porated into many of our State constitutions, and is one of those rules which, in our constitution, are compressed into the brief but significant phrase, 'due process of law.'" The course of the common law was a trial, he insisted, by a jury of twelve men who stood impartial between the prisoner and the people. The same rule obtains, whether in civil or criminal trials. Challenges for cause, or, in the language of this act, "principal cause," were, at the time of the adoption of the constitution, in full force. Sir Edward Coke notes it under the head of "*Propter Affectum*," that it was enough "that he has formerly been a juror in the same cause." In Coke's Institutes, part 1, lib. 2, chap. 12, section 234, 157 b., among the grounds for challenge for principal cause, it is stated that "upon his own act, as if the juror hath given a verdict before for the same cause, albeit it be reversed by writ of error, or if after verdict judgment were arrested, so if he hath given a former verdict upon the same title or matter, though between other persons. But it is to be observed, that I may speak once for all, that in this or other like cases, he that taketh the challenge must show the record if he will have it take place as a principal challenge, otherwise he must conclude to the favor, unless it be a record of the same Court, and then he must show the day and term." If the new Jury law is not in violation of this provision of the constitution, together with that other provision of section two of article one of the constitution, providing for jury trial, then, indeed, he insisted, would it be difficult for the Legislature to devise an enactment that would conflict with the constitution. It cannot be possible, he urged in conclusion, that the framers of the constitution intended to allow a juror whose mind is in the condition above referred to, to sit when the life or liberty of the citizen is involved.

ARGUMENT OF MR. PHELPS.

Mr. Benjamin K. Phelps, the new District Attorney, responded *seriatim* to the various points of the opposing counsel. As to the constitutionality of the Jury law he insisted that the rulings of the Court upon the several challenges for principal cause to which exceptions were taken were correct. Each juror pronounced competent by the Court brought himself upon his oath within the language and meaning of the first section of the act in relation to challenges of jurors in criminal cases. That act was, he claimed constitutional, and the only provision which it can be claimed to infringe was, he urged, that of article 1, section 1:—"The trial by jury, in all cases in which it has been heretofore used, shall remain inviolate forever."

ANOTHER CASE.

After the conclusion of the argument in the above case Mr. Howe submitted upon the same points the case of Charles Johnson, the noted bond robber, who is now serving out his second term in State Prison.

BUSINESS IN THE OTHER COURTS.

THE RESENTENCING OF FOSTER.

The Arrival of the Official Documents from Albany—A Probable Motion To-Day by the District Attorney.

In the case of William Foster, who has undergone sentence of death for the murder of Avery D. Putnam on the 26th day of April, 1871, and who was only saved by stays of proceedings obtained by his counsel, the Court of Appeals at Albany, having affirmed the decision of the lower Courts, it only remains for the prisoner to be resentenced to have the full sentence of the law carried out.

District Attorney Phelps stated yesterday that the documents in the Foster case had arrived from Albany, and it was more than probable would be filed to-day, when Foster's case will be brought up in the Supreme Court, General Term, and the prisoner resentenced, after which the full penalty of the law will be carried out unless Governor Dix will commute the sentence.

SUPREME COURT—GENERAL TERM.

Verdict in General Sessions Reversed.

Before Judges Ingraham, Brady and Learned.

Some time since Thomas Bell was convicted in the General Sessions of an assault with intent to commit a more heinous offence upon a young girl seven years old. The case was brought yesterday, upon writ of error, before this Court, by Mr. William F. Howe, and a new trial asked for. The points raised were that it was error to allow the evidence of two other girls as to similar assaults upon them. Mr. Howe urged that it was proof of a distinct and different offence, for which the prisoner might be indicted; that it had no tendency to prove the offence for which the prisoner was on trial; that the evidence elicited on the cross-examination of the prisoner that he did not assault or attempt improper liberties with other children was purely collateral matter; that it had no bearing upon the point really involved, viz., whether he had outraged Adele Gillette; that being collateral, the answers of the witness were conclusive, and it was error to allow him to be contradicted, and thereby introduce a new and collateral issue into the trial.

After hearing the argument the Court at once ordered a reversal of the previous judgment and a new trial.

Philip Wilke, the Convicted Murderer.

The particulars of the homicide of which Philip Wilke was found guilty are too fresh in the public memory to require repetition. It will be remembered he was convicted of murder in the second degree and sentenced to State Prison for life. His case came up on appeal in this Court yesterday, and was argued at length by Mr. Howe. The Court reserved its decision.

Eustacia St. Valerie.

This so-called Confidence Queen, against whom five indictments were found and for one of which she is now serving out a term of five years in State Prison, is anxious to be restored to liberty. An appeal has also been taken in her case, and the same was argued yesterday by Mr. Howe and with the same result as in the above case.

SUPREME COURT—CHAMBERS.

Decisions.

By Judge Barrett.

Von Sichler vs. Bernon.—Motion granted, not with allowance.

Drinckle vs. Mellen.—Memorandum for counsel.

SUPERIOR COURT—SPECIAL TERM.

Decisions.

By Judge Barbour.

Webster vs. Howe.—Order of discontinuance.

Angier vs. Same.—Same.

Aquin vs. Depau (four cases).—Order vacating orders.

Loder vs. Moore.—Order of substitution.

Gorlet et al. vs. Spofford et al.—Order marking "judgment secured" on appeal.

Williams vs. Harner.—Order of reference.

De Coster vs. Hynard.—Order appointing receiver.

COURT OF COMMON PLEAS—SPECIAL TERM.

Collapse of a Suit Against the Second Avenue Railroad Company.

Before Judge J. F. Daly.

While a little daughter of Antonio Michaelis was crossing the track of the Second Avenue Railroad in Allen street, on the 18th of April, 1871, she stumbled and fell and was run over by a passing car of the company, sustaining injuries compelling the amputation of her left leg. Suit was brought by the father against the company for $20,000 damages. The trial began on Monday in this Court and considerable testimony was taken. Of course the charge in the complaint was negligence on the part of the company. This was denied on the part of the company. The evidence of the driver showed that he was going only at the usual speed, and that as soon as he saw the child he plied his brake, but too late to prevent the accident. It was very evident that the company had made out a strong defence for itself, when the trial was brought to a sudden end yesterday morning by the withdrawal on the part of the prosecution of one of the jurors. This was considered tantamount to an abandonment of the prosecution—a result very rare in suits of this character. Christopher Fin appeared for the plaintiff, and Messrs. Waldo Hutchings and James M. Smith for the defendants.

