THE COURTS. THE SHARKEY-DUNN HOMICIDE.

indotrumtum were to some extent novel. 1, there-force, deemed it my duty to depart from my usual course of not commenting on the facts or sitting them. Bosides.
THE MANNER OF THE HOMCIDES, Whether by accident or design, and its surroundings by acts and declarations were such as to demand from any Court in a civilized community some remarks. I have ast in this Court many years, but never be-fore instemed to details of a more cowardly assassi-nation, accompanied with language that would have disgraced Sodom and Gomorrah. Under all these circumstances I could not become an auto-matom accompanied with language that would have disgraced Sodom and Gomorrah. Under all these circumstances I could not become an auto-matom accompanied with language that would have disgraced Sodom and Gomorrah. Under all these circumstances I could not become an auto-matom accompanied with language that would have disgraced Sodom and Gomorrah. Under all these circumstances I could not become an auto-matom or appear judicially, indifferent. "I com-mend the Judge," observes Lord Hobart (Brown's away the sum of counsel in the argument. There was no authoritative direction upon the evidence, such as was disapproved of in Mitchell vs. Har-mony, 13 Howard, U.S. R. ; simply expressions of printing ws. Russell, after learned arguments by yohn Van Buren and Samnel Stevens, pro and con-sid (13 Rar, 521).-"On the issues the Judge com-mented at large upon the evidence, and whinitted it to the jury without any con-trolling direction." It is well settled that a reception cannot be taken to a mere commen-tary on the evidence. The jury listens to the re-deterence due to learning and experience, but with a perfect understanding that they must decide upon matters of fact according to their own con-trolling to your impressions." It is concluded that there was error in using these words.-" (cannot your the evidence. The jury listens to the rest may have occasion to say to you with reier-eror to testimony, although intending to state

notes are the enclose and power invasion of THE RIGHT OF TRIAL BY JURY. It is contended that the Court erred in illustrat-ing with the pistol that was put in evidence, and subjected to the inspection and manipulation of the jury and commenting upon its use according to the evidence, and especially in the remark, "With his hand necessarily on the trigger." It is only necessary in answer to this to say the evidence tended to show the prisoner called attention of de-ceased to the fact of the pistol being on tull cock, and exclaimed it was a hair trigger and then brandsned it, with his manner of holding it also iairly in testimony. Inviting attention of the jury to these circumstances was directing their notice to the class of facts around which closed the circle of design and accident. The remarks of the Court of Appeals in Mulligan's case clearly apply to the prisoner's acts. It is averied the Court erred in commenting upon

of Appeals in Multigan's case clearly apply to the prisoner's acts. It is averred the Court erred in commenting upon THE PHISONER'S DECLARATIONS. The remark, "I do not think a man who would use such language is almost unfit to live," is especially characterized as objectionable. Certainly this re-mark did not prejudice the accused, inasmuch as the jury, by unanimously recommending him to meroy, that he might periadventure escape capital punishment, emphasically disagreed with the Court. The Court charged every requisite of the delence upon premeditated design, and followed the language of the Court of Appeals on People vs. Clark, 7 N. Y., 394, which, since 1552, has never been varied as authority, although assailed by the concentrated ingenuity and logic of the great Bar of New York. The decision made twenty years since conforms to the recently uttered sentence of the same Coart in the Foster case; (50 N, 610):---It is to be remembered that the law of murder is de-signed for the protection of life from lawless vio-lence." Said the Court, in Clark's case (which overrnied the Sullivan case, in 1 Parker, quoted by the defence):--II there be sufficient deliberation to form a design to take life and to put that design into execution by destroying life, there is samficient deliberation to constitute murder." No matter whether the desugn be formed at the instant of striking the fatal blow, or whether I is decourden precedes the act although that is olives in-stantly. The law has no favor to extend either to the rapid or slow execution of such a design. Such a rule is absolutely necessary, especially as the common law and existing English law of maince implied from the uniawful act has disappeared from our State pursited end that the shouts of more take in sacond. This shows how rapid may be a merose on without that the law apid may be a as rapidly as light, in a mean wave of the natter there are 500,000,000,000 of successive viorations in a second. This shows how rapid may be a succession without that absolute simultaneousness which is implied in the great thought and act of the universe, "Let there be light, and there was light." Had the Courts been allowed to specilate about the degree of time necessary to form inten.

high." Had the Courts been allowed to speculate about the degree of time necessary to form inten-tion to kill, then QUCK-WITTED MAN SLAYERS might have enjoyed immunity. The law simply says the act of killing in murder must follow the premeditated design. How rapidly it may follow the jury must determine from the circumstances. A most caretul reperusal of the notes of evidence and most conscientious reflection upon the whole case only serves to strengthen my original views, that, with murder in the second degree and manslaughter in the two higher degrees withdrawn from the consideration of the jury by the request of the pitsoner's coun-sel, no intelligent jury could have arrived at any other conclusion than that this killing of an unarmed man by one who had pecuniary difficul-ties with drawho did not kill his body, he had solled not only the victim's soul with most horrible blasphemies and indecent threats, out his own niso, was intentional and with express malice. In short, to quote from a comment of the Court of Appeals, in the OBrien case, before quoted (p. 277), "the facts stand clearly and indisputably proved. They present a case of unjustifiable homicade, most atrocious and revolung. It was without shadow of excuse of circumstance of paliation. The act was evidently fully designed, was premedi-tated and was deliberately chried into effect in a manner exhibing the most bortai and heartless depravity." In therefore characterizing crime se-verely, I have only followed the proper precedent. The Circk of this Court will enter the order of this Court denying the motion in behalf of the prisoner for a new trait. ASKING POSTPOREMENT OF SENTENCE. As soon as the Recorder had finished reading his opinion Mr. Brooke asked for further delay beabout the degree of time necessary to form inten-ASKING POSTPONEMENT OF SENTENCE. As soon as the Recorder had finished reading his opinion Mr. Brooke asked for further delay be-fore sentence should be passed in order to make a motion in arrest of judgment. Recorder Hackett said he should decline to post-rora the sentence

