice to her case from delay, and when the Judge directed the calling of the jury it was understood that the trial should go on and that the motion to annul the continuance would be made by the defence after formal opening. Judge Miller asked Mr. Thomas if his witness, Mrs. Chilton, had arrived, and was answered that the train coming down the junction, and due nearly an hour before, had not arrived, and the delay was owing to an accident that happened to the down express, which had run off the track a few miles this side of Baltimore. When the train was announced to have arrived, messengers were despatched to Judge Mason and to the Maryland Hotel, to ascertain

WHETHER OR NOT MRS. CHILTON HAD COME,

and, on finding that she had not, the counsel for Mrs. Wharton held a consultation, which resulted in Mr. Thomas rising to inform the Court that they had decided to ask for the annulling of the order of continuance and leave to proceed. He said Mrs. Wharton desired them to have the case pushed as rapidly as possible, and rather than have the imputation rest upon them of endeavoring to stave the trial off they would try the case without Mrs. Chilton. He trusted she would be in the way when her testimony should be called for. No objection or observation coming from the prosecution both sides were asked if they were ready to proceed, and both answered ready. The Court then directed that

THE SELECTION OF THE JURY

should be begun. The first name called was Theo Connor, in response to which a well-dressed, substantial and intelligent-looking citizen stood up. The defence requested that the jurors be put to personal tests, in compliance with which the *voir dire* was ordered. Mr. Connor was interrogated by Judge Miller:—

Q. Have you formed or expressed an opinion concerning the guilt or innocence of the prisoner? A. I have.

Q. Do you entertain it now? A. I do.

Q. From what or upon what was that opinion formed? A. Hearing people talk about the case and from reading the newspapers.

Q. Is this opinion such as would prevent you from giving an impartial verdict between the State and the prisoner when you hear the testimony delivered by the witness and from the stand? A. I am afraid it is.

He was set aside for cause. The same questions in the same order were put to each succeeding juror as he came forward to be sworn. Thomas H. Hodges was called, and as he had formed no opinion was declared a competent juror. He was passed by the State, but challenged by the defence. Dennis G. Thompson had formed an opinion, but as it was not such as would influence him in determining a verdict on the evidence to be given, he was declared competent, accepted by the prosecution and defence, and sworn in. Mr. Thompson is a merchant and Justice of the Peace, is an exceptionally fine-looking man, and appears to be every way fitted to pass judgment upon even graver matters than are involved in the trial. Samuel E. Duvall had the distinguished honor of being fought over. He declared himself free from bias, and had expressed no opinion one way or another about the accusation. The Court decided him competent, but

THE STATE CHALLENGED HIM.

Mr. Thomas desired to place on record the exception of the defence, as follows:—

In the exercise of the right of the prosecution to challenge, State vs. Wharton, fifth bill of exceptions in the further progress of this case, the Clerk proceeded to call to the book the jurors on the regular panel of jurors, and one juror was sworn, and then the Clerk proceeded to call other jurors, and among them Samuel E. Duvall, who was examined on his *voir dire*, and pronounced by the Court a competent juror; therefore the State's Attorney offered to challenge the said juror peremptorily on the part of the State of Maryland, and thereupon the counsel for the accused objected to the right of the State to challenge said juror as aforesaid, but the Court overruled [illegible] objection and allowed said challenge to prevail, and directed the juror to step aside, and he was accordingly rejected, to which ruling of the Court the defendant, by her counsel, excepted, and prayed the Court to sign and seal this the fifth bill of exceptions, which is done accordingly this 10th day of January, 1873.

