THE EVENING TELEGRAPH.

VOL. XIII-NO. 105.

PHILADELPHIA, TUESDAY, MAY 3, 1870.

FIRST EDITION LEGAL INTELLIGENCE.

Decided at Last. GIBBONS GOES OUT. Sheppard Slips In. UDGE ALLISON'S OPINION. The Court Declares Sheppard to Have Been Elected by a Majority of 13 Votes.

urt of Quarter Sessions-Judges Allison, Ludlow, Petrce, and Paxson.

This morning all the Judges appeared upon he bench, and before a large audience Judge llison proceeded to deliver the opinion of the court in the above mentioned case, declaring Ir. Sheppard to have been elected by a majority 13. The opinion is as follows:-

On the 16th day of October, 1869, this Court cided that Charles Gibbons, at the general ection held on the second Tuesday of October, 68, had been elected District Attorney for the ty and county of Philadelphia, over Furman opard, by a majority of sixty-eight votes.

At the same term of the Court, on the 23th ay of October, Furman Sheppard presented his etition, which was allowed to be filed, in which is set forth that he had made an examination Is set forth that he had made an examination i the tables and estimates upon which the judg-ent of the Court was based, and had disco-ered therein a number of omissions and arith-tetical and clerical errors, to the extent of 112 tes, showing that the petitioner was the duly eted District Attorney by a majority of not set than 44 votes. The prayer is for a re-ramination of the count and the judgment stered thereon, and that the Court will declare hat is the true vote and majority of the peti-

her. This we could not have done at that time, for neason that Mr. Sheppard had, by certiorari, moved the case from this Court into the preme Court. It was no longer under our trol so as to enable us to change the judgat which had been entered, further than to that the true record was sent to the court ove. We probably could have corrected a stake apparent upon the face of the proceeds where there was anything to correct by, or ere there was a plain error in the arithmetic the Court, and to this extent we would have to urselves authorized to interfere with the rd before certifying it to the Supreme Court. had been regarded as important to thus inere with our judgment pending the appeal. these clerical errors would not have nged the result, we deemed it to await the decision upon the certiorari. rther than this we could not have gone, bepds were tied by the act of the petitioner, and this reason we paused after the argument upon the petition, both upon the merits and the law of the case as it then stood pracon the law of the case as it then stood pracord had not in fact been made up and sent o the Supreme Court. If we had done othere, we would have exposed ourselves to a rge of contempt of the higher court, or our ceedings would at least be void after service he writ. 12 Mod. 384. The authorities are entirely consistent as to the light in which action would have been regarded in the rt of errors, but they all agree that after ice, and until the record is sent a nothing can be done, except nothing can be done, except correct a plain mistake, and rrection can only be made for the purpose nabling the Court to obey the command to d up the record, which means the correct the true record. A misprision of the clerk mistake of the Court is the limit of our ority over the record after the certiorar en lodged in our court; unless, indeed, the ment has begun to be executed before ser-, in which case the execution proceeds uned by the certiorari. This, however, has pplication to the case of a contested elecin which the court who are required to and determine on the merits have nothing lo with the execution of their judgment.

"A judgment obtained by trial and verdict is, except in very special cases, out of the power of the court after the time at which it was entered." This admits there are special cases in which after the term ended the power may be exercised. In Dyott vs. The Commonwealth (5 THE DISTRICT ATTORNEYSHIP

exercised. In Dyott vs. The Commonwealth (5 Wharton, 80) the doctrine laid down is applica-ble to a judgment in the Quarter Sessions upon a verdict of guilty, and is in some respects analogous to the case of Commonwealth vs. Maloy (7 P. F. Smith, 201). Cathn vs. Smith, 2 Watts, 379, is the strongest Pennsylvania decision cited against the power of the court to go back upon its judgment and open it for the correction of errors and mistakes. But there three years after judgment the rule to open was granted, and at the succeeding term after that was made absolute. The decision of the court was that the day of discretion was past. It was admitted that the opening of a judgment was not the matter for correction on a writ of error, and that only for excess of power such order could be annulled in error. To the such order could be annulled in error. To the same purpose are the cases of Baily vs. Mas-grave, 2 S. & R., 220, and Huston vs. Mitchell, 14 S. & R., 310. In Catlin vs. Robinson, Gibson, C. J., expresses himself in very strong terms against the exercise of the power, remarking: "The act imposing a limitation on write of error would be of little account, if an inferior court might do at discretion what a court of last remight do at discretion what a court of last re-sort dare not do by the exercise of its legitimate prerogative," In Freeman W. Franah, 12 Com. Bench, 413, it is laid down that only where delay in signing judgment arises from the act of the court, can it be entered, *nune pro tuno*, two terms after verdict. But admitting the full force of the principle which is invoked as re-strictive of the power of the court over a judg-ment at a subsequent term, we do not think that

ment at a subsequent term, we do not think that is to be applied with the same strictness, if at all, to a statutory proceeding in the nature of a an, to a sixtutory proceeding in the nature of a public inquiry, complaining of a public wrong, in which, though individual citizens are in-terested, the community have a much greater concern, and in which the in error cannot correct court