said, after the shot from the pistol in his hand, "Bob, I dia not mean to do that," and by another witness, "Bob, I dia not mean to shoot you." A subject to the series of the source of the source of the same of the source of the source of the short burns, the remember of the source of the distinguished counse; colored the testimory. The views regarding intent to kill and death per fourther the source of source of the facts or sifting them. Besides. requested him to ask for a postponement of the sentence. The motion was granted. Simon Donan, who had been convicted for con-spiring to deiraud the government out of the tax on a quantity of whiskey manufactured at the Spring Valley distillery, Rockland county, was called up for sentence. The Judge said to the prisoner that he was an intelligent man; that he had goed eliber-ately into a scheme of frand, and that, for the sake of insud, he had deeply involved others. The frand had brought disaster upon the prisoner and loss to the government. The sentence of the Court was that the prisoner be confined for three years in the Kings County Penitentiary and fined \$1,000. Christopher Flood, convicted of the same offence, was next brought up for seatence. The Court told him that he had filed the position of a public officer, bound to protect the interests of the gov-put he had yielded to temptation and been cor-routed. He yielded to temptation and been cor-routed. He yielded to temptation and been cor-things County Penitentiary and a fine of \$1,000. George F. Dunning Pleads Guilty on the First Court of the Indictment.

First Count of the Indictment.

George F. Dunning, who had been indicted for embezzling money from the Sub-Treasury of the United States, came forward and entered a plea of United States, came forward and entered a plea of guilty to the first count of the indictment, which charges him with having presented a false or forged paper to the Sub-Treasury. The delendant stands out on ball to the 16th inst., in order to enable him to settle up the affairs of the Stuyvesant Bank, of which he is acting receiver. The District Attorney states that this was the reason assigned in open court the other day by delendant's counsel why the case should go over to the day specified. The Court then adjourned to the 16th inst.

SUPREME COURT-CHAMBERS.

# Decisions.

By Judge Daniels. Veazil vs. Veazil...-Report of referee confirmed and judgment of divorce grated. Bradhurst vs. Zulick..-Motion to vacate stay of proceedings granted and motion to set aside hear-ing and judgment denied, with \$10 costs. Wirston vs. English.--Order to hold defendant to bail reduced to the amount of \$3,500.

SUPERIOR COURT-SPECIAL TERM.

## Decisions.

By Judge Monell. Cunningham vs. White and Another.-Order disposing of demurrer to portions of answer. Pomeroy and Another vs. Napler.—Order can-celling notice of pendency of action. Enliers vs. Ethers.—Decree of divorce in favor of

plaintiff. Simonson vs. Simonson.-Motion to set aside

order of reference denied, plaintiff may have leave to serve a reply and to open the case to let in evi-

dence on her part. Purdy vs. Purdy.—Report of referee confirmed. Parties may move for final disposition of fund in receiver's hands, pursuant to the judgment in the Chambock and wife vs. Cagney.-Motion to ascer-

tain certain allegations in the complaint granted. The Rector, Ac., of the Church of the Redeemer vs. Crawford.-Motion to set aside execution against the parson denied, with costs.

### COURT OF COMMON PLEAS-SPECIAL TERM.

Decisions.

By Judge Larremore. Thompson vs. Thompson.—See memoradum. Platt vs. Platt. Dobson vs. Dobson. Walton vs. Walton. Report of referee confirmed and divorce granted. Schneider vs. Hatch.—See memorandum.

### JEFFERSON MARKET POLICE COURT.

#### Victimized by a "Roper-In."

Charles Barron, who resides at 39 Stanton street, eccived a visit on Wednesday last from David Sullivan. In course of the conversation which followed the latter represented that he was "in" with the dealer of the game at 702 Broadway, and succeeded in inducing Barron to pawn his watch succeeded in inducing Barron to pawn his watch to obtain money to play, assuring him that he was certain to win. They entered the place mentioned together, where the money obtained from the pawnbroker, amounting to \$29, was soon lost at the fascinating game known as rouge-et-noir. Bar-ron, perceiving that he had been victimized, pro-cured the arrest of Sullivan, and subsequently made complaint against the house, which was pulled on Wednesday evening, under a warrant from Justice Cox. The proprietor made his es-cape. Sullivan was held in the sum of \$500 to answer.

### THE NATIONAL GAME.

A Sharp Contest on the Union Grounds Yesterday Afternoon.

The Mutual and Washington Clubs played on the Union Grounds yesterday afternoon one of the finest six-inning games of the season, the "cooling drip of rain," for which everybody and everything was panting, preventing the playing of nine innings. Both the runs made by the Mutuals were earned, their batting and fielding being both safe and brilliant. In the third inning Hicks was struck with the ball, causing his retirement. Higham taking his place behind the bat, Nelson going to secing his place behind the bat, Seison going to sec-ond base and Martin doming his uniform and taking up position in the right field. The change did not seem to cripple the "Mutes" to any extent, for they held their adversaries down to the one run they had obtained in the third inning. Hat-field and Higham carried off the fielding honors for the New Yorkers, while Donneily and Warren did the finest work for the visitors. The following is the score:—

Distribution of Prizes to the Young La-The Steamship Virginius in Port at Aspinwall\_A Spanish Man\_of.War on the Alert\_What's in the Wind !dies-A Musical Matinee-Twenty-nine Young Ladies Crowned with Wreaths American Scientific Progress-Political Agitation - Commercial Enterprise of Honor in the Presence of the Archbishop. What General Quesada Says.

The closing exercises of St. Agnes' Acad were given in the lecture hall of the institution yesterday afternoon. Notwithstanding the heat the hall was crowded, the major part of the audi ence being ladies. The temperature was delight-ful, and the exercises, on that account, all the more enjoyable. The young ladies of the Academy were elegantly dressed, and rendered the programme made out for them in a manner that reflected credit on their tutors and themselves Among the audience was His Grace the Archbishor surrounded by the fathers of St. Lawrence' church and other eminent clergy. Many of the influential citizens of the ward whose children attend the Academy were also present. The exercises contained in the appended programme began at hall-past three. THE PROGRAMME.

ST. AGNES! ACADEMY.