In support of this action he pointed out that heretofore the prosecution had no right except in Baltimore, and that by virtue of special legislation, to challenge a juror. Recently, however, an act of the Assembly had given that power to the State's counsel; but it must be taken into consideration that the law had been enacted since the indictment of the accused. To allow the State's Attorney privilege under the act would, therefore, be to assign to it

AN EX POST FACTO POWER,

which, under the constitution of the United States, cannot be tolerated. The Court, as in all previous instances in this trial, overruled the motion, allowed the exceptions to be filed and Samuel E. Duvall was set aside. The counsel for the State contented themselves with carrying their point and made no argument in opposition. John F. Elliott had formed an opinion, but hardly such as would remain unshaken by evidence. In answer to the query as to his ability to disabuse his mind of former or present impressions, he answered indirectly that he thought he was not positive; that he did not know whether he might or might not be able. Mr. Hagner, of defence, addressed the Court. He thought

THE MIND OF THE JUROR SHOULD BE A PERFECT BLANK,

that a surety might be felt that he would render an impartial verdict. The question is an important one and should be settled as soon as possible. He would rather have raised the question as a general one instead of in this particular instance, and it was without any intentional disparagement to the juror that he desired some action at this stage.

JUDGE MILLER'S DECISION

was that an opinion formed from reading newspapers, which was so slight or of a nature which would not influence the juror despite the evidence that he would hear, should not disqualify him. Wharton's "American Criminal Law" being sent for, Judge Miller read from a decision by Chief Justice Taney, page 1,070:—"If the juror has formed an opinion that the prisoners are guilty, and entertains that opinion now without waiting to hear the testimony, then he is incompetent; but if, from reading the newspapers or hearing reports he has impressions on his mind unfavorable to the prisoner, but has no opinion or prejudices which will prevent him from doing impartial justice when he hears the testimony, then he is competent." Mr. Elliott was recalled and requestioned; to the first question he answered "yes," to the third that it was formed from attendance on the trial of Mrs. Wharton for the alleged murder of General Ketcham, and from reading comments in the newspapers; and to the fourth that he thought his opinion disqualified him. He was set aside for cause. The next two jurors were accepted. Thomas A. Phelps, farmer, had not formed an opinion, was declared competent, passed and sworn. He is a middle-aged, well-to-do, intelligent son of the soil, and, judged from appearances, a fair man. Thomas P. Arnold, farmer, had formed an opinion, but not a firm one or one calculated to stand against evidence. He was sworn like the gentleman preceding him. He is a fine sample of a landowner, living a quiet, peaceable life, having large views and an eye to the main chance. In reply to the first question he said, "I have formed an opinion, but not such a one as would prevent me from giving an impartial verdict." To this combination of answer

THE DEFENCE OBJECTED

in the following document:—

State vs. E. G. Wharton—Sixth bill of exceptions.—In the fourth progress of this cause the clerk called Thomas P. Arnold to the book, he being a juror on the regular panel, and the said juror was sworn and put upon his *voir dire* and examined by the Court, who asked him whether he had formed or expressed an opinion as to the guilt or innocence of the accused of the matter for which she is indicted, to which question he replied that he thought he had. He was then further asked by the Court whether he entertained that opinion now, to which he replied, "Not so far as to prevent me from giving an impartial verdict according to the evidence," whereupon the Court decided that the juror was competent and directed him to be sworn as such unless the State or defendant should challenge him peremptorily. To this ruling of the Court the accused, by her counsel, excepted and prayed the Court to sign and seal this her sixth bill of exceptions, &c.

Amos B. Harmon was challenged by defence; Louis A. Clayton was set aside for cause; W. H. Thompson for cause, and then

THE FOURTH JUROR WAS SECURED

in the person of Edward Taylor, a farmer, quite young and bearing marks of intelligence; William D. Stewart was set aside for cause; Joseph J. Tate was challenged by defence; Joseph Shepherd set aside for cause, and Stephen Beard was plucked by the prosecution; Walter Phelps, farmer, a hard, iron looking man, with a furrowed face, sunburned skin and Herculean build, was accepted by the Court and both sides and sworn. His face in repose is stern and betrays inflexible and unyielding nature, but he has a kindly smile and frank eye that relieves the sternness of his features.