The Old Ocean Bank Robbery.

The public have not yet forgotten the skilfully contrived burglary of which the Ocean Bank in this city was some eighteen months ago the victim. A short time previous to the burglary the First National Bank of Lyons, Iowa, deposited in the bank $50,000 in United States five-twenty bonds, which formed part of the proceeds of the robbery. Suit has been brought against the Ocean Bank to recover the value of these stolen bonds, and the trial began yesterday in this Court. On behalf of the Ocean Bank it is claimed that they are not responsible for the loss. The Lyons Bank folks insist that the Ocean Bank people are responsible. The trial promises to last two or three days.

Decisions.

By Judge Loew.

Goelet vs. Spofford.—Motion granted.

Deier vs. Pinckney.—Same.

Elsner vs. Johnson.—Same.

Roberts vs. Russell.—Application granted.

Rosenburg vs. Eastburn.—Motion to open default granted.

Ives vs. Adams.—Order making injunction perpetual granted.

In the Matter of the Assignment of Olmstead.—Bond ordered.

MARINE COURT—PART 2.

Failure to Deliver Goods According to Sample.

Before Judge Gross.

Seth B. Hunt & Co. vs. Greenleaf B. Sheridan.—This was an action to recover from defendant $739 for goods sold and delivered. From the evidence it appeared that one R. E. Swan, as broker, offered to sell defendant 108 bales cotton batts. The defendant inquired if the sample exhibited was a fair sample, and if the goods were what are known in the trade as "Pepperill batts." Swan replied that he believed them to be old Pepperill batts. Defendant sent Swan back for another sample of the goods. This being produced defendant said he wanted Pepperill batts, and offered fourteen cents per pound, which was accepted. The goods were delivered, by direction of defendant, to H. B. Claflin & Co., who sold the goods to Wordman, True & Co., of Portland, Me., to whom they were shipped. When they arrived at Portland it was discoverd that the goods were not Pepperill batts, but were other cotton goods put up in imitation of old Pepperill batts. They immediately returned the goods to Claflin & Co., who at once returned them to defendant. He then offered to return the goods to plaintiffs, who refused to accept them, on the ground that they had not sold the goods in question as Pepperill batts, and that no one was authorized to make any such representations. When credit had expired this suit was commenced. The several questions of fact were submitted to the jury, especially as to the fact of the representations made by Swan to defendant. The jury were out a long time and finally brought in a sealed verdict, as follows:—"We the undersigned jurors, duly empanelled in the above action, do render a verdict for defendant against plaintiffs for no amount; the defendant to pay all charges and the goods to be returned forthwith to the plaintiffs."

This verdict was set aside by the Court and the cause set down for retrial next February term.

COURT OF GENERAL SESSIONS.

Before Judge Sutherland.

Sentence for Robbery.

The first indictment which Assistant District Attorney Russell called for trial yesterday was one for robbery against Charles Sheldon, who was charged with stealing, on the 9th inst., a silver watch from James Martha. As his associate in the crime pleaded guilty to petty larceny a similar plea was tendered and accepted from Sheldon. The City Judge sent him to the Penitentiary for six months.

Burglary.

Andrew Haines, who was jointly indicted with John Dowd, alias Haney, for burglary, pleaded guilty to an attempt to commit that offence. On the 10th of December the prisoners entered the house of Edeb Jeaurenand, 278 Sixth avenue, and were arrested with some clothing in their possession. There were mitigating circumstances presented to the Court, and His Honor sentenced Haines to the State Prison for two years.

A Professional Car Pickpocket Sent to Sing Sing for Ten Years.

Walter Brown, alias John Smith, alias John Wood, was tried and convicted of "grand larceny, second offence." The prosecution proved that in February, 1868, he was found guilty of grand larceny at the Oyer and Terminer and sentenced to the State prison for four years and nine months. Sergeant Brush, who was the complainant, identified Brown as the person who was convicted at that time of stealing his watch. It was shown that on the 30th of December Octavius Ornmaney, a Justice of the Peace of the county of Surrey, England, who is on a visit to this country, was riding on the platform of an Eighth avenue car, and that he caught the prisoner in the act of stealing his gold watch. The thief had severed the watch from the chain, and the complainant grabbed his hand before he had time to pass it to his confederate. A detective was on the car and arrested Brown at the time. The case was so clear that the City Judge sentenced this noted pickpocket to the State Prison for ten years, thus ridding the city of one of the most noted members of the light-fingered gentry.

Alleged Embezzlement by a Canal Boat Captain—Disagreement of the Jury.

David Willis, the captain of a canal boat, was tried upon a charge of embezzling $63 on the 18th of October from Robert H. Swazey, that sum having been paid to the defendant by the clerk of E. A. Packer & Co. The accused gave a seemingly plausible account of his failure to make returns to his employer by stating that he and the woman employed on the boat went to the Bowery Theatre the night after he received the money, which he put with other money of his own, amounting to $300, and that after he went a couple of blocks from the theatre he missed it. The woman was sworn and told the same story. The complainant said that previous to employing Willis he made inquiries and found his character was good. The jury deliberated upon the case for some hours, and being unable to agree, were discharged from the further consideration of the case.

An Acquittal.

A little boy named John Sullivan was tried upon a charge of breaking into the cigar store of Stephen A. Bassford, 130th street, on the 2d of December, and stealing $100 worth of cigars. It was shown to the satisfaction of the jury that the boy found a small quantity of the stolen property among shavings in a carpenter's shop, and a verdict of not guilty was promptly rendered.

BROOKLYN COURTS.

SUPREME COURT—CIRCUIT.