La Mendiante M. T. Piyon Son entant Ada Geraty Emma S. Martinot Louise trois sœurs L. Beringer Antoinette Martina de Plotow Arranged by H. Alberti Performers-M, Dwyer, M. Cusick, J. Brophy, G. Staf-

Chord. Chords. "Happy Dreams of Home"......W. V. Wallace PERMIDING IN CHARACTERING, READING, WRITING, OR THOGRAFHT, GRAWMAR, ANALYNN, RENFORME, LOUIG. Chorus, "C'est jour de fete"........G. W. Stratton The Pairy's Gift, Operetta......G. W. Stratton CHARACTERIS. Utter Bieldwall

Queen of Pairles. Kitty Birdsall Attendant Fairles-M. Murphy, M. Connery, L. Beringer, E. Mestri, S. Cabill, A. Geratz, J. O'Connor, J. De-lany, M. Stearns, M. Galvin, Ada Geraty, M. Mo-Paden.

Fadden. Village Children-J. McCabe, M. Farley, E. Boiger, R. Shandly, K. Dillon, Ida Geraty, J. Flynn, H. Geraty, M. Duffy, E. Birdsall, S. Martinot. J. Schandly Widow M. Cahill Grand Polonaise Brilliante. Performer-M. Dwyer, F. Horan, J. Brophy, A. Shee-han, M. Cusick, E. Fogerty, A. O'Connor, S. Mar-tinot.

Sister Spirits-Welcome, Application, Nature, Religion, Gratitude. H. Geraty, S. Martinot, J. O'Connor, L. Shandly, J. Delany.

Delany. Chorus, "Farewell, Farewell." March. ..... Professor A. J. Davis

#### GRAMMAR SCHOOL NO. 53.

Reception at the School Yesterday

 the ground that the government of Colombia recorrized no such place as Aspinwall, only that of Colon.
 Mr. Fish, Secretary of State at Washington, it seems, replied to this that the United States of America had been in the habit for years of appointing consuls to Aspinwall without any objection having been made antil now, and, as he saw no good reason for the change. Mr. Thorington has been named Commercial Agent at Aspinwall, with lull pay and powers of a Consul, requiring no exequatur. The hon. W. L. Scruggs, United States Minister to Colombia, and General J. C. Caldwell, United States Consult to Valparaiso, are at present in Panama. The former will proceed to Bogata, by the steamer from Aspinwall, on the 26th, and the stater from Aspinwall, on the 26th, and the fatter to the south per the steamship Montana, just arrived here from San Francisco, brought some forty-seven Chinamen, who will go Souta in the Truillo, to be employed in Callao by the factific State factor. *PANAMA TRANQUL*.
 Panama at present is quiet and is likely to remain so for some time. The jury whose duty it is to examine the voting for President of the Union and Representatives to Congress will meet on the late of next month. The weather is very rainy, out the sanitary condition of the city remains good. SCIENTIFIC PROGRESS.
 Commander Lail and the officers of the Nicarasas, and will take passage for New York, will return to the Green. Afternoon. The reception of the Male Department of Ward School No. 53 took place in the school, Seventyninth street, near Taird avenue, yesterday afternoon. Mr. White, the principal, conducted the exercises, which were very enjoyable, and elicited from the audience rounds of applause. All the trustees were present and signified their appre-ciation by writing a complimentary minute on the book.

Kann, "Let the Dead and the Steeping" Martin Solo, "Lay Me Where My Mother's Sleeping" Solo, "Lay Me Where My Me Where My Mather Alfred Fairborther States S

at Aspinwall. [Aspinwall (June 22) Correspondence of Panama Star.]

in our port a Spanish gunboat, which to all ap-pearances is a very fast sailer. Rumor has it she 

With General Que

of tars.

# PERU.

Guerilla Politicians in Armed Association for Plunder and Revolt.

Public Support of Law and Order-Citizen Punishment of the Criminal Uprising-Hot Pursuit and a Sharp Battle-American Diplomacy and the United States Envoy-General Progress of the Republic.

LIMA. June 13, 1875.

In default of more attractive matter our attention here has been diverted during the past fortnight by the attempts and manœuvres of a band of desperate robbers, or montoneros, as they are technically called, and their final and decisive overthrow by the forces sent in their pursuit by the government.

DEMOBALIZED POLITICIANS AS PUBLIC PLUNDERERS. This company of rullans was composed of some of the army officers who linked their fortunes with the self-proclaimed Dictator Gutierrez in July last, and who, escaping irom his ranks when that daring chieftain met with his death fate, have since been lost "to fortune and fame unknown." Far better would it have been for them to have quictly accepted the situation, since the result of their recent effort by no means covers them with glory. Colonel Vincente Escobar, the head and front of this offending band, collected around him in Lima from twenty to thirty of the most desperate of the class of men referred to, and, being supplied with arms and ammunition, together with a small store of meney, by certain parties openly infinical to the present peaceful order of things, proceeded to a large estate some twenty miles from Lima, where he