THE THREE JURORS REMAINING ON THE PANEL,

Benjamin Watkins, Edward Powers and James Andrews, were challenged by the defence. So much expedition was used that the panel was exhausted at half-past eleven o'clock, and the Court, after a charge to the five chosen jurors and ordering a new panel to be drawn,

ADJOURNED

till half-past nine to-morrow. There could be nothing further done to-morrow in Mrs. Wharton's case, as the Sheriff could not by any possibility reach the jurors drawn in time, some of them living twenty miles away in different directions. The witnesses and all others interested were directed to be in attendance at half-past nine on Monday morning. Mrs. Wharton went away, the spectators left the Court to the Judges and lawyers, and the first week of Mrs. Wharton's trial for an alleged attempt to poison Eugene Van Ness was ended.

TREASURY CIRCULARS.

Instructions for Collectors of Customs and Others—The Rule for Weighing Iron Modified—Dutiable Value of Imported Merchandise.

WASHINGTON, Jan. 10, 1873.

The following circulars were issued from the Treasury Department to-day:—

WASHINGTON, Jan. 9, 1873.

TO COLLECTORS OF CUSTOMS AND OTHERS:—

It having been shown by experience that as the rule adopted by the Department on the 7th of June, 1869 (Synopsis of Decisions for 1869, No. 401), for ascertaining the weight of railroad iron, for assessment of duty, does not produce accurate results, owing to a lack of uniformity in the weight of the bars, a modification of the same is deemed necessary. The said rule decides the weighing of sufficient numbers of bars from each invoice of imported railroad iron when entered to ascertain the average weight thereof, the counting of the whole number of bars and the return of the weight so ascertained by the Customs weighers in the same manner as in the case of other weighable merchandise: also, that railroad iron withdrawn for export should be deemed weighable merchandise; that the weight should be ascertained in the same manner, and the fee of three cents per 100 pounds, provided by law, be collected from the owner. The said rule is hereby modified as follows:—The weight of each invoice of railroad iron or steel rails hereafter imported will be tested in the manner prescribed in said rule of June 7, 1869; but if the weight as shown by the return of the weigher does not vary more than one-half of one per cent from that stated in the invoice entry it will be liquidated at the invoice weight. In case a greater variation from the invoice weight is shown the whole quantity embraced therein will be weighed. Whenever the entire quantity of railroad iron or steel rails embraced in an invoice is withdrawn for export no reweighing need be had; but in case of the withdrawal of less than the entire quantity the whole amount so withdrawn will be weighed. You will be governed accordingly.

GEORGE BOUTWELL, Secretary.

TREASURY DEPARTMENT, WASHINGTON, Jan. 8, 1873.

TO COLLECTORS OF CUSTOMS:—

The following instructions are hereby issued for the guidance of officers of the Customs at the various ports of the United States:—

Whenever any goods, wares or merchandise shall be imported into the United States by the manufacturer or producer thereof, or which shall be by him consigned to an agent for sale; or when the appraisers shall be of opinion that the invoice of any goods, wares or merchandise imported does not correspond with the market value of such goods, wares or merchandise in the principal markets of the country of exportation, although such invoice may state the true cost of such goods, wares and merchandise, it shall be the duty of the Collector to cause to be ascertained the actual market value of such goods, wares and merchandise at the principal markets of the country at the time of shipment and assess the duties accordingly. But in cases where such goods, wares or merchandise have no actual market value in such principal markets the dutiable value shall be fixed by reference to the cost thereof to the producer or manufacturer, or by reference to the cost to other parties in such principal markets of goods, wares and merchandise most similar thereto. And there shall be added to the value so ascertained the usual amount for profit, and also for the costs and damages mentioned in the ninth section of the act of July 28, 1866—said dutiable value to be ascertained by the proper officers of the Customs.

GEORGE S. BOUTWELL, Secretary.

CONGRESS.

Another Crusade Against Intemperance—The National Banking Act—Beck, of Kentucky, on Centralization.

SENATE.

WASHINGTON, Jan. 10, 1873.

On motion of Mr. WRIGHT, (rep.) of Iowa, $1,000 was appropriated to pay the expenses of the select committee to investigate the charges against Senator Clayton, of Arkansas.

