

Twenty-Seventh Congress. FIRST SESSION.

IN SENATE.

Wednesday, June 9, 1841.

Mr. Clay gave notice that he should tomorrow ask leave to introduce a bill to provide for the distribution of the proceeds of the Public Lands.

Mr. Buchanan presented resolutions of the Legislature of Pennsylvania, instructing their Senators, and requesting their Representatives, to vote for the repeal of the Sub-treasury law.

Mr. Smith of Ind. submitted a resolution which lies upon the table, calling for information in detail as to the quantity of Public Lands sold at different periods, and whether for cash or credit, and of lands reserved.

Mr. Sturgeon presented a petition praying for an amendment of the Constitution to effect the abolition of Slavery. The reception was objected to by Mr. Preston, when on motion of Mr. King, the motion to receive was laid upon the table.

Mr. Buchanan presented a petition praying for the abolition of the Slave Trade, when a question arose as to what should be done with petitions of this nature, when it was decided that the question of their reception should always be put. The motion to receive was then laid upon the table.

Memorials were presented by Mr. Morehead and Mr. Walker in favor of a bankruptcy law.

Mr. Rives having made a motion that that part of the President's Message which relates to Foreign Affairs should be referred to the committee on Foreign Affairs, observed that he understood Mr. Buchanan as having expressed a wish that the Bill repealing the Sub-Treasury might be engrossed before our Foreign Affairs came up, a motion to that effect prevailed, ayes 27, noes 18.

SUB-TREASURY BILL.

This Bill having been read a third time, the question now was on its engrossment; when Mr. Woodbury took the floor, and at considerable length addressed the Senate upon the general benefit.

Mr. Calhoun on the other side was such as to leave the public money under the control of the Executive, and he reasoned at that length.

Mr. Benton attempted the introduction of a resolution declaring the repeal of the Sub-Treasury inexpedient, which the Senate pronounced out of order; when Mr. Benton withdrew his motion, and proposed to re-commit the bill with instructions, which was negatived, ayes 18, noes 28.

Mr. Wright then took the floor and addressed the Senate in behalf of the Independent Treasury system, and arguing with much strenuousness, against a National Bank. He gave his views at considerable length.

Mr. Tallmadge replied to Mr. Wright briefly. Mr. Wright rejoined. Mr. Benton then took the floor, and went very much at large into the merits of the bill.

After some other remarks, the question was taken, and the Repeal Bill was carried, yeas 29, noes 18.

The Senate then adjourned.

HOUSE OF REPRESENTATIVES.

Mr. Graham, of N. C., in pursuance of notice previously given, asked leave to introduce a bill for the repeal of the act "to provide for the collection, safe-keeping, and disbursement of the public revenue," passed July 4, 1840, commonly called the Sub-treasury law.

The House, however, proceeded to the special order, the election of officers.

The following was the result:—Doorkeeper, Joseph Follansbee; Assistant do, J. W. Hunter; Chaplain, Rev. John W. French, of the Episcopal Church.

Mr. Sergeant, of Pa., sent to the Chair a resolution which was read, that the House now proceed to the election of its Printer for the 27th Congress, whose compensation shall be 20 per cent. less than the prices fixed by the joint resolution of 1819.

The motion was objected to as out of order, and it was decided by the Chair that the gentleman from Pennsylvania, (Mr. Ingersoll,) was entitled to the floor to call up his motion to re-consider.

Mr. Ingersoll then took the floor. He hoped after the inauguration of his subject, they would come to a correct examination of it. It presented three elementary and constitutional heads. Into the first of these, the question of abolition, he entered and dwelt at length, examining the fundamental causes of the abolition feeling—connected the slave trade of England, France, and the now prevalent opinions on this subject in those countries.

He was several times called to order, on the ground of irrelevancy, but was sustained by the Chair, and without concluding the examining of the first head of his subject, gave way; and, on motion of Mr. Wise, at a quarter past 3 o'clock, the House adjourned.

IN SENATE.

Thursday, June 10.

THE CASE OF McLEOD.

Mr. Buchanan, in proposing to refer that part of the President's Message that related to foreign affairs, to the committee which has the charge of them, entered at large upon an examination of the facts relating to the capture and capture of the steam boat Caroline, as well as upon the history of the Patriot War in general. Mr. Buchanan then showed from Chief Justice Marshall, and other authorities, that a nation had exclusive right of control over its own waters, and he added that, however justifiable an officer in time of war might be for executing orders of invasion, or violation of a neutral territory, yet, in time of peace, he contended if it were done, the people whose territory had been thus violated, had a right to hold the officer responsible in their courts.