called on in any way, so far as known, to interfere in the matter. The Spanish ship is the Bazan, Commander Autran. It is understood that the Kansas will remain until the repairs of the Virginius are finished. COMPERCIAL ENTERPENTS. The Pacific Steam Navigation Company are about to place two new steamsings—the Colombia and the Vaidiria, of 2,000 tons each and 500 horse power—on their intermediate line between here and Caliao, touching at Payta, Guayqui and other intermediate ports. They will leave Callao on the 12th of each month, to arrive at Panama on the 24th; sailing again on the 27th, to arrive at Callao on the 7th of the succeding month. Pointical AGITATION TENDING TO REVOLUTION. There has been a good deal of disturbance and revolutionary effort in several of the States of the interior, ail evidently connected with the question who shall be the next President of the United States of Colombia. Besides the revolutionary drama we have just passed through in Panama there has been great political excitement in the State of Tolima, fo-mented by intrigues in Cundinamarcs, parties from the latter State having entered the territory of the other for electioneering purposes and resor-ing to violence. The general government is to send a national fore to keep the two States within the line the constitution lays down insuch cases. In a proclamation by President Murillo to the peo-ple he states that he can see no justifiable cases in any of the States of having a recourse to arms, but thinks such disturbances are generally due to want of respect for law and love for revolutionary excitements. These State disturbances are not expected, however, to lead to any general conflict inted States Consul to Aspinwall, on appying to follow for the meal exceuter. It was refused on the ground that the government of Colombia recog-nuction for the next exceuter, it was refused on the ground that the government of Colombia recog-nized no such place as Aspinwall, only that of colon. peaceful order of things, proceeded to a large estate some twenty miles from Lima, where he procured, by force or persuasion, the necessary means of transportation for his command, and then boldly launched forth for the highly important equation of the standard of revoit. M. Pardo, so sig-mally successful in suppressing the recent raiders of Canta- description of which achievement was duly forwarded to the HERALD-lost no time in despacing through the recent raiders. THE PCINSUNG PORCE. This body consisted of fifty hussars, under the leadership of Colonel La Torre; fitty mounted rife-men and flity men detailed from one of the gens-d'arme battalions of Lima. Speedily did these troops find the trail of their quarr, but Escobar had the advantage. At every town through which he passed he levied contributions of money, and pressed into his service all the available mules and horses of the surprised these places with his de-tachment, mounted on weary and exhausted ani-mais, he found the market empty. The pursuit was hastened, however, as much as pessible. Escobar proclaimed loudly to the people that his sobject was to redress their wrongs, but at the same time curionsly proceeded to raise enemies at every step, not only irom his cractions, out from the abhorrence with which the ditizens of this now progressing Republic view these instance enter-prises. IN CONTACT with THE LOTALISTS.

progressing Republic view these insane enter-prises. IN CONTACT WITH THE LOTALISTS. Arriving at Huancayo, the insurgents--If high-waymen may be honored with such a name-en-countered the Sub-Preject, with ten men, but after a midnight contest the Preject was obliged to fall back. The montemeros were at first learned of pur-sing their advantage, but, urged on by hunger, inally took the town. Here they had expected to find many who would join their cause. Fancy their chagrin and mortification when the good burghers emphatically pronounced their supreme disapproval of the expedition, and resolucity shut themselves up in their houses, awaiting the now rapid approach of the pursuing soldiery. Dis-heartened and discomfited, Escobar took his de-parture from his hoped-for haven of rest. His fol-lowers, now convinced of the deception which had been practiced upon them, finding no friends, but al enemies, openly expressed mutanous sentiments, and the only means of salety was in IMFEDIATE FLIGHT.

all enemies, openly expressed muthous scattiments, and the only means of salety was in IMMEDIATE FLIGHT. The mountains, with their gorges and fastnesses, offered an alluring retreat, and thither the bandits repaired, robbing and despoiling on every side. But no pleasant surprise was in store for them. A portion of the troops, by taking a new route, were in their front, and the hurrying steeds of La Torre's husaars were close on their rear. AT BAY. Despair lent them courage, and a resolute stand-was taken in a detile, from whence apparently they could not be dislodged. Just then it was dis-covered that shey were completely hemmed in the rifles of the sharpshooters and the sabres of the cavary circled them with an iron ring. Still they fought with desperation, and after an hour's combat the government forces were entirely vic-torious, holding Escobar and the rest escaping up the mountains. LOYALIST JUEILATION.

The mountains, infect and and the rost costsping up the mountains. LOYALIST JUBILATION. The perfect and decisive overthrow of this new movement, which attempted to assume a political character, is halled with satisfaction by all parties. After such examples it is not probable that we shall be soon troubled again by these raiders. The very fact that in their long journey of 200 miles the party commanded by Escobar were unable to procure one single recruit is the most convincing proof that may be adduced of the change that Peru has experienced since those days when it was considered a sure road to wealth to follow the drum; now the plough is by lar a more popular exticle.

sas, a spiendid looking war vessel, commanded by very competent officers and manned by a jolly set

COLOMBIA.

PANAMA, June 24, 1873.

The steamer Virginius, of blockade-running fame,

as again "turned up" in Aspinwall harbor for the

purpose, it is said, of getting some repairs done. She has lately been dodging into and out of the

creeks and unfrequented harbors along the Colom-bian coast, and now comes back to vex our State

authorities and cause them to turn to the records

of her former visit a year ago, and take down

again the dusty volumes of international law and

Another curious thing connected with her pre-

sent visit is that a Spanish man-of-war dropped

into the same harbor on the 21st, and, still later,

on the same day, the United States steamer Kansa

The appearance of the Virginius has of course

of-war interfere with the Virginius, and in that case will the Kansas convoy her out to sea, as she

case will the Kansas convoy her out the set of the set

also made her appearance and came in.

lefinitions of neutrality.

# A New Trial Refused by Recorder Hackett and Sharkey Sentenced To Be Hanged on the 15th of August. Criminal Business in the United States Circuit Court.

Reduction of Bail Refused-Prisoners Sentenced and Pleas Accepted.

BUSINESS IN THE OTHER COURTS.

Recorder Hackett yesterday denied the motion for a new trial of Sharkey. His reasons for denying the motion are embodied in a lengthy and able opinion, which will be found in full in to-day's law columns. He sentenced Sharkey to be hanged on the 15th of next August. Sharkey assumed to take the matter in a sort of joke, for he smiled on hearing his doom pronounced, but it was a sort of ghastly smile after all. His counsel notified the Court that he should move for a stay of proceedings, so that it is not unlikely that the present case will be another added to the long list of those com ing under the catalogue of "the law's delays."

The United States Circuit Court, Judge Benedict presiding, after passing several sentences yester-day, adjourned till the 16th instant.

All the Courts adjourned over to-day in order to participate in the festivities of "the day we celebrate."

John Nolan, keeper of a sailors' boarding house in Gherry street, was yesterday charged before Commissioner Davenport with a violation of the new Shipping law, by boarding the brigantine Occo in the lower bay without the leave of the master. He was held in \$3,000 bail for examina-

In the United States Circuit Court yesterday Simon Donan and Christopher Flood were each sentenced by Judge Benedict to three years' imprisonment in Kings County Penitentiary and a fine of \$1,000 each for having conspired to defraud she government out of the tax on a quantity of whiskey manufactured at the Spring Valley Distillery, Rockland county. The prisoners had been recently convicted for this offence.