mistake upon the merits, committed by the court below. If relief for this cause cannot be given by the tribunal in which the proceeding is instituted, which alone can decide upon the testimony and enter judgment upon the facts as they find them, then there is not only no remedy for the suitor, but, what is even worse, the court itself is chained to its error, and cannot right itself even when the mistake is beyond question. From such a conclusion of law, founded upon a state of facts entirely dissimilar from any which can arise in an election contest, we dissent; and can arise in an election contest, we dissent; and if it has heretofore been thought by the Court that such fetters bind them when an appeal is made for relief against error in fact made by the Court, it is time that such fetters were rent asunder and the necessary freedom to correct such mistakes proclaimed. The liberty must, however, have its limits. The application, en its face, must show that it is well founded. It is strictly an appeal to the discretion of the Court, and may be allowed or refused on the exercise of a sound discretion. It is a proceed-ing which is not to be favored except upon the plainest exhibition of a prima facie case, replainest exhibition of a prima facie case, re-quiring the interposition of the Court to correct an error. A contrary course tends to prolong controversy in regard to the title to office, in which the interests of the public are placed in peril. A strict adherence to rule should be required in every such application. But the conclusion at which we have arrived

as to our power to reconsider and reform our decree is not without authority to support it. In Cannon vs. Reynolds, 5 Ellis, and Blackburn, In Cannon vs. Reynous, o Enis, and Diacaouta, 301, Lord Campbell asserts a general equity jurisdiction of the Court over their judgments. Colridge, Justice. concurred, and added that the practice was near now inveterate, and of every day occurrence, to set aside judgment, whether regular or irregular, whether after execution or their juris diction to do this Crompton, Justice, agreed that the power could be exercised, but the application must be made within a reasonable time after judgment is acted on. In Usher vs. Dansey, 4 Maul & Seliom, 94, an amendment was allowed after judgment was given in a former term, and a writ of error was brought thereon, and pending error. The amendment was to correct a misprision of the clerk. The Court in Longfield and Townsend, Excq. R. (Irish), 70, in the case of Galwas vs. Banon, allowed petition to amend notes of decree, withont withdrawing appeal. In this State It has been held that, after error brought on a judgment of the District Court or Common Pleas, the application for leave to amend may be made to each of those courts, while the record remains in it, though the writ of error has been shown to the court. Frony vs. Stone, 2 Dallas, 184; same case, 1 Yates, 186. The amendment was allowed on the authority of Pickwood vs. Wright, Henry Blackstone, 643. In Spackman vs. Byers, 6 S. and R., 385, the record was sent back for amendment. Rhoads vs. Commonwealth, S Harris, 276, de-cides that amendment can be allowed after term at which judgment is signed. Gibson, C. J., says the notion to the contrary is exploded, and has yielded to necessity, reason, and common sense. The court in which judgment is entered may allow amendment of the record, even after error as between the parties. Crutchen vs. Com., 6 Whar. 340; Chewes' Appeal 9 W. S. S., 152. See also 1 Dallas, 133-5; 5 Binney, 60; 5 Burr, 273. These authorities make it abundantly clear that the Court possessed the most ample power to allow the petition of Mr. Sheppard to be filed, and some of them would seem to indicate that the correction of errors and mistakes, if not a correction of the judgment, might have been made after certiorari service, and before the record of the cause was sent up. But the latest case, and the one strictly analo-gous to that which we are now considering, of Ewing vs. Thompson, holds the contrary doctrine, asserting that our proceeding would have been void, if, indeed, such action would not have placed us in contempt. We were, therefore, required to rest until the decision of the Supreme Court upon the case as it was heard on certiorari, and we thought it was but respectful and proper that we should pause while it was before Judge Read upon a motion for a special injunction to restrain Mr. Sheppard from further proceeding to prosecute to hearing and decree the matters set up in his petition. The way is now clear for such action as this court, after mature consideration, has decided ought to be taken, in order to ascertain the truth of the averments contained in the petition to reform our decree. Upon the pleadings we have nothing before us but the original and amended petitions of Mr. Sheppard. Mr. Gibbons disclaiming upon the last argument, in open court, all responsibillty for the paper, entitled answers to Mr. Sheppard's petitions for a rehearing, which were before the court upon the former argument. Following the disavowal of Mr. Gibbons, these answers were, with leave of the court, withdrawn by Mr. Manu, who was counsel for Mr. Gibbons. We might therefore content ourselves with an examination of the matters contained in the first and second petitions of Mr. Sheppard, there being no reply or answer before the court. the statements contained in the although answers, which were considered at great length upon the first argument, are in fact, if not in form, before us. It was admitted by counsel representing both of the parties to the proceeding that the parging of the polls had heretofore proceeded upon an erroneous basis. That instead of deducting the illegal vote from majorities it should in each case have been deducted from the whole vote in the division; and that the mode upon which results were obtained in the former hearing worked to the disad vantage of the petitioner.