Mr. B. did not agree with Mr. Webster in the construction of the law of nations, and he set forth the points of his disagreement at length. He believed, also, that the Supreme Court of New York would take a view different from that of Mr. Webster, and if an appeal should be taken he doubted whether

the views of the Secretary of the State would be sustained.

Mr. Buchanan also justified at length the Foreign policy of the administration of Mr. Van Buren in reference to the case of the Caroline and McLeod. He highly commended the tone and language of the American Minister, Mr. Stevenson, and thought that throughout he had manifested true American feeling.

The course of Mr. Webster had not been at all agreeable to Mr. Buchanan. He thought that Mr. W. had acted under a threat from the British Government. He complained that Mr. Webster had hurried off the Attorney General to Lockport, and he was not at all pleased with the tenor of his instructions.

Mr. Buchanan did not think our condition so very alarming in the event of a war. We were not among the weak nations of the earth, he said, and no other nation could attack us without suffering as much from war as we should. He did not, however, deem that there was any risk of war, but on the event of its coming, he wished the law of nations to be so construed as to put us right in the eyes of the world.

Mr. Rives, at some length, defended Mr. Webster and his letter to Mr. Fox, which he pronounced beautiful and unanswerable, and also his instructions to Mr. Crittenden.

HOUSE OF REPRESENTATIVES.

Mr. Briggs offered a resolution that the House should take a recess from 2 to 4 o'clock, P. M., and that the hour of assembling hereafter be at 10 o'clock, A. M. The resolution was not entertained.

Mr. Filmore offered a resolution referring so much of the report of the Secretary of the Treasury as is not committed to the Select Committee, to the Committee of Ways and Means. The rules were suspended and the motion concurred in.

Mr. Holmes presented a petition from some citizens of Charleston, praying that the salary of the President for one year, be appropriated to the bereaved family of the late President, which was referred to the Committee of the Whole on the state of the Union.

Mr. Underwood presented two petitions, one from the Patriotic Bank, and one from the Bank of Alexandria, praying for the re-charter of said Banks, which were referred to the Committee on the District of Columbia.

The Speaker presented to the House the papers relating to the contested election of Mr. Banks, of Va., which were referred to the Committee on Elections.

A message was received from the Senate informing the House that the Senate had passed an act repealing the Sub-Treasury.

The House then took up Mr. Ingersoll's motion to re-consider the vote on Mr. Adams's amendment relative to the reception of Abolition petitions.

The subject was discussed during the remainder of the day by Mr. Ingersoll, Mr. Marshall, and others. The re-consideration was lost—yeas 110, noes 116.

McLeod Correspondence.

Among the documents accompanying the President's Message to Congress, are the Letter of Mr. Fox to Mr. Webster, demanding, in the name of his government, the immediate release of McLeod; and the answer of the Secretary of State. The British Minister's Letter states that his movements in the premises have been fully approved by his government, and repeats the oft-repeated argument that McLeod cannot be held personally responsible for the acts of his government.—Brother Jonathan.

Her Majesty's Government (says Mr. Fox) cannot admit for a moment the validity of the doctrine advanced by Mr. Forsyth, that the Federal Government of the United States has no power to interfere in the matter in question, and that the decision thereof must rest solely and entirely with the State of New York.

With the particulars of the internal compact which may exist between the several states that compose the Union, foreign Powers have nothing to do; the relations of foreign Powers are with the aggregate Union; that the Union is to them represented by the Federal Government; and of that Union the Federal Government is to them the only organ. Therefore, when a foreign power has redress to demand for a wrong done to it by any State of the Union, it is to the Federal Government, and not to the separate State, that such power must look for redress for that wrong. And such foreign Power cannot admit the plea that the separate State is an independent body over which the Federal Government has no control.

It is obvious that such a doctrine, if admitted, would at once give to a dissolution of the Union as far as its relations with foreign Powers are concerned; and that foreign Powers, in such case, instead of accrediting diplomatic agents to the Federal Government, would send such agent not to that Government, but to the Government of each separate State; and would make their relations of peace and war with each State depend upon the result of their separate intercourse with such State, without reference to the relations they might have with the rest.