Lawyer Sanderson's Great Libel Suit—Going for $50,000 and Getting $500—Yesterday's Sensation in the Brooklyn Court House—The Law of Libel.

Before Judge Gilbert.

Lawyer Sanderson's great libel suit to recover $50,000 from the Brooklyn *Union*, of which Henry E. Bowen is the principal stockholder, was the sensation in the Court House yesterday. The alleged libel, it may be remembered, consisted of the publication of a report of a rencontre between Sanderson and one James, for whose wife Sanderson was acting as counsel, in front of the Court House. The court room was crowded yesterday, and, as soon as the case was resumed, Mr. Britton, counsel for defence, read from the testimony of Henry E. Bowen before the Board of Arbitration, in which Mr. Bowen swore that Sanderson expressed himself satisfied with the publication of the apologetic articles, one of which was written by Sanderson himself. Mr. Britton thereupon renewed his motion for a non-suit, which was denied by Judge Gilbert. Exception was taken to this ruling.

Mr. Britton then summed up the case for the defence, and claimed that ample reparation had been made by the defendants. He aired before the jury Sanderson's manuscript of Sanderson's article, tremendously puffing Sanderson, told a funny story about Sanderson's orthography, and then proceeded to review the evidence on both sides, concluding by asking a verdict for the defendants.

Ex-Judge Reynolds addressed the jury on behalf of the plaintiff, and held that no settlement of the claim had ever been made, although contradictions of the libel had appeared. Reynolds indulged in a few pleasant personalities, characterizing

BOWEN'S REPORTERS AS SCAVENGERS,

who were sent by Bowen all over the city to gather filth, and his paper as a sewer through which that filth was run off.

Judge Gilbert, in his charge to the jury, said:—It is not disputed on the part of the defendants that the facts in regard to the publication of the article on which the libel is founded have been proved in such way as to entitle him to damages. The publication was what the law calls a libel, and it was unjustifiable and without excuse, and, unless you think the defendant has established something by way of defence, it will be your duty to render a verdict for such damages as will compensate plaintiff for the injury done him. The common law estimates private character as equal to property, and compensates a party for injury to it upon the same principles as an injury to his property or person. It has been held that

A CORPORATION IS NOT CAPABLE OF MALICE;

but it acts through its agents, and if any of them, in publishing this article, were actuated by malice, that would properly go to enhance the damages. If you think, however, there was no malice, the absence of malice ought to go in mitigation of damages, because the essential ingredient which makes up a libel is malice. The law infers malice from the fact of the publication; this is what is termed "legal malice." If the plaintiff satisfies you that, beyond this legal malice, he was injured by actual malice, that authorizes you to enhance the damages. Upon this subject you have the article itself and the circumstances under which it was published; and if you so find you must say what would be a fair compensation to him. You also have the testimony of Mr. Bowen, his son, McAllister, and the reporter who wrote the article, all of whom testify in most unqualified terms that they had no ill-will towards plaintiff, and that it appeared in the ordinary way. If you are satisfied with that evidence it would go very far to rebut the idea that it was done with the intention to injure the plaintiff, and it ought to be taken in

MITIGATION OF DAMAGES.

The defence is that after the publication of this article the parties met and made an agreement that the proprietor of this newspaper should make all the reparation in his power by the publication of retractions, and that the plaintiff should be satisfied therewith. If you believe that agreement was made that would entitle the defendant to your verdict. If you think it was not made you must consider the question of damages. Upon this subject the law affords no particular criterion by which the jury must be governed in the estimation of damages. You must take into consideration

THE SITUATION OF THE PARTIES:

whether it is calculated to injure, and whether it did in point of fact injure; also the acts done by defendant by way of reparation, and you are, in the exercise of a wise discretion, to give such a verdict as will repay for the injury and answer the ends of public justice.

The Court refused to charge Mr. Britton's proposition that legal malice may be rebutted by the absence of proof of actual malice. Exception.

Mr. Reynolds took exception to that part of the charge which stated that, unless there was actual malice, the plaintiff was not entitled to recover any more than the actual damages.

The jury appeared in Court at about four o'clock, when the foreman, in reply to the usual question, announced that they had agreed upon a verdict of

FIVE HUNDRED DOLLARS DAMAGES

for plaintiff. The announcement was received with great surprise by the spectators, who, after hearing Judge Gilbert's charge, expected a much heavier verdict.

Lawyer Sanderson, who sat at one end of the reporters' table, sprung excitedly to his feet and astonished the lawyers by moving for a stay of proceedings for twenty days! There was a pause and then a laugh.

"Why," said Judge Gilbert, smiling grimly, "you need not ask for a stay; the verdict is in your favor."

But Sanderson apparently was not satisfied with the verdict and insisted upon having another trial.

SUPREME COURT—SPECIAL TERM.

The Huntington Mystery—The Case of Kelsey, the Tarred and Feathered Victim.

Before Judge Pratt.

The case of George D. Banks, Royal D. Sammis and Claudius B. Prime, who were committed by Justice Montfort, of Huntington, on the charge of complicity in the tarring and feathering of Charles Kelsey, was before Judge Pratt yesterday morning. The case came before the Court in pursuance of the following order:—

The People of the State of New York to Peter M. Trainer, one of the Constables of the County of Suffolk—Greeting:—We command you that you have the bodies of George D. Banks, Royal Sammis and Claudius B. Prime, by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention by whatsoever names the said George B. Banks, Royal Sammis and Claudius B. Prime shall be called or charged, before one of the Justices of the Supreme Court, at the Court House in the city of Brooklyn, county of Kings, on the 23d day of January, 1873, at ten o'clock A. M., to do and receive what shall then and there be considered concerning the said George B. Banks, Royal Sammis and Claudius B. Prime, and have you then and there this writ.

Witness—Hon. Calvin E. Pratt, Justice of Supreme Court, at the Court House at Riverhead, in the county of Suffolk, the 20th day of January, 1873.

Messrs. Downing, Smith and Stanborough appeared for the accused, who were in Court, and District Attorney Tuttle and Thomas Young for the people.