declared in the former opinion of the Court. And it is by an abandonment of this conceded mistake, and the adoption of a rule now admitted to be the correct mode of purging a poll of its illegal votes, that a more accurate conclusion of this protracted and vexatious litiga-tion has been reached. Out of nearly two thousand pages of testi-

mony, assessment lists, tally lists, and lists of voters for each election division, the manifest ignorance, bias, and evident falsehood of many of those who were required to testify before the Examiners, it is often eifficult in the extreme, Examiners, it is often efficult in the extreme, and often impossible, to get at the truth of the controversy. As an illustration of this remark, it may be stated that every calculation or table of results which has been prepared by counsel have differed the one from the other. Upon the rehearsing, we have had in effect four statements prepared by counsel for the petitioner, two answers afterwards withdrawn, and two statements submitted by Mr. Gibbons, every one differing in statement and conclusion. We can claim to have given the case a most careful examination, with all these lights to aid us. In this examination we have adhered firmly to the principles contained in the opinion of the Court which was delivered by Judge Brewster. In nothing have they been varied or departed from. We have confined ourselves to the correction of the account, where figures have been required to be placed into it, in consequence of accidental oversight; with an abandonment of an admitted error in the mode of stating the ac-count in purging a poll, and with the revision of our judgment upon the evidence, as to whether votes to be received or rejected are legal or

illegal votes. The strictest line of proof has been applied to every voter, and the result of the investigation will be stated in summing up the corrected tables of the divisions to which our attention been directed. We have refused credits which have been

claimed in every instance, in which the testi-mony as to the voters, who were prima facie illegal, did not show that at the time at which they offered to deposit their ballots the offer was supported by the proof which the law de-mands. The vouching by election officers with-out making the requisite proof in each case,

out making the requisite proof in each case, we rejected. We hold that to enter upon the list of voters that a voter was vouched for by a person whose name is written upon the list, is not in itself a full compliance with the law. In no case has a vote been counted as legal where the proof showed that a person who was assessed as re-siding at a place designated upon the assess-ment list had removed therefrom before the election, upless it was established by evidence election, unless it was established by evidence that he had not removed from the election division

We place to the credit of Mr. Sheppard thirty of the thirty-five votes of naturalized citizens which were refused because the voters held cer-tificates of naturalization issued by the Supreme Court. This credit of thirty six is reduced by six, because it is admitted and allowed by the petitioner. The full credit was given to Mr. Fox in the decision of the Court, which was made in October last. The thirty-six votes were allowed because we regarded the polls as to those voters closed arguingt them those voters closed against them.

They offered to vote, and were in place to be challenged upon every ground of qualification, but were turned away from the polls upon the single objection that they had been naturalized in the Supreme Court. The proofs were that they intended to vote for the petitioner. As to these voters, Judge Brewster remarks .- It is established by thirty-six persons that their votes were rejected, although they were duly natural-ized, and that they would have voted for the respondents.

Beyond all question, these votes should now be credited to the incumbents. The papers they produced were genuine certificates issued by the Prothonotary, under the seal of the highest court of our State. No other tribunal should or can impeach its judgments, and they established the right of each of these witnesses to his vote if otherwise qualified. And if they were not otherwise qualified, under the peculiar circum-stances which surrounded them, we hold that this ought to have been shown by the con-

F. Pole, Jr., in Fourth division, Third Ward, These are not in the original petition. If allowed, credit should be given for John F. Pole only, the son is not shown to have verted -- 109

Leaving for Mr. Sheppard a majority of It therefore becomes our duty, and we do hereby declare and decree that, at the general election neld on the second Tuesday of Ostober, 1868, Furman Sheppard, having received the highest number of legal votes, was duly and legally elected to the office of District Attorney for the city of Philadelphia. And we do further order, that the decree of the 16th of October, 1869, of this Court, wherein it is stated that Charles Gibbons was the duly elected District Attorney, be set aside and annulied, and that the decree now made, declaring the election of Furman Sheppard to the office of District Attorney, shall be substituted, and stand for the decree which is hereby set aside and annulled. Immediately after the announcement of this

decree Judge Allison administered the oath of office to Mr. Sheppard.

office to Mr. Sheppard. Important Patent Case Decided. United States Circuit Court—Judge Casicalader. Fuller vs. Sibley & Stoops. Patent case. Motion for injunction to restrain defendants from making and selling the Goderich tuck-maker, an appendage to sewing machines. Patent was granted to Faller June 5, 1860, and Goderich, of Chicago, was licensee. Injunc-tion was granted. Harding for plaintiff. Ma-riner for defendant.

FINANCE AND COMMERCE.