Her Majesty's Government formally demands through its minister, the release of McLeod. The minister then proceeds to say that there are the strongest reasons to believe that McLeod was not concerned in that affair; and that though the circumstances make no difference in the political and international question at issue, the Government of the United States must not disguise from themselves that the fact that Mr. McLeod was not engaged in the transaction must necessarily tend greatly to inflame that national resentment which any harm that shall be suffered by Mr. McLeod at the hands of the authorities of the State of New York will infallibly excite throughout the whole of the British Empire.

In his reply, after recapitulating the contents of Mr. Fox's letter, Mr. Webster says that the President is not certain that he understands precisely the meaning intended by her Majesty's Government to be conveyed by the foregoing instruction.

This doubt has occasioned, with the President some hesitation, but he inclines to take it for granted that the main purpose of in-

struction was to designate it to be signified to the government of the United States that the attack on the steamboat "Caroline" was an act of public force, done by the British colonial authorities, and finally recognized by the Queen's Government at home, and that consequently no individual concerned in that transaction can, according to the just principles of the law of nations, be held personally answerable in the ordinary courts of law as for a private offence; and that upon this avowal of her Majesty's Government, Alexander McLeod, now imprisoned on an indictment for murder alleged to have been committed in an attack, ought to be released by such proceedings as are usual and are suitable to the case.

Mr. Webster next proceeds to say, in substance, that persons held in the U. States under judicial process, can, as in England, only be released by judicial process—by a nolle prosequi, or examination of the charge under a writ of habeas corpus. The Secretary does not suppose that in England the Executive could interfere in any more direct manner.—After alluding to the civil suit, [withdrawn since the date of this letter,] the Secretary proceeds to say, "If, therefore, any course different from such as have been now mentioned was in contemplation of Her Majesty's Government, something would seem to have been expected from the Government of the U. States as little conformable to the laws and usages of the English Government as to those of the United States, and to which this Government cannot accede."

The Government of the United States, therefore, acting upon the presumption which it already adopted, that nothing extraordinary or unusual was expected, or requested of it, decided, on the reception of Mr. Fox's note, to take such measures as the occasion and its own duty appeared to require. The American Government entertains no doubt that after the removal of an act by a government, individuals are no longer responsible. And the President presumes that it can hardly be necessary to say that the American People, not distrustful of their ability to redress public wrongs by public means, cannot desire the punishment of individuals when the act complained of is declared to have been an act of the Government itself.

Soon after the late Mr. Fox's note, an instruction was given to the Attorney General of the United States from this Department, by direction of the President, which fully sets forth the opinions of this Government on the subject of Mr. McLeod's imprisonment, a copy of which instructions the Secretary encloses in his letter.

After a history of the legal proceedings in the case, already known to the reader, the Secretary proceeds to pay a high eulogium on the Supreme Court of the State of New York, and then says:—"The undersigned has now to signify to Mr. Fox that the Government of the United States has not changed the opinion which it has hitherto expressed to Her Majesty's Government, of the character of the act of destroying the 'Caroline.'"

The Government of the United States does not think that the Caroline affair can be justified by any reasonable application of the right of self-defence under the law of nations. But not having been advised of the reasons under which the British Government considers the attack justifiable, the Secretary earnestly renewing the remonstrance of this Government against the transaction, abstains, for the present, from any extended discussion of the question.

After alluding to the term "permitted," used by Mr. Fox, in reference to the organization of force in the United States, and saying that the President is willing to believe no intimation is intended that the United States Government afforded any countenance to the acts of the patriots, the Secretary proceeds to remark that upon a line of frontier long enough to divide the whole of Europe into halves, that irregularities, violence, and conflicts should sometimes occur, equally against the will of both Governments, is certainly easily to be supposed. This may be more possible, perhaps, in regard to the United States, without any reproach to their Government, since their institutions entirely discourage the keeping up of large standing armies in time of peace, and their situation happily exempts them from the necessity of maintaining such expensive and dangerous establishments. This Government acknowledges no delinquency in the performance of its duties.

The letter takes exception against the term "pirates" as applied to the American volunteers, and says that though they were already violating the laws of their country, they were certainly not pirates, nor does the undersigned think that it can advance the purpose of fair and friendly discussion, or hasten the accommodation of national difficulties, so to denominate them. Their offence, whatever it was, had no analogy to cases of piracy. The fact that for the last two centuries subjects of the British crown have been permitted to engage in foreign wars, and the recruiting of whole regiments for the Spanish service, openly in England is forcibly alluded to; and yet it has not been imagined that England at any time allowed her subjects to turn pirates.