Mr. Downing said that application was based on the ground that there had been no evidence before the magistrate, and that the commitment was illegal.

Judge Pratt inquired if that question could be raised on a certiorari. They could not do it under a habeas corpus. He intimated the opinion that he had no power to review the proceedings of the Justice or discharge the parties unless it appeared that the commitment was irregular or defective on its face. The Justice of the Peace within his sphere was as absolute in his powers as a Supreme Court Justice, and he could be punished if he exercised his functions in an arbitrary or illegal manner.

Mr. Young held that the evidence not only made out a *prima facie* case, but some thought if uncontradicted every one of the defendants could be convicted thereon.

Mr. Downing said that the Justice's decision was entirely wrong. "We are willing," said he, "to take it up, point by point, and show that there is no reason for holding these parties. In his written decision the magistrate inquires 'whether there is probable cause to suspect the prisoners,' and that is the only pretence which he holds them. Now what was to be done if a magistrate could make such a grievous blunder? Why, on the same ground he might send all Suffolk county to jail and there would be no redress."

Judge Pratt reserved his decision. The accused were committed by Justice Montfort, but, according to Mr. Downing yesterday, they were allowed to go on parole by the Constable.

COURT OF APPEALS CALENDAR.

ALBANY, N. Y., Jan. 23, 1873.

The following is the Court of Appeals calendar for January 24:—Nos. 15, 16, 17, 20, 19, 19½, 25, 27.

UNITED STATES SUPREME COURT.

A Curious Case Arising Out of the Seizure of a Cuban Ferryboat by the United States—The Site of the Old Memphis Navy Yard.

WASHINGTON, Jan. 23, 1873.

No. 360. United States vs. Steam Ferryboat Nuestra Señora de Regio, Her Tackle, &c., and Claimants—Appeal from the District Court for the Southern District of New York.—The claimants in this case are a railroad company in Cuba, which in 1860 was finishing its road from the Bay of Havana to Matanzas, and, requiring such a craft, ordered the Nuestra to be built in New York and sent to them. On the way out she was seized near Port Royal by the United States forces, and while in custody she was chartered to the government for $200 per day, pending proceedings in confiscation, the agreement to be void in case the decree was against the claimants. The result of the proceedings was in favor of the claimants, but there was no restoration of the vessel by the government. In June, 1870, the case was referred to a commissioner to ascertain and report the damages sustained by the company. The report, covering all items of the claim, gave them $214,884. The report was confirmed and decree entered thereon, and the government appealed, urging that, as the vessel was in the service of the United States under a charter party, any claim arising under it should be adjusted by the Court of Claims, and cannot be made the subject of a decree in this proceeding. Further, that as the vessel was not restored, it must be regarded as a total loss at the time of capture, and in that case there can be no recovery for services claimed after that date. It is also urged that no judgment for demurrage should be rendered on the restitution of a prize without misconduct on the part of the captors, or wilful negligence or delay in bringing the case before a prize court; but, if allowed at all, the amount allowed in this case is excessive. G. H. Williams and C. H. Hill for government; William M. Evarts and Charles Donohue for claimants.

No. 105. Murdock et al. vs. Mayor and Alderman of Memphis et al.—Error to the Supreme Court of Tennessee.—In 1844 a number of residents of Memphis conveyed to the city for the location of a naval depot of the United States certain lands within the city limits, with a limitation, over to one Wheatly, in case the lands were not appropriated by the United States for the purpose specified. Subsequently the government paid the city $20,000 for the lands and established a navy yard upon them, erecting buildings and improvements costing about one million dollars; but ten years later it was determined not to continue the yard any longer, and the government ceded the lands to the city again. Thereupon the original grantors filed their bill to obtain a decree declaring the transfer to the city to be in trust for their benefit, claiming that the abandonment of the navy yard at that point avoided their deeds to the city, and that they were entitled to the property. The question was decided in favor of the city, the Court holding that the act of Congress (August 5, 1854), ceding the lands to the city, was a conveyance for the use of the city, and not in trust for the complainants, and that they had no interest under the act. The appellants here maintain their title under the conditions of their transfer to the city, and assert their right to the property upon its abandonment by the government for the uses named. The appellees contend that if the property is not the city's it goes to Wheatly. Motion is made to dismiss the appeal on the ground that the decision made was on the equity of the claim of the grantors, under the conditions of their transfer to the city, and not under the act of Congress. The appellants answer that it was upon the construction of the act of Congress, whether the city was owner in fee under it or only in trust for the benefit of the grantors, and that such being the basis of the decree this Court has jurisdiction to review it. Hurskell & Scott and W. T. Otto for appellant; Carlisle & McPherson for appellees.

AQUATIC NOTES.

The "Little Wonder," George Englehart, who won so much well-merited praise during the season of 1872, being aroused from the lethargy into which all oarsmen appear to fall during the "woollen stocking season," by a communication sent to a weekly paper, responds to the following effect:—That he will row any or all the so-called "crack oarsmen" named, on alternate days, or either of them, at a time to be mutually agreed upon, as early in the season as possible—beginning with Dr. Russell Withers, Edward Blake, Edward Smith, Thomas Fearon and Eben Losee, and states that if the several races can be managed to take place in the space of one week, he will agree to row Losee within an hour after his race with the remaining competitor.

This is no idle boast. Those wishing to make such an engagement can do so by naming their intentions; or, if more agreeable, Englehart will pay his share towards getting up a handsome and valuable diamond medal, to be known as the "Amateur Champion Medal of the United States," all those desiring to possess the coveted title to contribute a proportionate amount, the time and place to be fixed by a majority so entered. He even proposes that in the event of the acceptance of his last proposition to waive his right to the title he has earned, and throw the championship open to competition. His time is the best on record, not barring Hammill's (professional) time. And the time of the man he last defeated is second (James O'Neil's), bringing Hammill's time to third place. Fault has been found because the press proved liberal in its praise and encouragement to this brilliant rower—but envy is sure to find fault. The press will be equally generous, and more so, if either of the parties challenged defeat this plucky oarsman.

The Gramercy Club has ordered two new pair-oared gigs, a style of boat which promises to become as popular in American waters as it is in England.