EVENING TELEGRAPH OFFICE, Tuesday, May 3, 1870. { The bank statement for the week shows a

continued flow of currency towards this city. The deposits have increased \$990,822; the legal-The deposits have increased \$990,822; the legal-tenders, \$614,509; and specie, \$184,079. The expansion in loans fails to keep pace with the increase in resources, owing to the lack of the usual business demand for money, but they are greater than the previous week by \$223,522. This large addition to the banking facilities in-sures an easy money market for some time to come, with a corresponding ease in the rates. We quote on call at 5@6 per cent., and prime discounts at 6@7 per cent. ther, that if the property had been selzed before the oath was taken, the faith of the Government

discounts at 6@7 per cent. Gold opened and continued weak up to noon the sales ranging from 114%@114%. The decline is mainly due to the increased sales of gold by the U.S. Treasury during the present month

Government bonds, in sympathy with gold, show a decline of about one-half, as compared

the property in question at the time of the seizure was perfect, except against the acts of the military commanders, and that it is made absolutely perfect by pardon, notwithstanding the seizure. But it has been suggested that the property was captured in fact, if not lawfully, and that the proceeds having been paid into the Treasury of the United States the petitioner is without a remedy in the Court of Claims, unless with closing sales yesterday. There was very little doing at the Stock Board, and prices fell off. Small sales of City 6s, new bonds, at 102%. Reading Railroad sold at 50.44@50.56; Penn-

sylvania Railroad was rather stronger; sales at 58¼; Camden and Amboy was dull and weak, small sales at 120¼; Lehigh Valley was taken at 55¾@55¼, and Philadelphia and Erie at 28¼. The chief bids were 43 for Little Schuylkill; 13½ for Catawissa and 37½ for preferred do. In the miscellaneous list the sales were nnim-

portant and prices generally weak. —Dividends have been declared this morning

Farmers' and Mechanics' National

PHILADELP A STOCK EXCHANGE SALES Reported by De Haven & Bro., No. 40 S. Third street FIRST BOARD.

DOUBLE SHEET-THREE CENTS.

FROM THE WEST.

Bloody Affair in Mt. Kansas. Sr. Louis, May 3 .- A correspondent of the Lawrence (Kansas) Journal states that a few days since Colonel A. Payne and M. C. Stapleton, influential citizens of Monticello, Kansas, quarrelled about some trivial matter while irinking, and agreed to settle the matter in a dark room. Payne had a knife and Stapleton a revolver. Some citizens upon hearing a pistol shot burst open the door, and found Stapleton with his throat cut and Payne shot through the

lungs. Both men are alive, but will probably die. The Green-eyed Monster. LOUISVILLE, May 3.-John H. Morton, a youth nineteen years old, son of H. C. Morton, banker in this city, shot and killed Dan Powers, a gambler, at a house of ill-fame on Eleventh street, between Main and Reeve streets, kept by Annie Rayburn, yesterday. Jealousy was the cause. Morton surrendered himself, and is in inil.

FROM THE PACIFIC COAST.

Obitunry. SAN FRANCISCO, May 2.-M. Ramerez, Peruvian Consul in this city, died to-day of consumption.

The Sutro Tunnel

has reached the depth of 1000 feet, and the work is progressing rapidly.

San Francisco Markets. Flour quiet at \$4.50@5.871%. Choice Wheat, \$1.57@1.60. Legal-tenders, 88%.

FROM EUROPE.

This Morning's Quotations.

Tots Morring's Quotations. LONDON, May 3-11:30 A. M. --Consols 94 for both money and account. American securities firm; U. 8. 5-208 of 1862, 88%; of 1865, old, 88; of 1867, 89%; 10-408, 86. Stocks quiet; Erie Railroad, 19%; Hilmois Central, 112; Great Western, 27%. Livekrool, May 8-11:30 A. M. --Cotton dull; middling uplands, 10%d.; middling Orleans, 11%@ 11%d. The sales to-day are estimated at 10,000 bales.

PARIS, May 3.—The Bourse opens quiet. Rentes, 74f. 27c. HAMBURG, May 3.—Petroleum closed firm at 14

marc bancos. BREMEN, May 3.—Petroleum closed active. ANTWERP, May 3.—Petroleum opened quiet at

1.280

ANTWERT, May S.-Icontonin opened quict at 52%1. This Afterneon's Quotations. LONDON, May 3.-1:30 P. M.-Consols 93%694 for both money and account. American securities steady, United States 5-208 of 1862, 88%; of 1865, old, 88%; of 1867, 89%. Stocks dull. Liverpool, May 3.-1:30 P. M.-Cotton is a shade firmer, but quotations are unchanged. The advices from Manchester are less favorable. California white wheat, 0s. 7d.; red Western, 8s. 2d.; red Win-ter, 8s. 10d@8s. 11d. The receipts of Wheat for three days have been 21,000 quarters, all American. Corn, 298. Peas firm. Lard dull. Cheese, 77s. Beef, 111s.

Beef, 111s. LONDON, May 3.-Sugar afloat easier at 27s. Linseed oil, £32 58

Philadelphia Trade Report.