William Simpson was charged, a few days ago. before Commissioner Osborn, with sending obscene matter through the mails. On that occasion the defendant, through his counsel, waived an exami-Yesterday Mr. Brooke, who had just been engaged in the case, appeared before the Commissioner and demanded an examination, which was at once granted, and a day was fixed for the same

# THE SHARKEY-DUNN HOMICIDE.

#### The Motion for a New Trial Denied-Recorder Hackett's Reasons for Denying the Motion-Sharkey Sentenced To Be Executed on the 15th of August-Application To Be Made for a Stay of

Proceedings. Alter repeated delays since the conviction of William J. Sharkey for the murder of Robert Dunn the proceedings in the General Sessions yesterday finally terminated the jurisdiction of this Court over the case. The court room was crowded, as it was expected the Recorder would render his decision upon the motion for a new trialan expectation that was not disappointed. In consequence of the absence, however, of Mr. Charles W. Brooke, the prisoner's counsel, some delay occurred; but at length Mr. Brooke arrived and Sharkey was placed at the bar. He marched from the prisoner's box in the rear of the court room attended by his three brothers, all gentlemanly looking young men. He evinced no emotion, and seemed, indeed, the most unconcerned person in the room. Recorder Hackett then read the following carefully prepared opinion embodying his decision in the case, which, it will be seen, was in accordance with the general anticipation-a dealal of the motion for a new trial. Owing to the interest attaching to the case and the elaborate and exhaustive explanation of the rules of law governing the case, we give the opinion in full.

exhaustive explanation of the rules of law govern-ing the case, we give the opinion in full. RECORDER HACKET'S OPINION. The Court of Appeals ruled in the Langan case (39 N. Y. 30) that i erred in substantially denying on my minutes a motion ior a new trial without hearing argument. I have therefore avoided any possible error in this behalf by considering fully the views of counsel on this motion. Upon the tule page of the volume of United States Circuit Court Reports, by the Hon. John F. Dilion (a most eminent jurist), appears the following motio, cred-tiled to Lord Chancellor Broughan:—"With an en-lightened Bar and an intelligent people the mere authority of the Eench will ccase to have any weight at all if it be unaccompanied with argu-ment and explanation." Following this excellent motion for a new trial, both on alleged irregularity and merits. My first impressions were in favor of reiusing to consider the adidwits of the jurors upon alleged irregularity. However, for pru-dence toward the people and justice to the prisoner I have read them. They do not, however, purport to show irregularity, but only to explain why three jurors joined in the verbal recommenda-tion to mercy. This recommendation was not and cannot be made a legal part of the verdict. The latter can only be "guilty or not guilty" (I. Bishop en Cr. Prac, sec. 820). This suthor adds (sec. 830) :---"When the verdict has been rendered or recorded it is conclusive, and it cannot be retracted by one or all of the jurors. Neither can a juror be afterwards heard to object that he did not consent to the ver-dict thus rendered." Even had the juror presented affdavits explanatory of the technical verdict of puint is antory of the technical verdict of a judge not to award weight to them. "Such prac-coce, sid the great Mansfeld, "would open each juror to great temptation, and would unsettile every verdict in which there could be induced to throw discredit on their common deliberations." The New York cases of People ex rel John Hosmer vs. Columbia

THE PROGRAMME. The following is the programme :--

Could be lound upon the jury a man who could be induced to throw discredit on their common deliberations." The New York cases of People ex rel John Hosmer vs. Columbia County Court of Common Pieas (1 Wendell, 29), of and in Cornell (1 Parker, c. c., 256), follow the same rea-soning and decision. The first of these cases was elaborately argued by Ambrose L. Jordan and Elisha Williams, and the latter by the late District Attorney Biunt and the latter by the late District Attorney Biunt and the latter by the late District Attorney Biunt and the latter by the late District Attorney Biunt and the latter by the late District Attorney Biunt and the latter by the late District Attorney Biunt and the latter by the late District throw was Henry L. Clinton, Esq. In the argu-monts and decisions the hearing was exhaustive. I may here remark that I cannot conceive where the error could be in declining to hear from the jurors reasons in behalf of the recommendation. If it is not correct practice to allow them to explain their verdict it certainly cannot be error to remes to hear their reasons for reporting to the Lourt pri-vate requests of a humane but not legal character. To the same effect, People vs. Walson (8 Abb, 137). Bo much for alleged irregularity. Now A RESPECTS MERTS. The Court of Appeals have decided that this Court may set aside a verdict on the merits. But the question, therefore, is considered by the light of this paragraph in 1 Bishop, on Criminal Procedure, nec. 549:— "It is not easy to see how a Judge, hav-ing it legally in his power to set aside a serdict, can sentence a defendant to imprisonment or to death, when, for any reason which presefts itself podicially to his understandizg, his indgrment re-iuses to concur with the jury in the conclusion of guilt." In Sharkey's case my reviewing judgment rooncurs with the jury in the conclusion of guilt." In Sharkey's case my reviewing a digment re-iuses to concur with the jury in the conclusion of guilt." In Sharkey's case my reviewing a digment re-iuses t Appeals must necessarily review hereaster upon the statute. The head note of People vs. Jeremian O'Brien, 36 N. Y., 276, reads:--"Onap. 337 of the Laws of 1855 was passed for the advantage of the accused, that a new trial might

the Laws of 1855 was passed for the advantage of the accused, that a new trial might be awarded, when "EUSTANTIAL JUSTICE" SUBSTANTIAL JUSTICE" SUBSTANTIAL JUSTICE "Control is seal and there was error in taking away from the jury the question, "Did Sharkev kill bunn at all "" Trace, I remarked that the killing was admitted by the counsel, as the stenographer's notes when and the admission is net against a constitutional right. *(Reconcertal, The prisoner's distinguished counsel puts upon his brief that "In figure to the prisoner's distinguished counsel puts upon his brief that "In figure to the prisoner's distinguished counsel puts upon his brief that "In figure to the prisoner's distinguished counsel puts upon his brief that "In figure to the prisoner's the stand decisions go the other way. The rules of evidence and the practice in civil and criminal end that the fobert bunn named in the indictment of the decisions are the same. The state of the decisions are the same. The state of the decisions do the prisoner, then your indictions of the land of the prisoner, then your indiction of the killing was should acquit. "The purpose of the killing was taching all you entertain and if so, what is the stephical put with the to the prisoner, then your indiction of the killing was stephically left to the put of the killing was taching all you entertains and is to the killing was taching and it to be the prisoner. Then you entertain and it so, what is the admissions of counsely the uses to the killing was taching and you entertains and the prisoner is bound acquit." The put of the is the admission is not acquired with the source of the put of the killing was taching and the prisoner is the source of the put of the killing was taching and the put of the source of the killing was taching and the put of the put of the source of the killing was taching and acquire." The put of the isoner is the source of the killing was taching and the put of the source of the killing was taching and the source of the killing was taching ano* 