The Government of the United States has not, from the first, fallen into the doubts, elsewhere entertained, of the true extent of the duties of neutrality. It has held that, however it may have been in less enlightened ages, the just interpretation of the modern law of nations is, that neutral states are bound to be strictly neutral; and that it is a manifest and gross impropriety for individuals to engage in the civil conflicts of other states, and thus to be at war, while their Government is at peace. War and peace are high national relations, which can properly be established or changed only by nations themselves.

After quoting instances from the whole history of the republic, to show the sincerity with which the United States have carried out the principle above stated, the letter of Mr. Webster thus concludes:—"Under these circumstances, and under those immediately connected with the transaction itself, it will be for Her Majesty's Government to show upon what state of facts and what rules of national law the destruction of the 'Caroline' is to be defended. It will be for that Government to show a necessity of self-defence, instant, overwhelming, leaving no choice of means and no moment for deliberation. It will be for

to show, also, that the local authorities of Canada, even supposing the necessity of the moment authorized them to enter the territories of the United States at all, did nothing unreasonable or excessive; since the act justified by the necessity of self-defence, must be limited by that necessity, and kept clearly within it.

It must be shown that admonition or remonstrance to the persons on board the 'Caroline,' was impracticable, or would have been unavailing; it must be shown that day-light could not be waited for; that there could be no attempt at discrimination between the innocent and the guilty; that it would not have been enough to seize and detain the vessel—but that there was a necessity, present and inevitable, for attacking her, in the darkness of the night, while moored to the shore, and while unarmed men were asleep on board, killing some and wounding others, and then drawing her into the current, above the cataract, setting her on fire, and, careless to know whether there might not be in her, the innocent with the guilty, or the living with the dead, committed her to a fate which fills the imagination with horror, a necessity for all this the Government of the United States cannot believe to have existed.

All will see that if such things be allowed to occur, they might lead to bloody and exterminating war; & when an individual comes into the United States from Canada, and to the very place on which this drama was performed, and there chooses to make public and vain glorious boasts of the part he acted in it, it is hardly wonderful that great excitement should be created, and some commotion arise.

This Republic does not wish to disturb the tranquillity of the world. Its object is peace, its policy peace. It seeks no aggrandizement by foreign conquest, because it knows that no foreign acquisition could augment its power and importance so rapidly as they are already advancing by its own growth under the propitious circumstances of its situation.

But it cannot admit that its Government has not both the will and the power to preserve its own neutrality, and to enforce the observance of its own laws upon its own citizens. It is jealous of its rights, and among others, and most especially, of the right of absolute immunity of its territory against aggression from abroad, and these rights, it is the duty, and the determination, of this Government fully and at all times to maintain; while it will, at the same time, as scrupulously refrain from infringing on the rights of others.

The President instructs the undersigned to say, in conclusion, that he confidently trusts that this and all other questions of difference between the two Governments will be treated by both in the full exercise of such a spirit of candor, justice, and mutual respect as shall give assurance of the long continuance of peace between the two countries.

The undersigned avails himself of the opportunity to assure Mr. Fox of his high consideration.

DANIEL WEBSTER.

HENRY S. FOX, Esq., &c. &c. &c.

From the Louisville (Ky.) Advertiser.

GOOD—We absolutely feel cheered whenever we have an opportunity to copy an article like the following from a Whig paper. It is AMERICAN in spirit, and shows that an editor on that side of the question is occasionally to be found who would not sacrifice the interests and honor of his country, and the liberties of himself and posterity on the altar of mammon.

From the Cincinnati Daily Chronicle.

THE McLEOD CASE.

It seems to us that the American national spirit, like Bob Acre's courage, is rapidly "oozing out at his fingers' end." If this were the true christian principle of peace and humility, it would be to us cause of great joy, and be a more real and substantial evidence of national improvement than any other; but it is not so. The whole root of it is the reverse. It is the consequence of national effeminacy—a natural result of the universal deity to mammon.