George Brown, the great Halifax sculler, is about to issue a challenge to the world to row a race for $2,000 a side, giving the preference to Joseph Sadler, of England, to whom he proposes to allow a fair amount of money for expenses, if he will come to Halifax.

A SINGULAR ROBBERY.

Bonds and Valuables to the Extent of Forty Thousand Dollars Stolen in Wall Street Before the Eyes of Six People.

The Thieves Escape and No Trace of Them Found—The Whole Amount Probably a Total Loss.

One of the most singular and audacious robberies ever committed took place on Wednesday afternoon, at 52 Wall street, in the office of the Houston and Texas Central Railroad Company, whereby forty or fifty thousand dollars were lost, and probably irredeemably so. The railroad company is not the sufferer, however, but a private party whose ill fortune it was to have been the victim of the robbers.

At about two o'clock on the afternoon in question Mr. W. E. Dodge, of the firm of Phelps, Dodge & Co., who is the President of the Houston and Texas Central Railroad, had just got through signing a number of bonds and was resting from his labors when Mr. C. H. Currier, a gentleman connected with the firm of Wilmerding & Mount, entered the office. He had

IN HIS POSSESSION

twenty-five bonds of the Houston and Texas Central Railroad, each valued at $1,000. These were loose, not being confined in any package. There were also 100 shares of stock of the railroad, besides a bank book containing some checks and several national bills of large amount, and accompanying the whole was a blank power of attorney signed by Anna E. Paige, executrix of the estate of David H. Paige deceased, and former Vice President of the road. Mr. Currier sat down on the sofa close by the large window at the end of the inner office and on the right side of the room on entering. In the office besides were a Southern director of the road and another gentleman doing business with the concern. At this moment a map pedler came into the room and expressed a desire to exhibit

A LARGE MAP

of the United States, which he desired to sell. Mr. Dodge, who had formerly agreed to buy such a map, if it were large enough for his purpose, therefore—in order to examine it—came over from the other side of the room and sat beside Mr. Currier on the sofa. The pedler then unrolled his map and the Southern director and the other gentlemen gathered round to examine and criticise it. They were all thus engaged when two strangers entered the outer office—one, who was tall and dark, wearing a sealskin cap and a heavy overcoat, apparently about thirty-five years of age, and the other a beardless youth. The former asked the boy in the outer office to show him the Directory, and began turning its pages carelessly over, while the youth entered the inner office and asked one of the officers to give him a report of the earnings and spendings of the road. While he thus engaged this gentleman on the further side of the room from the position of those who were looking at the map the eldest of the two strangers left the Directory in the outer office and went into the inner office and joined the group of those who were looking at the map.

HE THEN PASSED BEHIND THE MAP,

and was on the side of the group nearest the window, on the sill of which Mr. Currier had placed his package, while his attention was engaged like the remainder of the gentlemen. The unknown man, it is supposed (for nobody, of course, noticed the occurrence), then edged up towards the window until he arrived within reaching distance of the coveted package. At this moment all the four gentlemen had their heads turned toward the map, closely tracing out the course of the railroad. The strange individual must then have seized his opportunity and snatched the package, which lay on the window sill, quickly transferring it to his pocket. A moment afterwards the strangers were missed from the room, and a second after that Mr. Currier noticed the disappearance of his package of bonds and valuables from the window. He quickly apprised the others of his loss, and in a moment all in the room were

CAREFULLY SEARCHING

for the missing bonds, &c. Every corner of the office was searched, but to no purpose. The clerk entered the office a few moments after and says he noticed at the bottom of the stairs two men making their way out of the building very quickly. But at the time he attached no importance to it. The commotion was very great in the office and in the midst of it the map pedler disappeared. It is supposed that fear of being suspected made him depart so suddenly, and he is not really suspected of having anything to do with the robbery.

The bonds and securities have been advertised for, but it is not thought this will be productive of any result, as the bonds have coupons upon them which are payable to bearer, and there is no means of identifying these particular ones. It is therefore thought they will be a total loss. The numbers of the bonds are from 6,276 to 6,300 of the Houston and Texas Central Railroad. The loss will, of course, fall upon Mrs. Paige, widow of D. H. Paige, and not upon the railroad. A report was current that Mr. H. S. Hatch was the loser, but this is a mistake. It arose from the fact that immediately after the robbery Mr. Hatch went to the Stock Exchange and telegraphed the robbery to all the brokers; but he is in nowise concerned in it.

ANÆSTHETICS.

Lecture by Dr. Weisse Before the Medico-Legal Society—The Responsibility of Physicians.

A lecture was delivered last night before the Medico-Legal Society by Dr. Weisse on the responsibility assumed by physicians in prescribing anæsthetics. He explained at length the effects of the various drugs used to produce anæsthesia and compared their merits. He devoted especial attention to nitrous oxide, which he seemed to regard with some favor. In all cases anæsthetics should be resorted to only under circumstances of clear need, and their action should be carefully watched in each individual case, no matter how great a familiarity with its usual effects was possessed by the physician. In cases of danger from nitrous oxide there was always warning given of death. At a certain point the animal laid motionless, and apparently abandoned all attempts at inhalation. It was then clearly time to take effective measures to restore respiration. Dr. Weisse went on to say that every man who gave nitrous oxide should be required to have a certificate of his fitness to supervise its effects, and should there be an accident in consequence of his carelessness he should be held responsible for it. With ether and chloroform the physician could not be held responsible for the purity of the drugs, but with nitrous oxide there was no such excuse, as care would always secure a supply of the gas in a pure state. Chloroform was very dangerous in cases of heart disease, but the peril was much less with ether and nitrous oxide. True, chloroform only produced one death in 2,800 cases of administration, but ether only once in 23,000, and nitrous oxide only once in 300,000. Still, every administrator should for his own sake look upon each case as the fatal exception to the overwhelming exception. The physician should be provided with the galvanic battery and ammonia and all necessary restorative means in every case. Whenever, in a case of accident, these means were not at hand, it argued culpable negligence, for their absence was, perhaps, the cause of death. Dr. Weisse proceeded indignantly to protest against the careless administration of nitrous oxide by amateurs, who were utterly unfit to apply such agents to the human economy.