Recorder Hacket said he should decline to post-pone the sentence. Mr. Brooke then stated his reasons for an arrest of judgment, that the trial of the prisoner was without authority of law, being upon a statute superceded and repealed by a subsequent act of the Legislature; that no judgment of this Court can be passed upon the prisoner, because there is no act in existence of the Legislature of this State upon which the indictment under which he was tried could be based, and that the judgment of the Court was without authority of Jaw. The metion was denied and an exception noted. Passing SENTENCE. The Clerk asked the prisoner why judgment should not be pronounced against him. Sharkey said, "I protest against the judgment and the verdict." He spoke with the most atter unconcern imaginable.

and the verdict." He spoke with the most atter unconcern imaginable. The Recorder seatenced him to be hanged on the 15th of August next. Sharkey smiled, but it was a sort of ghastly smile, on hearing the sentence. The death warrant was then read and after this he was handed over to the Sheriff, who conveyed him to the death over to the Sheriff, who conveyed him e Tombs

Brooke gave notice that he would apply for a writ of error and a stay of proc

#### BUSINESS IN THE OTHER COURTS.

#### UNITED STATES CIRCUIT COURT.

Judge Benedict sat yesterday at the usual hour and proceeded with the discharge of criminal busi-

#### Charge of Sending an Obscene Article Through the Mails.

The jury empanelled to try Joseph Kendall, of No. 7 Great Jones street, for sending an indecent article through the mails, were discharged without being able to agree to a verdict. When the jury went ont they stood six for conviction and six for acquittal, and at the moment of their discharge there were eight for a verdict of guilty and four for not guilty.

Mr. McClelland, counsel for Kendall, moved to reduce the ball, which had been fixed at \$3,000 by reduce the sail, which had been fixed at \$3,000 by the Commissioners. It would, said counsel, be utterly impossible for the defendant to ind more than hall that amount of ball. The Judge said that in cases of this kind he would not consens to fixing the ball at a lower figure than \$3,000. The motion must be denied. SEVIENCING PRISONERS. The District Attorney moved for sentence upon Neuman and Devin.

Neuman and Deviin. Mr. B. F. Russell said that Mr. Waite, counsel for the prisopers, was unavoidably absent, and nad

 
 washing is used for the second seco Players. R. J Eggler, C. f... 0 Highan, 2d b., 1 Hatfield, 3d b. 0 Stari, 1st b. .. 0 Neison, r. f... 0 Hicks, c. .. 0 Hattews, p. 1 Gedney, 1, F. 0 Holcowerts. 0 R. 1B. P.A Gedney, I. L. ... 0 Holdsw'rth, s. s 0 HINGH. 1st. 2d. 3d. 4th. 5th. 6th. .... 0 0 1 0 0 0-1 .... 1 0 0 0 1 0-3 Clubs, Washington.... Mutual Autual. Runs earned-Mutual, 2. 1 0 0 0 1 Runs earned-Mutual, 2. 1 0 0 0 1 Runs earned-Mutual, 2. Time of game-One hour and twenty minutes. Time of game-One hour and twenty minutes. Total base hits-Washington, 1; Mutual, 2. Total base hits-Washington, 1; Mutual, 7.

### Rase Ball Notes.

One of the chief attractions of "the day we celebrate" will be the game on the Union Grounds, between the Mutual and Atlantic clubs. A vast deal of friendly rivalry exists between them, and as they have not met on the turfed field thus far as they have not met on the turied field thus far this season a great degree of interest is left in this particular game. Mr. Cammeyer has arranged for the receipt of telegraphic accounts of each inning of the Baltimore White Stocking game in Balti-more, the Boston Resolute game at the "Hub," and the Athletic Washington game in Philadelphia. These will be posted in a conspicuous position, so that while witnessing the Atlantic's and Mutual's play all can know at once how things are going out of town. Pools will be sold on the grounds on all of these games.

#### YACHTING NOTES.

The following yachts passed Whitestone yesterday :-

day:--Yacht Idler, N. Y. Y. C., Mr. Colgate, from New York, for Oyster Bay. Yacht Peerless, A. Y. C., ffom New York, for Oyster Bay. Yacht Fleur de Lis, N. Y. Y. C., Mr. Dickerson, from New York, for Whitestone. The Fleur de Lis carried away ner foretopmast off kiker's Island, in a squall, yesterday afternoon. Steam yacht America, Mr. Smith, from New York, for Newport.

Steam yacht America, Mr. Smith, from New York, for Newport. Yacht Mystic, A. Y. C., Mr. Creamer, from New York, for Oyster Bay. Yacht Aiarm, N. Y. Y. C., Rear Commodore Kings-land, from New York, for Sag Harbor. Yacht Triton, N. Y. Y. C., Mr. Thayer, from New York, for Oyster Bay.

### EXPLOSION OF SEWER GAS.

Patrick Hamilton, of 340 West Eleventh street, and Hugh Creighton, of 244 Mott street, were injured yesterday afternoon by an explosion of gas from a sewer they were examining opposite New street. The accident was caused by a lighted lamp in the hands of Hamilton. Both were re-moved to the Park Hospital.