THE ABOLITION OF INTEMPERANCE.

Mr. WILSON, (rep.) of Mass., introduced, by request, a bill to provide for the appointment of a commission on the subject of prohibitory legislation for the suppression of intemperance. Referred to the Committee on the Revision of Laws.

MORE LEVELLING DOWN IN THE ARMY.

Mr. AMES, (rep.) of Miss., introduced a bill to repeal certain provisions of the law relating to the organization of the army. The object of the bill, he said, was to open all branches of the army to all citizens alike, without regard to race or color. Referred to the Committee on Military Affairs.

SUMNER'S BATTLE FLAG BILL REPUDIATED.

The VICE PRESIDENT presented resolutions of the Legislature of Massachusetts remonstrating against the passage of the bill which provides that the battles with fellow citizens shall not be continued in the Army Register or placed on the regimental colors of the United States, which were ordered to lie on the table and be printed.

THE CHARGES AGAINST CALDWELL.

On motion of Mr. MORTON, (rep.) of Ind., the Committee on Privileges and Elections obtained leave to sit during the session of the Senate, while investigating the charges against Senator Caldwell, of Kansas.

THE NATIONAL BANKING ACT.

The bill to amend the National Banking act and to provide for a return to specie payment was taken up, and Mr. BUCKINGHAM, of Connecticut, addressed the Senate at length in advocacy of it.

The bill was then referred to the Committee on Finance and the Senate resumed the consideration of the

INDIAN APPROPRIATION BILL.

The question was on the amendment offered by Mr. Stewart yesterday, providing for the appointment of inspectors of Indian affairs, which was debated and amended and finally adopted. The amendment provides for the appointment by the President of a sufficient number of inspectors, not exceeding five, to hold office for four years, unless removed by the President, and to receive $3,000 a year each and necessary travelling expenses. The inspectors are to visit each Indian superintendency and agency as often as twice a year and to investigate all matters pertaining to its business, and each inspector shall have power to examine books and papers, to administer oaths and examine all officers, employés and such other persons as he thinks necessary. The inspectors, or any of them, shall also have power to suspend any superintendent or agent, and to fill his place temporarily, subject to the approval of the President, and shall have power, by instituting judicial proceedings, to enforce the laws and to prevent violations of law in the administration of the affairs of the several agencies and superintendencies, so far as practicable. Each agency is to be visited by different inspectors alternately.

On motion of Mr. THURMAN, the appropriation for the Yankton Sioux was reduced from $1,000,000 to $900,000.

The bill was then passed, and the Senate, at twenty minutes past five, adjourned until Monday.

HOUSE OF REPRESENTATIVES.

WASHINGTON, Jan. 10, 1873.

This being private bill day, the proceedings in the House commenced by a call of the committee for reports of a private character.

WILSON CREDIT MOBILIER COMMITTEE.

On motion of Mr. WILSON, (rep.) of Ind., Chairman of the Select Committee No. 2 on the Crédit Mobilier matter, that committee was permitted to sit during the sessions of the House, and to employ a clerk.

The House at half-past one went into Committee of the Whole, Mr. Dawes, of Massachusetts, in the chair, on the Legislative, Executive and Judicial Appropriation bill.

THE BUREAU OF EDUCATION.

An amendment to increase the appropriation for the Bureau of Education was discussed at some length by Messrs. Cox, Shellabarger, Beck, Townsend, of Pennsylvania; Burchard and Farnsworth, of Illinois; Bingham, of Ohio, and others.