The reader of the paper was rewarded with the thanks of the society, and it was discussed at some length by succeeding speakers.

MUSICAL AND THEATRICAL NOTES.

Mr. Alexander Henderson, of the Olympic Theatre, has been confined to his room by sickness for a week, and, simultaneously, Miss Lydia Thompson is too ill in New Orleans to be able to meet her engagements in that city.

Nixon, the bill-poster, who is now in the Tombs charged with the murder of Pfeifer, in Chatham square, was a terror to theatrical managers, and most of them found it to their interest to employ him to prevent him from destroying their bills by pasting them over.

An unusual addition is to be made to the orchestra of the Fifth Avenue Theatre, a quartet of performers on the French horn, who have just arrived from Europe, having been procured for a protracted engagement. They were attached to the Russian Court at St. Petersburg, where they were known as the "Imperial Chamber Quartet." They are said to be singular y excellent musicians, and their performances are expected to prove an attractive feature at the new theatre.

It will be remembered that after the burning of the Fifth Avenue Theatre the company received no benefit, contrary to custom. This was evidently the desire of the members of the company, for, after the opening of the new theatre on Monday night, Mr. Daly found in his private office a beautiful clock, worth probably $500. Seeing the striking piece of property and supposing it had been put there by mistake he was on the point of ordering it away when his attention was attracted by the inscription plate, on which he read, "Presented to Mr. Augustin Daly by the ladies and gentlemen of the Fifth Avenue Theatre company."

ART MATTERS.

The Art Reception Yesterday.

Yesterday afternoon, from one to five, was devoted by many of the artists of the Tenth Street Studio Building (Tenth street, near sixth avenue) to a reception. The celebration was the first of the season—we might almost say the first of the kind for two seasons—and was very generally shared. For the last twelvemonth or so the system of receptions formerly popular has fallen into neglect. Possibly it had not been devised with as much tact as ought to have been shown, and undue familiarity met with its accustomed reward. The new impulse started yesterday promises to be strong and healthy. Though by no means all of the studios were open (and the Tenth street hive is one of the largest and busiest in the city), yet a sufficient number of doors offered welcome to provide a great diversity of pictures for the inspection of the visitors. Most of the guests were ladies—friends of the artists and fair *dilettante*, babbling a piquant art-jargon and fascinatingly *au fait* in the points of a picture. Many of the studios were tastefully adorned, exotic leaves forming rich festoons and graceful drapery, and old armor lending a mediæval tinge to the gloom-shrouded corners. In some, cunningly arranged flowers lured the eye and seduced the nostrils; birds sang in close proximity to the simulated foliage of the canvas; quaint old china elicited the admiration of the *virtuoso* in crockery, and Turkish rugs, tigers' skins and grotesquely solemn heirlooms attracted the lover of the bizarre and the conservative. We have nothing specific to say of the pictures, for the simple reason that most of them have been amply noticed in these columns during the past two months. Among artists whose studios were open were Perry, Van Elten, De Forest, Bradford, Shattuck, Heade, Brown, Julian Scott, Nicoll, the De Haas brothers, S. R. Gifford, W. H. Beard, Henry, Parton, Wilmarth and Le Clear. The opportunity was presented of seeing how much had been done with brush and palette since the opening of the season, and if the bevies of admiring ladies were not always temperate in praise and discriminating in criticism they were at least perfectly sincere, and contributed most of the genuine good feeling of the occasion.

The Leavitt Art Sale Last Night.

Last evening a portion of the late Mr. Higginson's pictures were sold at the Clinton Hall Salesroom. Appended is the list of pictures and prices:—Fort Ticonderoga by Moonlight, $10; companion, landscape, $10; the Indian Water-Carrier, $17 50; Strawberries and Cream, $10; Thomas, $15; Wood Nymph, $17 50; sketch, landscape, $10; the Three Graces, $10; A Pensive Thought, $5; Putting Dollie in Mourning, $14; fancy head, $15; Mount Washington, from Shelburne, N. H., $15; Near New Haven, Conn., $13; The Campagna, $20; The Wreckers, $15; Just Out of Her Teens, $12 50; Scene Near Cayuga Lake, $25; Group of Peaches, $15; Sunset in the Street, $27 50; Autumn, $40; Chicoruhua Peak, $29; The Connoisseurs, $39; The Rainbow, $45; The Sick Child, $115; The Wreath, $100; The Haymaker's Ford, $115; Cattle Piece, $42 50; The Rival Nurses, $80; Landscape, $45; Guy's Cliff, near Warwick, England, $95; A Family Party, $105; Flowers, $75; Midnight, $40; My Favorite Bird, $85; The Brook—Evening, $90; Le Jeune Connoisseur, $50; Waterfall in the Alps, $25; Othello Relating his Adventures, $100; Lake George, $37 50; Military Aspirations, $80; Easterly Gale Off Mount Desert, $30; Italy in the Fifteenth Century, $40; Pic-nic in Italy, $67 50; The World Before Him, $35; Landscape, $27 50; The Little Grape Gatherer, $40; The Young Philosopher, $40; Glendida Lake, Putnam county, N. Y., $40; Scene Near Abergavenny, Wales, $85; Jeune Fille preparant une Robe de Bal, $220; Derwent Water, $130; Lady Bolton—Sketch, $12; Near San Francisco, $45; The Laborer's Meal, $60; A Passing Storm, $450; Laughing, $30; Sunset in the White Mountains, $97 50; He Won't Hurt You, $80; Science in Brittany, $105; Fern Gathering, $250; Retrospection, $25; Scene Near Albany, $47 50; Why Don't He Come Himself? $27 50; Donnelly Castle, Scotland, $30; Dog's Head, $45; Autumn, on the Saco, Me., $20; The Clandestine Letter—a pair, $60; Descent from the Cross, $20; Christ Comforting His Mother Before the Passion, $5; The Marys at the Tomb of the Saviour, $5; Landscape, with Bridge, $15; Landscape, with Monks, $7 50; Portrait of Galileo Galilei, $5.