### TRINITY COLLEGE COMMENCEMENT.

HARTFORD, Conn., July 3, 1873. The Commencement exercises of Trinity College

took place to-day. The following honorary degrees were con-ferred .-- Doctor of Divinity, Rev. David B. Knickferredz-Doctor of Divinity, Rev. David B. Knick-erbocker, of Minneapolis, Minn.; Doctor of Laws, Rev. William C. Mead, of Norwalk, Conn.; John C. Draper, Professor of Chemistry in New York Uni-versity; Dector of Music, Nathan Bouton, of Troy, N. Y. The degree of A. B. was conferred upon a graduating class of aboat twenty. L. W. Richard-son, of Geneva, N. Y., graduated cum honore in all the classics, English and scientific departments. and is optimus. The alumni dinner occurs this afternoon.

#### COLORED SCHOOL RECEPTION.

The closing of the term yesterday of the colored rammar school in Mulherry street was selected by the principals. Mr. Peterson and Mrs. Ferris, as a fitting opportunity to give the pupNs a little enjoy-ment. Ice cream, cake and other deloacies in abundance were provided and the children spent several happy hours in dancing and musical exer-cises.

# ST. MARY'S ACADEMY, NEWARK.

The Catholic Institute Crowded with Youth, Innocence, Intelligence and Beauty.

The annual Commencement of St. Mary's Academy, Newark, another noted seat of primary education for young ladies in New Jersey, took place yesterday alternoon at the Catholic Institute there, in presence of a large assemblage of well bred, well dressed people of both sexes and of more creeds than the Roman Catholic Church, whose Sisters of Charity are in charge of the academy, the Mother Superior being Sister Genevieve. Despite the almost suffocating heat the hall up stairs and down was crowded. The pupils, numbering about one hundred and twenty, neatly dressed in white, and ranging in years from six to fifteen, filled the prepared stage, and, with an impromptu grotto composed of trees and shrubbery encircling a

composed of trees and surubhery encircing a statue of St. Mary, formed an exceedingly cheer-ing and beauthul picture. Shortly after two o'clock the following PROGRAMME was commenced, and carried out so as to elicit the very nighest encombums on the pretty pupils and their ever anxious and watchful teachers:--

PART PIRST. Sans Souch (twelve hands). Misses Kavanagh, Dwyer, O'Connor, Mullin, McVay, Agnew.

sweet voice but rare taste and confidence for one so young. In the literary line little Miss Dunn, a twelve-year-oid demoiselle, astonished everybody by rattling off, with spirit, a long and nicely worded address, "The Wayside Shrine," an address to the Virgin in the grotto. On the stage were also the Misses McKeon and Brady, who were very inter-esting and won warm approbation. Professor Hat-tersity presided at the plano. Very Rev. Father Doane, V. G., presided in the absence of the Bishop. He was presented with two beautinul bonquets. Rev. Father Reilly officiated at THE DISTRIBUTION OF PRIZES. Which were as follows :-The "Matter Admirabilis," P. V. Flynn gold medal to Miss Kate O'Conneli; St. George gold medal, gift of Very Rev. Father Doane, V. G. to Miss Mary A. Brady; the gold medal of Our Lady of the Sacred Heart, the gift of Senator Bradley, of New York, to Miss M. E. Dwyre; the Rev. J. J. McGaham gold medal to Miss Julia O'Ronrke; the Christian Doo-ting Miss Sanh Agnew; He M. R. Kenny gold medal to Miss Annie Peck. Silver medals were awarded to other bandsome premiums were also awarded to other bandsome premiums were also awarded to other deserving scholars. The services avarded to other deserving scholars. The services avarded to other bandsome premiums were also avarduponse weight, owing to the literahy melting arimosphere, not a person budged till the close. Jo ipteresting were tile exercises.

REPORTER-General Quesada, I suppose you are aware that a Spanish war vessel has arrived in our waters?

Occan Queen. The Kansas, before leaving for New York, will return to Greytown to look after their steam

The Question of Cubs-Naval Movements

At half-past six o'clock this evening there arrived

came for the purpose of capturing the Virginius,

the supposed Cuban blockade runner, now lying at

anchor alongside the United States gunboat Kan-

General QUESADA-I am very glad of it. I wish instead of one they had sent four, for the Virginius can outsail every war vessel Spain has control of.

REPORTER-Do you believe Spain will ever again control the whole island of Cuba ?

General QUESADA-Never! at least while life ebbs and flows in the veins of 500 Cuban patriots. Spain has ruled our island over four hundred years. Our people during that long interval were deprived of the means of obtaining knowledge, our riches were sent to Europe to faiten our tyrants, and at the beginning of the war it required, on the part of the leaders, very great exertions so as to cen-vince the natives of the justice of our cause. Hap-pily we have succeeded in convincing our brothers, and ere long we shall be able to convince our tyrants that a people fighting for country and free-dom cannot be conquered. REPORTER-General, during your struggle have you received material aid from the United States, and the cry of anguish sent forth by our people has found an echo in the breast of every American woman and child. REPORTER-Who is to blame for the indifference of the United States Government? General QUESADA.-The whole blame rests with the cabinet of General Grant, who, in this instance, has not interpreted faithuly the wishes of the great American people. Spain has ruled our island over four hundred years.

great American people. REFORTER-General, when will you leave our

port? General QUESADA—As soon as I can get ready. At this scage of our interview, several gentlemen having called on General Quesada for the purpose of knowing his opinion with reference to the arri-val of the Spanish bon, your reporter shook hands with the gallant veteran, who will soon add one more laurei to he crown of glory which a grateful nation has bestowed on the daring patriot.