Mr. BECK, (dem.) of Ky., denounced the principle of the bureau as part of the scheme of centralization and consolidation by which already one-third of the States were controlled by federal authority, and by which Senators and Representatives, so-called, occupied their positions by federal authority. It was part of the general scheme which looked to the absorption by the government of the railroads and telegraphs and express lines of the country, and which would make the President of the United States as thorough an autocrat as the Emperor of Austria or the Czar of Russia. He argued that this was no time to engage in such vast enterprises, and that Congress ought rather to be endeavoring to reduce taxation, lighten the burdens and enforce economy and honest administration. He showed that in the seven years from 1865 to 1872 the government had collected from customs and internal revenue near three thousand million dollars and had realized from the sale of stores $135,000,000. During the same period the Post Office Department had collected $125,000,000 and the Patent Office Department $4,500,000. The total amount received into the Treasury during that period he stated to be $3,402,536,452, out of which the debt had been reduced by the payment of $427,396,541, leaving the sum of $2,975,139,911 to be accounted for, being at the rate of $425,019,987 a year; and yet, he said, gentlemen talked about economy, reduction of expenditures and honest administration.

The debate was further continued by Messrs. Sargent, Kerr, Stevenson, Storm, Perce, Maynard, Hoar, Hawley, of Connecticut, and Garfield.

Finally the vote was taken and the amendment was rejected by 74 to 78.

THE AGRICULTURAL BUREAU.

After the usual struggle over the appropriations for the Agricultural Bureau, which resulted in the increase of the item for the purchase and distribution of seeds from $50,000 to $75,000, there was no question until the item was reached appropriating $400,000 to pay judgments of

THE COURT OF CLAIMS.

Mr. SMITH, (rep.) of N. Y., offered an amendment to that item, providing that no part of it shall be applied to judgments for the proceeds of captured or abandoned property seized before the 30th of June, 1865, and that no such judgment shall be paid, except under special appropriation by Congress. Mr. Smith explained the object of and the reasons for his proposition. He had casually looked over the record of judgments of the Court of Claims, and his eye rested on one item of over $400,000 for one man in Georgia who had not only not been loyal to the government, but had been one of a commission to negotiate a loan of $15,000,000 for the Confederate government. He also found on the docket of the Court a claim for $1,065,000 in the name of G. B. Lamar, of Savannah, a man who was celebrated, if not notorious, as the most daring and intrepid blockade runner during the rebellion.

Mr. YOUNG, (dem.) of Ga., explained that the notorious blockade runner referred to was the son of this claimant, and had been killed in the last battle of the war.

Mr. SMITH repeated that he had reliable information that the claimant had been a partner in that notorious blockade-running firm.

Mr. SHELLABARGER, (rep.) of Ohio, suggested that the object sought by the amendment was provided for under an existing law.

Mr. SMITH admitted that, but stated that, nevertheless, many of these judgments had been paid. He supposed there was a defect in the law.

Without disposing of the question the committee rose, and the House at a quarter to five adjourned.

FISH BREEDING.

Distribution of Black Bass and Other Spawn by the New York Commissioners of Fisheries.

The New York Commissioners of Fisheries are now distributing black bass and other fish by thousands daily, and can supply all the demands that may be made upon them. The fish are delivered from the State Hatching House at Rochester free of charge, and the Commissioners desire to inform all persons that in delivering spawn and living fish it must be observed that only public waters can be supplied. Oswego white and rock bass and a limited number of black bass, pike, perch, &c., can be delivered at Rochester at any time during the Winter. Young white fish are in a condition to transport from the 1st to the 10th of February; salmon trout, from the 10th to the 20th.

All communications should describe particularly the waters to be stocked, giving their names, location and size and the nature of their bottoms. The pike, rock bass, white bass and black bass, white fish and salmon trout are suited to clear waters with rocky bottoms, and Oswego bass and perch will only live on muddy bottoms, with flags and pond lilies. It should also be stated what kinds of fish are found in the lake. All fish should be deposited as near the head of the lake as possible, so as to become familiar with its waters.

Free Fish.

The New York Commissioners of Fisheries are prepared to furnish to all citizens of New York State black bass, pike, perch and other fish for stocking public waters. The fish will be delivered at Rochester free of charge. Address Seth Green, Superintendent, 16 Mortimer street, Rochester.

HORATIO SEYMOUR,
EDWARD M. SMITH,
ROBERT B. ROOSEVELT, } Commissioners.