TUESDAY, May 3 .- The Flour market is without change worthy of special note. The inquiry for shipment is quite limited, but the home consumers purchased to a moderate extent, principally of the better grades of extra families. The sales foot up 700 barrels, including superfine at \$4.37%@4.50; extras at \$4.75@5.12%; Iowa, Wisconsin, and Minextras at \$4.75(35.712%; Iowa, Wisconsin, and Min-nesota extra family at \$5.25(35.75; Pennsylvania do, do, at \$5.75(36.12)%; Indiana and Ohio do, do, at \$5.75 (36.25; and fancy brands at \$6.50(37.56), according to quality. Rye Flour may be quoted at \$5.25. In Corn Meal nothing doing. There is a firm feeling in the Wheat market, but not much activity. Sales of 4000 bushels, part yes-terday afternoon's, at \$1.30(31.37) for fair and prime Western and Pennsylvania red. Rye ranges from

Western and Pennsylvania red. Rye ranges from Western and Fennsylvania red. Kye ranges from \$1 05:0110 for Western and Pennsylvania. Cern is quiet at the recent decline. Sales of yellow at \$1:10 (c1:13 in store and afloat. Oats are without change. Sales of Western and Pennsylvania at 61:664c. In Barley and Malt no sales were reported. Bark is offered at \$27 7 ton for No. 1 Quercitron.

wepatch to the Associated Press. WASHINGTON, May 3.-The Supreme Court of the United States has decided the case of the United States against Edward Padelford, appeal from the Court of Claims. The appeal brought before the court a claim under the Captured and Abandoned Property act of March 12. 1863, for half the proceeds paid into the Treasurv of the United States of twelve hundred and ninety-three bales of cotton, captured at

Savannah, turned over to a Treasury agent, and sold under that act. The Court says in conclusion:-It follows that at the time of the seizure of It follows that at the time of the seizure of the petitioner's property he was purged of what-ever offense against the laws of the United States he had committed by the acts mentioned in the findings, and relieved from any penalty which he might have incurred. It follows, fur-

SECOND EDITION

LATEST BY TELEGRAPH.

Lynch Law in the West.

A Long Chapter of Outrages.

Abandoned Property in the South.

A Highly Important Decision.

Etc., Etc., Etc., Etc., Etc.,

FROM WASHINGTON.

Important Supreme Court Decision.

was pledged to its restoration upon the taking of the oath in good faith. We cannot doubt that the petitioner's right to

the property in question at the time of the

without a remedy in the Court of Claims, unless proof is made that he gave no ald or comfort to

the Rebellion. The suggestion is ingenious, but we do not think it sound. The sufficient answer to it is that after the pardon no offense connected

with the Rebellion can be imputed to him. If, in other respects, the petitioner made the proof which under the act entitled him to a decree for the proceeds of his property, the law makes the proof of pardon a complete substi-tute for proof that he gave no aid or comfort to the Rebellion. A different construction would, as it seems to us, defeat the manifest intent of the proceeding of the act of Construction

as it seems to us, deteat the manifest intent of the proclamation and of the act of Cougress which authorized it. Under the proclamation and the act, the Government became a trustee, holding the proceeds of the petitioner's property for his benefit; and having been fully reimbursed for all expenses incurred in that character, loses nothing by the indemant which diverges

nothing by the judgment, which simply awards

These views require the affirmance of the judgment of the Court of Claims, and it is ac-

with the Rebellion can be imputed to him.

he case of Ewing vs. Thompson, 7 Wright, is a conclusive authority upon this point. the case of a certiorari allowed by the eme Court to the judgment of this Court in matter of the contested election of Thompvs. Ewing. The Court say the effect of the t was to stay further proceedings in the court w. Originally in fact, and now always in ory at least, it takes the record out of the tedy of the inferior court and leaves nothing re to be prosecuted or enforced by execu-

power terminates with the judgment or

certiorari after judgment, like a writ of or, is, in fact, a new suit. It enables him obtains it to aver errors in the record oved, not to retry the facts in the Court A judgment in it may be followed by a ial in the Court below; if the errors in law sustained. This principle was reaffirmed by decision of the Supreme Court in the precase, the Court refusing to look beyond ecord, and the principles of law upon which ndered our decision. But it has been ased that our power to re-examine the case, to alter our judgment upon the merits, or to correct mistakes, is at an end, and that rayer of Mr. Sheppard for a rehearing must his reason be refused

s common law principle that after the term which a judgment has been entered from ch an appeal may be taken by writ of error therwise, it cannot be disturbed or changed. been invoked in support of the objections. hens vs. Cowan, 6 Watts, 513, contains a ng assertion of this doctrine. But it is even qualified to some extent. The qualificais contained in the statement that it would ng too far to hold that the court may not, e any proceeding has been had upon the ment, correct a mere mistake that has an in cutering it, differently from what was ded and, perhaps, directed. The m upon which the general prin-is maintained is that it is the of the court in error when they reverse ment to give such judgment as the court y ought to have given. This shows that the siple is not applicable to the case before us: Supreme Court are, as they have stated, y powerless to correct any error of fact in sted election. Stephens vs. Cowan, and uthorities there cited apply to cases in authorities there cited apply to cases in the the court above can grant relief by a section of the judgment, which they cannot a this case, for the cause assigned in the lion. They cannot do here what it is said Mod., 3, the judges are to perform, "to rm as well as to affirm or reverse," and to peedy justice to the parties. In Castle vs. nolds (10 Watts, 52) the doctrine sought to pplied against the petitioner is stated thus:

To this error into which counsel on both sides fell, upon which their calculations were based, and upon which their arguments were con-structed, is to be attributed, in part, the results

estants. It was not pretended but that the admission of these votes was exceptional, and rested upon a different ground from that upon which other votes had been credited to the incumbents. We decided to place them in the count, unless they were shown to be illegal, giving to them all the presumption which belongs to those whose legal prima facies are established. Of the hundreds who were claimed by the incumbents as wrongfully rejected, for the same reason, 20 are all who were called, and the fair presumption is they were all who could, with safety to the incumbents, be called to testify that they intended to vote the Demo-cratic ticket. These 36 were allowed. The rest of this claim, which, as Judge Brewster remarked, "was founded on multiplication of guesses," we rejected. In our judgment no good reason has been presented which would require us to alter our opinion as to these votes. The oversight as to this credit to the number of 30 votes is now allowed to Mr. Sheppard. In the Eighth division of the Ninth ward

there was error in charging 14 illegal votes too many to Mr. Sheppard. The testimony shows that 19 frandulent and 14 unassessed votes were polled during the last three hours. The vote of these hours was purged to the number of 47. It should have been 33. There was charged 14 fraudulent votes, in addition to the 19, but the evidence fails to satisfy us of the correctness of this conclusion. On the contrary, we are con-vinced that they are included in the 19 false personations of the three hours, the vote of which has been purged. There is an admitted error in Mr. Sheppard's favor of 5 votes in the Sixteenth division of the Twentieth ward.

The laborious portion of the duty which we have been required to perform was the labor of re-examining and carefully weighing the testi-mony as to the individual votes which were claimed by the petitioner, in a readjustment of the account of debit and credit, in the Eighth division of the Ninth ward, the Seventh division of the Seventeenth ward, the Fourth division of the Twenty-fifth ward, and in the Sixth division of the Seventeenth ward.

The credits which we give to Mr. Gibbons consist of error in striking out the hourly return from Second division of First ward of

seven votes. A similar error in the Tenth division of the First ward of eleven votes.

We reduce the charge against him of 52 illegal votes to 41, a credit of 11 votes.

To this is to be added the credit of 6, deducted from the 36 votes of naturalized citizens credited to Mr. Fox. We do not allow the credit of 5 votes claimed by Mr. Gibbons in his statement submitted to the Court, of an error which Mr. Gerhart, on page 96 of C. T. states is to be found on the tally list for the ninth hour of the Sixth division of the Seventeenth ward. An examination of the

tally list shows there is no such error. The result of our investigation is stated as

follows:-If we confine ourselves to the petition and

po not look at anything outside of it. Mr. Shepdard's majority is thirty-five (85) votes But to restate the account on the basis of mistakes of omission and overcharge, as well as errors in purging the polls, it will stand thus:-

Mr. Sheppard is to be credited with-

Naturalization vote.... Brror in 16th division of Twentieth ward (admitted)..... Error in purging the poll 5th division of Ninth

ward. Error in purging poll 7th division of Seven-Error in purging poll 4th division of Twenty-fifth ward......

115 There is a deduction claimed by Mr. Sheppard for two illegal votes, John P. Fole and John

\$11000 C & A m 68,89 94 29 sh Leh V R \$2800 City 68, N.18.1023/ 142 \$1000 Elmira 78....94 1 \$2000 Pittsburg 48...57 400

100 sh Ph & E R. 85, 28%1 JAY COOKE & CO. quote Government securities as follows:--U. S. 6s of 1881, 116% @117; 5-20s of 1862, 111%@112%; do., 1864, 111@111%; do., 1865, 111%@ 111%; do., July, 1865, 113%@113%; do. do., 1867, 113%@113%; 1865, 113%@113%; do., 10-40s, 108%@ 106%; Cur. 6s, 112%@112%. Gold, 114%. NARE & LADNER, BARKETS, report this morning Cold contations as follows:--

10.00	A. M	[10-40	Α.	M.		 	
10.10						100002	(22) 1 (2.2.7	.11
10.25	- 15		 	11.15	- 44				
10.30									

THE N. Y. MONEY MARKET VESTERDAY. From the N. Y. Herald.

From the N. Y. Heraid. "A brief paragraph in a Washington letter this morning, announcing that Treasurer Spinner had sold the gold belonging to the sinking and special fund now in its custody led to an inquiry at the Sub-Treasury here this morning, when it was dis-covered that \$1,000,000 in gold—the coin equivalent of the May coupons held by Mr. Spinner in the fund referred to—and been sold in the Gold Room on Saturday through a Wall street firm of brokers, and the proceeds reinvested in Government bonds to be added to the fund. Hereupon certain parties, inimi-cal to Mr. Boutwell and the Government generally, endeavored to magnify a very trifling matter into an affair of State policy as affecting the finances of the country. Mr. Boutwell was denounced for reviving the secret sale system of Mr. McCulloch, and for withuly violating his express policy of advertised the secret sale system of Mr. McCulloch, and for wilfully violating his express poficy of advertised sales. Doubtless Mr. Boutwell was ignorant of Mr. Spinner's procedure, or, if so, regarded it as the best way of converting the coin belonging to the Sinking Fund. The very parties who cry out against this alleged secret sale are well aware that upon any day the Government adver-tises to sell a million of gold every dollar bid for may be sold even if the total proposals should be for ten millions. As to the secrecy of the trans-actios, the order was given through the mails to be for ten millions. As to the secrecy of the trans-section, the order was given through the mails to Assistant Treasurer Folger, who applied to the nearest and next-door broker and executed the commission of Mr. Spinner. The latter gentleman was desirous of clearing up the Sinking Fund account for the 1st of May, and sold out his losse gold in order to make the character of the fund uniform for the dath statement form for the debt statement.