"We are struck with this on reading the argument of counsel and the efforts of the Administration in the case of McLeod. 'This fellow, in his folly, boasts (whether truly or not) that he was one engaged in the destruction of the 'Caroline'; in which a midnight murder was committed within the jurisdiction of New York, by a band of Canadian marauders. Neither the American nor the English Governments had connection with the matter. Three years afterwards a man who professes to be one of the transgressors, is arrested; and forthwith the British Government, in the plenitude of its assumption, undertakes to father the crime; and the American Government, for fear the quiet of the money changers may be broken, interferes to annul the cause of justice. Can this fatherly protection of the British Government change the nature of the crime, or deprive the courts of New York of their jurisdiction? Besides, it is very far from being true, that a man, in time of war, is always screened by the official shield of the Government. Take, for example, the case of a spy. No act of the Government can shield him from punishment. In the revolutionary war, Lieut. McPherson was taken near Princeton by Gen. Putnam. He was demanded by the British General, with the threat that two American officers should be hung for him. It is said Gen. Putnam returned this answer:—

"Sir—Lieut. McPherson was taken as a spy—he was tried as a spy—he was condemned as a spy—and he shall be hung as a spy."

"ISRAEL PUTNAM.

"P. S.—He is hung."

In the case of McLeod there was no war, nor pretence of war. They who took the Caroline and murdered the crew, were precisely in the attitude of highway robbers."

This is in the spirit which actuated the late administration and dictated the replies of Mr. Forsyth to the British Minister.—Under the Democratic administration, a firm determination was manifested to resist the insolent demands of England, and maintain the honor of the country. The change of Administration has, however, evidently produced a change of policy towards England. The Webster policy is to manoeuvre, palaver, prevaricate and cringe, to appease Eng-

land and avoid responsibility. It is no wonder a course so unmanly, so unpatriotic and dishonorable, is denounced by the Whig editor of the Cincinnati Chronicle, and resisted in his official capacity, by Mr. Seward, the Whig Governor of New York.—The former shows that he has not permitted his feelings as an American to be merged in mere party considerations, and the latter, anxious to retain the good opinion of his fellow citizens, probably with a view to reelection, is constrained to oppose, openly and officially, the truckling movements of the administration of the General Government in reference to the impudent demand for the release of McLeod.

God knows we do not desire war with England. We are perfectly aware that a conflict with the haughty "mistress of the seas" would be productive of an incalculable amount of deprivation and suffering; that the sacrifice of blood and human life would be tremendous; but we think we plainly foresee that the very evils which the cringing policy of the Administration is intended to avoid, must be brought upon us by the adoption of that policy. Every covering movement invites aggression. Every display on the part of the Administration, of subservency to England and to English interests, is regarded as evidence that we are almost ripe for re-colonization.

Had Mr. Van Buren been re-elected, we should not have heard the Whig Governor of New York complaining of interference with the rights of that State, and of the subservency of the Administration to England.

The selection of Mr. Webster as Premier was not only ill advised, but unfortunate. He was, and is, in the pay of the Bank of the United States, and is believed by many sensible and discreet men to be at this moment in British pay—not directly in the pay of the British Government, but of British capitalists. The late outfit of sixty-five thousand dollars furnished by the Wall street money changers—mostly Englishmen or mere English agents—under pretence that it was a manifestation of respect for his public services, was a very extraordinary transaction, and when viewed in connection with his letter to the Barings on the credit of the States, the suggestion which immediately followed, (coming from England) that the General Government should assume the debt of the States, and the conduct of Mr. Webster in regard to the late President, must cause every well informed man to see the error the late President committed in the selection of his Secretary of State.

THE STEAM SHIP PRESIDENT.

From the New York Herald.

On Saturday last, James Buchanan, Esq., her Britannic Majesty's Consul for the port of New York, convened a meeting at the office of his consulate, for the purpose of inquiring into the condition of the steam ship, when she put to sea last from this port, what cargo she had, how her coal was stowed, whether there was any deficiency of spars, yards, &c., whether or not she was hogged or strained by previous storms, and every particular connected with her up to the last time she was sent to sea, so far as known by any one in the United States.

The meeting was attended by Jacob Walton, Esq., Rear Admiral of the White, Geo. Barclay, Esq., agent for Lloyd's in the port of New York, Thomas W. Moore, Esq., her Majesty's packet agent, Mr. Henry Smith, of the firm of Wadsworth & Smith, the agent for the steam ships President and British Queen, Capt. Ben. Waite, of the packet ship England, Capt. Cole, of the packet ship Orpheus, Capt. Bell, and several other gentlemen, eminent for their skill and experience in nautical matters.

Capt. Cole, of the ship Orpheus, rose and stated that he left New York in company with the steam ship President, on the morning of the 11th of March last, and that he was in sight of her until about sundown on the evening of the 12th.