Floating Fragments.

Sarony has just completed his crayon portrait of Miss Neilson, mention of which in its unfinished stage was lately made in this department.

The artists of the Tenth Street Studio Building will hold a reception this afternoon from one to five. This is the first reception of the season, and will probably be well attended. The reference which the HERALD has made from time to time of the number of new works in hand will have given the public a fair idea of the industry, spirit and competition manifested by a large proportion of our artists. Receptions have latterly fallen out of vogue, but we see no reason why a genial custom should not be advantageously revived, especially since it is not so much the custom here as it is abroad for strangers to visit an atelier without an especial invitation.

We understand that there is a prospect that the forthcoming exhibition of water-color drawings will be large and interesting enough to warrant prolonged and frequent visits. Many of our artists have been conscientiously preparing for it. The season will prove a profound disappointment unless it offers the opportunity to record an exceptional success. There can scarcely be a neutral middle course.

One of the chief causes for congratulation between artists meeting at the Somerville Art Gallery during the week has been that so many really good pictures by American artists and so much honest work by New York painters were visible.

HORSE NOTES.

The famous trotting stallion Commodore Vanderbilt has gone to the West to spend the remainder of his days. Mr. Turnbull parted with him to General Singleton, of Boscobel stock farm, near Quincy, Ill. This gentleman also owns the stallion Willie Schepper. Commodore Vanderbilt is a very fast horse, having a record of 2:25, made on the Union Course, Long Island, which is as good as 2:22 on either the Mystic, Prospect Park or Buffalo tracks. He is a most powerfully developed stallion and remarkably handsome. His colts are all fast, the stallion William Turnbull showing great speed in all his races, and, with a good driver, can trot low in the twenties. Commodore Vanderbilt will be a great acquisition to the trotting stud of the West.

"When a horse comes in all wet with perspiration," said an English groom to an American hostler, "you let him stand in the stable and dry with all the dirt on. In England we take the horse as he comes in from a drive and sprinkle blood-warm water all over him, from his head to his feet. Then we scrape him down and blanket him, rubbing his legs and face dry. Thus, in an hour he is clean and dry, and ready to take a good feed; while, with your way, he will stand and swelter for hours, and finally dry, sticky and dirty. Our horses never founder and never take cold. We never use a curry comb. You scratch your horses too hard. The only care necessary is to have the water not very cold, then bathe them instantly, while you are rubbing their legs."

The California papers state that Budd Doble announces that he will trot Elmo against any stallion in that State, and it is thought that the challenge may be accepted by the owner of Blackbird.

TROTTING AT SAVANNAH, GA.

THUNDERBOLT TRACK, Jan. 18.—TROTTING—Match $500, mile heats, best three in five, in harness.

Mr. Nelson named g. g. Nick King	0	1	1	1
P. A. Stannard named b. g. Dandy	0	2	2	2

Time, 3:16¼—3:15½—3:15¼—3:04¾.

THE EXCISE LAW IN BROOKLYN.

Trial of Delinquent Williamsburg Liquor Dealers.

A large number of Williamsburg liquor dealers and bartenders, arrested on Sunday last for violating the Excise law, were on trial in Justice Elliott's Court yesterday afternoon. The court room was crowded to suffocation by the friends of the prisoners, and a large crowd remained outside, awaiting the result. The following named were tried by jury and were acquitted without much deliberation, their counsel, Henry B. Davis, claiming that there was no proof of any of them having been licensed:—William Keating, John Wall, George G. Gould, Anton Duckrill, John Frank.

The following-named delinquents were ordered to appear for examination on Wednesday next:—Barney Duffy, Harmon Krey, Christian Hamps, Joseph Armbruster, Louis Langenhauser, Robert Clarkson and Ignatz Weston.

AIDING THE FIFTH AVENUE HOTEL VICTIMS.

A musical and literary entertainment, under the auspices of the Catholic Volunteer Literary and Musical Association, was given last evening at Apollo Hall, Twenty-eighth street and Broadway, the proceeds of which, it was understood, were to be disposed of among the women who were sufferers by the Fifth Avenue Hotel fire. The house was well crowded, principally by the sympathizing Irish girls and laboring class of the city. The entertainment was fairly carried out, and for the most part amusing. The programme consisted of solos, duets, speeches, readings and declamations. None of the amateurs, however, deserve mention for ability, with the exception of one young lady, whose singing was very pleasing and well received. It is hoped the money received will be properly used for the sole object in view.

MURDER OF AN HONEST MAN.

The Funeral of the Ill-Fated Teamster who was Shot in the Bowery to Take Place on Sunday.

The Death-Stricken Home—The Sorrowful Wife Weeping Over the Corpse of Her Husband—The Blood Stains on the White Horse Which He Rode—The Good Words Said of Charlie Pfeifer by Those Who Knew Him Best.

Few of the many murders which have happened during the past few years ever excited such great wonder and horror as that which on Tuesday evening was committed by Michael Nixon upon Charles H. Pfeifer. The culprit is notoriously known as a ruffian, thief and "heeler" among the good-natured "gangs" of the Sixth ward, always ready by foul words and insults to get into a fray, and never scrupulous about attacking persons who resented his brutality. In contrast his victim is now proven by the good words of all those who ever knew him to have been

A QUIET, CHEERFUL AND HONEST MAN,

who worked hard for his livelihood, and never in any instance would accept a challenge to commence a quarrel, but was always in the habit, when subjected to blackguardism from the lips of men with whom his vocation forced him to associate, of giving hard sayings the go-by by laughing at them and treating them as jests.

Some five or six months ago Pfeifer moved from Fourth street, Williamsburg, to the house where he was residing at the time of his death, at the corner of Third and South Eighth streets. This is an aged wooden structure, which must have been erected when that portion of Brooklyn was in its infancy. It is of a dull, brown color, with gloomy windows and a frowning porch, which once might have been an evidence of the affluence of its inmates. The bell knob is hung with

SOLEMN BLACK CRAPE.