"The influences of the matters referred to above "The influences of the matters referred to above were felt in the various markets with more or less effect. The Government list on the early announce-ment of the large Treasury purchases for May was strongly active, the 67's leading the way to 114¼ as against 113 on Saturday. Later in the day, with the decline in gold and the unsettled feeling arising from the discovery of the Government transactions on Saturday. The market meeted but more the on Saturday, the market reacted; but upon the showing of the heavy reduction in the public debt prices became strong again.

prices became strong again. "The gold market was strong upon the light gold sales proposed for May as contrasted with the gene-ral expectation, based on the ability of the G wern-ment to sell, and the price touched 115½ soon after the opening of the board. The private sale of gold on Saturday became known about noon, when the price declined to 114½, the speculators for a decline exaggerating the action of Mr. Spinner. As soon as the real character of the transaction became known the price advanced to 115½, but upon the flattering exhibit of the reduction in the public debt fell off to and closed at 114½. and closed at 114%.

and closed at 114%. "The foreign exchange market was nominally lower, but in reality firmer. The leading bankers reduced their rates for sixty days' sterling to 109%, as against 109% at the close of last week. While they kept the rates at the latter figure, the market was rather freely supplied with bills out of second hands.

"There was a better demand for money, and all "There was a better demand for money, and all new transactions on stocks occurred at six per cent, which rate was readily obtained by lenders who kept their money until after two o'clock. On Governments the rate was four to five per cent. The increased activity is due to a local movement in money among the people generally, with whom the beginning of May is a season for the settlement of real estate and many other business contracts. Commercial paper was selling at 6½ to 7½ per cent. discount for prime double names."

cordingly amrmed. Naval Orders.

to the petitioner what is his own.

Special Despatch to The Evening Telegraph. WASHINGTON, May 3. - Commodore Henry Walke has transferred the command of the naval station of Mound City, Illinois, temporarily, to the senior line officer present, until the arrival of Commodore William Smith, ordered there to command.

The leave of absence of Passed Assistant Paymaster Francis J. Painter, now in Europe, has been extended six months by Secretary Robeson.

The Secretary of the Navy has revoked the order dismissing Boatswain Herman Peters, late of the Iroquols.

The President to-day nominated Ensign Jerome E. Morse to be a master in the navy, to rank next after Master B. F. Tilley.

A marine general court-martial has been ordered to convene at the Washington Navy Yard on the 5th inst., to be composed of the following members:-Major A. J. Nicholson Captain and Brevet Lieutenant-Colonel Charles Heywood, Captain and Brevet Major George Dufter, 1st Lieutenant and Brevet Captain Willace, 2d Lieutenant B. Reeves Russell, and 1st Lieutenant W. B. Renney, Judge Advocate.

The Time for Adjourning Congress. The House, by twenty majority, passed the resolution to-day to adjourn on the 4th of July. This is not expected to pass the Senate, and many members voted for it merely to hurry up business. The general opinion is that an adjournment will be had about the first of August.

FROM THE PLAINS.

Lynch Law in Montana.

HELENA, Montana, May 2 .- This morning a meeting of citizens was called to decide what should be done with the prisoners, A. Lecompton and James Wilson, who had been identified by Mr. Lenhart as the man they robbed and attempted to murder on the night of April 27. The meeting was first addressed by District Judge Semmes, who strongly protested against any interference with the law, declaring that the time for vigilance committees had passed, and advising the people to disperse. The meeting was then addressed by several of the leading citizens, who insisted that it was necessary for the public safety to strike terror to the rest of the band of outlaws, known to exist in the community, and that immediate and decisive action should be taken in the present case.

The meeting then selected a committee of twenty-four persons to try the case, and upon coming before the committee the prisoners confessed their crime, from which it appears that the robbery and murder of Mr. Lenhart were deliberately planned by them. At 2 P. M. the committee reported that both the prisoners were guilty, and sentenced them to be hanged at 4.30, and at that hour over 3000 persons were congregated at the hangman's tree. At 5 P. M. the wagon on which the prisoners stood, with ropes about their necks, was driven from under them. and frontier justice was satisfied. The citizen's meeting was not a vigilance committee, and the whole affair was conducted in a quiet but determined manner, and no one questions the lustice both of the trial and verdict.

Another Desperate Outrage.