Capt. Cole further stated that when he last saw the President rising on the top of a tremendous sea, she appeared to be pitching heavily and laboring tremendously. She was then situated in that dangerous part of the Atlantic Ocean, about mid-way between the Nantucket Shoal and the St. George's Bank, just where the Gulf stream strikes soundings, and where the waves rise almost straight up and down as high as a four or five story house.

That the President then must have been shipping seas heavily and fast; that probably these large bodies of water worked through into the engine room, or fire room, and extinguished the fires, in which case the steamer would have been comparatively helpless—that the storm was terrific all that night—that the next morning the wind shifted suddenly from N. E. to S. E., knocking up a still more tremendous sea, and that the gale continued with unabated fury till midnight of the 13th. And that it is his belief that the President did not survive that gale, but foundered with all on board, and that all perished before sundown on the 13th, or in less than 24 hours after he last saw her; and most probably in the terrific night of the 12th of March.

In this opinion Capt. Waite and the other nautical gentlemen seemed to coincide.

DREADFUL ACCIDENT AT HUDSON.

A correspondent writes as follows:

Hudson, June 5, 1841.

I hasten to give you an account of a most dreadful accident which has taken place in our city to-day. It has been the custom of the chief superintendent lately, to let the cars go down the descent from the head of Warren street, without the engine or horse power, and always thinking that a man placed at the break of each car was sufficient for safety.

But on the run down this morning, the breaks did not perform as well as usual, and the consequence was that six large freight cars ran off the dock, and were lost. The amount of property lost cannot be ascertained exactly, but as near as can be found out, will not be less than \$20,000; but that is not anything where the loss of life is taken into consideration—for five persons, who were known to be in the cars, were lost, and how many more cannot be told. Two were taken out, one mangled to a complete jelly. And on the other all means were tried, but in vain, to resuscitate him.—Baltimore Republican.

In consequence of the recent extensive robbery of the Frederick County Bank, the Directors have given notice that they will not pay the deposits or notes in circulation, except that in cases where debts are due the Bank by depositors or noteholders, their deposits, or notes held by them at the time the bank was robbed, (satisfactory proof of which will be required) will be received in payment of their respective debts. And in order to determine what amount of paper is legitimately in circulation, the directors request all persons holding notes to bring them for special deposit in the bank, or, in case they prefer keeping them in their own possession, to communicate to the Bank the amount, number and denomination of the said notes respectively, before the 15th June. The notes of the Bank previous to this notice had been received by the stores in the neighborhood at 75 cents in the dollar.—Such was the confidence reposed in the institution by the people of Frederick county that it is said, of the 173,000 dollars capital, 134,000 dollars were owned in Fredericktown and vicinity.—Nat. Gaz.

Fatal Affray.—An affray occurred on Saturday evening, between the hours of nine and ten o'clock at the corner of Light and Lombard streets, which was followed by the death of one of the parties, yesterday morning at 7 o'clock. From the relation of Mr. James Groves, who was an eye-witness from the commencement of the melancholy transaction to its close, we gather the ensuing particulars. Francis Walker, the deceased, was sitting on his father's door, in Light street, three doors from Lombard, between nine and ten o'clock, when two men named Winslow and Winfree, who were named Winslow, came to the corner and commenced disputing with one another—Freerberger betting \$5 that he could whip Winfree. Walker, who was sitting in the door, rose, approached the parties and requested them not to fight, but to part as good friends. To this the parties agreed, but upon the condition that both would appear at court next morning, about 8 o'clock, to terminate the quarrel by a regular battle. They then shook hands. Winfree went away, while Freerberger remained on the pavement at the corner. Walker, supposing the quarrel settled between them for the present, walked to the steps of the corner dwelling and set down. Freerberger still remained in the same place, waiting some one to fight, whose name he does not recollect. Walker then rose from his seat, approached Freerberger saying "he could whip them both," referring to Freerberger and Winfree. Freerberger said "if you say so, enough come on."

While making this assertion, Freerberger drew out his pistol, and fired it at Winfree, who fell back towards the curbstone, and while thus reeling, Freerberger struck another blow which took effect a little above the outer corner of the left eyebrow. From the violence of this blow, he fell backwards over the curbstone, his feet not recollect. Walker then rose from his seat, approached Freerberger saying "he could whip them both," referring to Freerberger and Winfree. Freerberger said "if you say so, enough come on."

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