A HERALD reporter yesterday pulled it softly after having been assured by a German grocery man who keeps shop in the basement that Mrs. Pfeifer would like very much to see him. A little wide-eyed and rosy-lipped child opened it with a smile on her face, and in the hall were assembled several other children engaged in a sort of half timid sport, as if they felt the dread presence that was in the house. The stranger slowly mounted the old and creaking stairs, which, however, were very cleanly, and noticed as he went the cracked and broken walls, which once were a mild azure in color, but now were of a dirty, lugubrious gray. The children followed silently at his heels. Arrived at the top floor, he found here a rather cheerless garret, into which the light of day struggled through chinks in the closed blinds of a solitary window. There were three doors opening from the empty garret. At one of these, which seemed the entrance of a rear room, the visitor knocked. The summons was answered by

A SMALL, SAD-LOOKING WOMAN,

dressed in dreary black, who asked him kindly to come in and to take a seat. In response to an apology for his intrusion she said she desired very much to say something to him, and then, while she could restrain the tears no longer, she poured out the story of her grief in an affecting and simple manner which could not but touch the heart.

The room was small, and in one corner, near the window, supported by two chairs, lay a long, rectangular object, covered with a coarse white sheet. That was the coffin. The furniture was meagre, but everything was orderly and neat. An open door showed the interior of a small chamber, which is the sleeping room of the family.

Mrs. Pfeifer immediately went to the coffin, and, lifting the white cloth from the upper part, disclosed to view the cold and rigid face of her husband, talking all the time between her sobs. In its expression there was never anything more calm, peaceful and kindly than the pale countenance, and the marks of character which it displayed were so plain that the most unskilful student of human nature could make no mistake regarding the heart of the man. The muscles about the eyes were in the posture which is indicative of customary good humor and cheerfulness. The forehead is broad and full, the lips have a kind and honest expression, and, but for the ugly stain left by the penetrating bullet and the enlargement of the side of the head where it lodged, there was more the look of slumbering life than of unwaking death.

"POOR, DEAR CHARLIE!"

The widow leaned over him, saying, "There he lies, my poor, dear Charlie. He never did anything to any one that they should kill him. I never heard a harsh word from him in his life. Oh, it is fearful!"

At this moment the door was opened and a lady entered, the sister of the bereaved wife. They rushed into each other's arms and for a short time wept violently together. Then, as she turned to the corpse, Mrs. Pfeifer said with a shudder of horror:—"Look over here where the ball entered. You see," she continued in piteous tones, "they cut his head in pieces and put it together again."

"Isn't it awful?" said the sister in tears.

"COMING HOME AFTER HIS DAY'S WORK."

"He was just coming home after his day's work, too."

The scene was too harrowing to the feelings to be a desirable one to paint with the pen. In a short time the women were more composed, and then Mrs. Pfeifer sent for her children to show them to her visitors. The baby, which is a boy, she brought from the bedchamber, and the three little girls came up stairs and bashfully entered the room. The eldest is about nine years old, and has quite a pretty face, with large brown eyes. One of them has hair of a rich auburn hue and eyes of a deep, changing gray. All of them are too young to understand fully the meaning of the tragedy which has been their loss, and to know that they are henceforth fatherless by the bullet of an assassin.

A FELLOW WORKMAN.

Leaving the house a visit was made to the stable of Mr. John Cassidy, who was the employer of the murdered man. Here was found the groom of the establishment, who mentioned the name of "Charlie" Pfeifer with kindly regret, and spoke earnestly of his many good qualities. He said that he had boarded in his family for several months, and that Pfeifer always went in and out of his house with the quietness of a child—never talking loudly or having anything offensive in his manner or habits. He had never known him to quarrel with any one, and when others were cross and attempted to make him angry he always had a pleasant word and a laugh with which to disarm them.

BLOOD ON THE HORSE HE RODE.

In one of the stalls of the stable stood a large white horse called "Harry," the one which the deceased rode in the Bowery when he was shot by Nixon. Its mate was at the time out of the stable. "Harry" has on the right shoulder a large stain of blood, partially worn off by lying down in the straw, but still plainly visible. It was caused by the bleeding of the wound in the head of his rider on that fatal night, and disproves with damning certainty the story of Nixon that his victim dismounted from his horse before he was shot. It would be impossible for the blood to be there unless it dripped from above.

THE OBSEQUIES.

The funeral of Charles Pfeifer will occur on Sunday morning, in the North Fifth street Methodist church, and the ceremonies will be in charge of the Montauk Lodge of the Order of Red Men. The remains will then be conveyed to the Evergreens, where they will be interred, and those of an infant son, who died a few months ago, will be placed beside them. Pfeifer had been a member of the above church for about three years and bore a good reputation in the congregation.

THE THOMPSON STREET HOMICIDE.

Williams, the Perpetrator, Arrested in Boston.

The police authorities yesterday received a despatch from Boston, in which it was stated that James Williams, the colored man charged with the murder of Mary Murray, also colored, late of 59 Thompson street, by striking her on the head with an iron stove cover during a quarrel between them on the 29th ultimo, had been arrested in Boston, and was detained there awaiting orders. With the warrant of Coroner Herrman Detective Mullin, of the Eighth precinct, yesterday afternoon started for Boston for the fugitive murderer, and probably will return with him to-day.

THE LIBERTY STREET TRAGEDY.

The Inquest Soon To Be Held.

Coroner Keenan, in response to an inquiry by a representative of the HERALD yesterday, stated that on Monday he will name a day for holding an inquest on the body of Nicholas B. Duryea, "policy" dealer, who was literally hacked to death with a bowie knife in Liberty street on the evening of the 16th ultimo by his former partner, John E. Simmons, who remains at Bellevue Hospital, under treatment for the fracture of his ankle, sustained during the fatal struggle. The injured limb is still encased in plaster of Paris, and, as Simmons will probably be kept at the hospital for two or three weeks longer, the inquest will be held at that place. The recent alarming frequency of murder in this city has revived in this, as well as other cases, an intense public interest, which is certainly unfavorable to the prisoner.