SALT LAKE CITT, May 2.-Captain W. R. Story, Deputy United States Marshal, was shot and instantly killed to-day by a desperado named Hawes, whom he was about to arrest. An armed posse has gone in pursuit of the murderer.

without finding buyers. Whisky is steady. 50 barrels Pennsylvania wood-bound sold at \$1.03 and 100 barrels iron-bound at \$1.05@1.10.

New York Produce Market. New York, May 3.-Cotton dull and drooping; middling uplands, 23c. Flour-State and Western advanced 5@10c. State, \$1*85@6*70; Ohio, \$5*20@ 115. Western, \$1*85@6*50; Western very firm but advanced 5@10c. State, \$4352@670; Ohio, \$520@ 645; Western, \$4352@570; Western very firm but unchanged. Wheat advanced 1c.; No 2 spring, \$146@148; winter red Western, \$130. Corn dull and decining; new mixed Western, \$104@108, Oats firm; Western, 61@63%c. Beef steady; new plain mess, \$12@16; new extra mess, \$16@18. Lard firm; steam, in tierces, 16%@16%c. Mess Pork firm at \$20. Whisky quiet at \$107.

Baltimore Produce Market.

BALTIMORE, May 3.—Cotton dull at 221/@22%C. Flour held firm, and stock scarce. Wheat Hrm; prime Maryland red, \$155@160. Corn firm and ad-vanced lc.; white, \$113@115; yellow, \$112@114. Oats firm at 63@65c. Provisions firm and unchanged. Lard, 174. Whisky firm at \$1.06(\$1.07.

LATEST SHIPPING INTELLIGENCE.

For additional Marine News see Inside Pages.

(By Telegraph.) NEW YORK, May 3.—Arrived, steamship City of Antwerp, from Liverpool; also, steamship Malta.

PORT OF PHILADELPHIA MAY 3

STATE OF THERMOMETER AT THE EVENING TELEGRAPH

CLEARED THIS MORNING. Steamer Chester, Jones, New York, W. P. Clyde & Co. Str Comstock, Drake, New York, W. M. Baird & Co. St'r Novelty, Shaw, New York, W. M. Baird & Co. St'r Fannie, Fenton, New York, W. M. Baird & Co. Str S. C. Walker, Sherin, New York, W.M. Bard&Co. N. G. bark Athena, Bellmer, Bremen, L. Westergaard Bark John Bright, Crosby, Rotterdam, Souder & Adams.

Schr Reading RR. No. 48, Outten, New London, Sin-

Schr Reading RR. No. 48, Outten, New London, Sin-nickson & Co. Schr Jonathan May, Neal. Boston, do. Schr Jonathan May, Neal. Boston, do. Schr K. L. Smith, Emith, Weymouth, do. Schr Hawatha, Lee, Newburyport, do. Schr Thos. Sinnickson, Dickerson, Providence, do. Schr W. B. Thomas, Winsmore, Salein, do. Schr Paugusset, Waples, Providence, do. Barge Reading RR. No. 24, Daatrick, Bridgepot, do. Barge Reading RR. No. 10, Adams, Bridgepot, do. Tug Chesapeake, Mertihew, Baltimore, with a tow of barges, W. P. Clyde & Co.

ARRIVED THIS MORNING.

Steamer C. Comstock, Drake, 24 hours from New York, with mose, to W. M. Baird & Co. Steamer Beverly, Pierce, 24 hours from New York, with mose, to W. P. Clyde & Co.

- Steamer J. S. Shriver, Webb, 13 hours from Balti-more, with mose, to A. Groves, Jr. Schr Hope, Meyers, 9 days from Norfolk, with cenar rails to Malone & Sons.

Schr Goddess, Kelley, 7 days from Lane's Cove, with grauite to Barker & Bro.

with grauite to Barker & Bro. Schr Jacob Kieuzle, Steelman, 7 days from Lane's Cove, with granite to Barker & Bro. Schr Damon, Johnson, 10 days from Bucksport, with ice to Knickerbocker Ice Co. Schr R. Vannennan, Brower, 15 days from Bath, with ice to Knickerbocker Ice Co.

Schr Annie E. Baker, Barrett, from Great Egg Harber.

Schr H. S. Brooks, Love, from Boston. Schr E. L. Smith, Smith, from Salem. Schr S. C. Fithian, Tait, 1 day from Port Deposit,

Md., with grain to Jas. L. Bewiey & Co. Barge _____, Seed, 5 days from Vederalsburg, Md., with railroad ties to Jas. L. Bewiey & Co. Tug Thos. Jefferson, Allen from Baltimore, with a tow of barges to W. P. Clyde & Co.

MEMORANDA

Steamship J. W. Everman, Hinckley, hence, at Charleston yesterday. Bark Guiona, for Philadelphia, passed out from Fortress Mource yesterday. Brig Nellie Ware, Ware, hence, at Manzanillo 21st

Schr Arthur Burton, Frohoek, for Philadelphia, salied from Cardenas 24th uit. Schr S. & E. Corses, Brower, hence, at Charleston yesterday.

BEST AVAILABLE COPY