#### THE MYSTERIOUS DEATH OF WILLIAM NATHAN FLEIG.

#### Coroner's Investigation-Discharge the Juvenile Prisoners.

The case of William Nathan Fleig, a lad seve years of age, late of 755 Eighth avenue, whose dead body was lound buried beneath a mass of earth in a body was lound buried beneath a mass of earth in a ceilar in Eighth avenue, near Forty-seventh street, under somewhat suspicious circumstances, was yesterday investigated beiore Coroner Kessler. Among the other witnesses examined were loseph Suider and Willam Guthrie, aged respec-tively nine and ten years, who had been arrested on suspicion of knowing that the Fiels boy was drowned in the North River. The boys deuted under oath to knowing anything whatever concerning the death of the boy, but said they confessed that the boy was drowned becaused Mr. Fleig, the boy's father, said they were guilty, and threatened to send them to the Island till they were twenty-one years oid. It appeared in vidence that a mass of earth above where the body was found had caved in the night deceased disappeared from home. Mr. Henry Fleig, father of deceased, denied threaten-ing to have the boys sent to the Island if they did not say his son was drowned. Captain Killitea, of the Tweaty-second precnet, deposed that after to the tissland, after which the boy Suider said he saw the boy Fleig on a spring-board down by the river, and then he fell into the water; he saw the boy suitar. The boy Guthrie corroborsted the boy suisits, were made under the feast that Fleig would execute the threat he had made to sead and expressed the burden on the body of deceased and expressed the near the fast the tilt field would execute the threat he had made to wate an external examination on the body of deceased and expressed the belief that death was fuen to the Island. Deputy Coroner Leo made an external examination on the body of deceased and expressed came to his death either by the failing of a membankment located on Eighth avenue, near Forty-seventh street, or by some other cause to them unknown. The body Guthrie and Shyder were then discharged, and left for home with their friends. There was no testimony to jusify their arrest and decentriou on ball for a cellar in Eighth avenue, near Forty-seventh street,

AMERICAN DIPLOMACY AND THE POSITION OF AMERI-

drum; now the plough is by lar a more popular article. AMERICAN DIPLOMACY AND THE POSITION OF AMERI-CANS. The United States ship-of-war Omaha, Captain Feoriger, lett Caliao for Panama about the first of the month to jou the other ships of the South Pa-cific squadron at that port. This gives rise to a new question, and one essentially important to Americans here. The present position of Amer-icans in Peru is extraordinary. Our Minister, Mr. Francis Thomas, has departed on a pleasure trip, ostensibly ior San Francisco, leaving the Legation in charge of his private secretary, who holds no diplomatic rights or privileges whatsoever before the Peruvian government, and we are nere without a representative until His Excellency's return. It has always been the established custom of the United States government to instruct its representatives or ministers abroad to dele-gate their innotions to the next highest oficial in the case of their temporary absence. Mr. Thomas ignored the existence of Coionel Williamson, the American Consul at Callao, and now the second American official in Peru, from the fact that the Secretaryships of Legation in Peru and Chile were virtually abolished by Con-gress in June last, and instead of calling the Con-sui to hold the officially recognized by the Peruvian government; and in cuse of a necessity for diplomatic interference the important and nu-merous American colony in Peru is left without protection. The teeling of the American here against this singular proceeding is marked, and more particularly irom the fact that it is currently believed that Mr. Thomas, having some personal proper to so lower his subordinate in the view of the Peruvian public. MERICAN. Merican public. MERICAN THE TADE AND COMMENCE. The French Transatlantic steamers are to be withdrawn from this coast the Parine Steam Max.

the loan in England. STEAMSHIP TRADE AND COMMERCE. The French Transatlantic steamers are to be withdrawn from this coast, the Pacific Steam Nay-igation Company having agreed to perform their service at a cheat er rate.

#### FUNERAL OF GENERAL W. H. SIDELL.

The funeral of General W. H. Sidell took place yesterday afternoon, from his late residence, 260 Pifth avenue. General Sidell died on Wednesday, at the age of sixty-three. He was a graduate of West Point and was first assigned to the duty of a line officer of infantry, but he afterwards became civil engineer. He showed his ability in the sur-vey of the Mississippi River and other works, and when the last war broke out he was appointed chief mustering officer in Kentucky, under General W. T. Sherman. In May, 1864, he was appointed lieutenant colorel of the Tenth infantry. He was a member of the Union League Club and of the Ad-visory Board of the Freedmen's Savings Bank. The funcral yesterday was largely attended, but many of the army associates of the decessed who had already gone out of town were absent. The foral decorations were exceedingly rich and beautiful. The body reposed in a handsome casket of roswood. Rev. Dr. Smith, of the Churce of the Ascension, adverted briefly to the many noble and stering qualities of the deceased, and the corpse was then conveyed to its grave in Greenwood Cemetery. The palibearers were: -General Bar-nard, General Swords, Colonel Stone, Colonel Law-rone, Mr. Orobett, Mr. George Bell, Dr. haphael and Mr. Jaltus Adams. at the age of sixty-three. He was a graduate of

#### THE PHELPS ASSASSINATION.

### The Prisoner Hallick Fully Identified-He Pleads Guilty.

The particulars of the burglary committed on the premises of Mr. Charles H. Phelps, corner of Sixth avenue and Thirty-ninth street, and the attempted

avenue and Thirty-ninth street, and the attempted assassmation of Mr. Phelps on the night of May 10, 1872, are still fresh in the memory of the public, as is also the recent arrest of a young desperado on a charge of complicity in the outrage. Yesterday the prisoner, Patrick Hallick, aged nineteen, a plasterer by trade, was arraigned be-fore Judge Coulter, at the Yorkville Police Court for examination. The investigation resulted in the complete identification of the young ruffian as one of the gang seen in the building on the night of the burglary by Mr. John E. Paimer, of No. 909 Six th avenue, and, finding further prevarication useless, he pleaned guily, and was committed for trial without bail.

Misses Kavanach, Dwyer, O'Connor, Millin, McVay, Arnew. Battersly Young Iadies. Battersly Les Demoiselles Saint Cyr-Misses Kavanach, A. Peck, Pinn, Hudner, Burke, C. Peck, O'Connell, O'Rourke, O'Connor, Morrissey. Chorga-"We Come from Pairy Bowers". Glover Solo-"Fly Away Birding". Abt Nisit to Pairy Land-Misse Dwyer, Rutherford, O'Gor-man, L. Dunn, Nugent, Leary and forty little girls. Danse Espagnole twelve hands). Acher Misses Hadrer, Elik, McVay, Flynn, A. Peck, McGrane. DISTRIBUTION OF FRIZES. PARS SCOME. Ascher Misses Hadrer, Elik, McVay, C. Peck, Leary and Kisses Hadrer, Elik, McVay, C. Peck, Leary and Lightheart's Chore-Misses Dwyer, O'Connell, Hud-