Evening Telegraph.

BY GEORGE BERGNER. HARRISBURG, PA., WEDNESDAY EVENING, FEBRUARY 24, 1864. PRICE TWO CENTS.

Daily Telegraph

OPINION OF THE HON. JOHN J. PEARSON,

Overruling the motion for a new trial, in the case of F. P. Hill, convicted of embezzlement at the last term of the Court of Quarter Sessions—with the sentence of the Court—delivered Monday, February 22, 1864.

Commonwealth vs. F. P. Hill. } No. 1, of Nov. session, 1863. Indictment for embezzlement.

The defendant having been indicted and convicted under the 107th section of the penal code, for embezzeling the money of the Philadelphia and Reading railroad company, in whose employment it is averred he was as a conductor, a motion has been made for a new trial on account of misdirection of the court in matter of law, and also in arrest of judgment for defects in the indictment. We will, for the greater convenience, dispose of the last question first. It is complained in the reasons filed that no distinct act of embezzlement is charged—that no ownership in the money alleged to have been embezzeled is averred, and more than one offence is laid in the same count. In addition, our attention has been directed to certain other alleged defects on the argument. Our act of Assembly is measurably framed from the 7th and 8th George the 4th; but is rather broader in its provisions than the British statute, which speaks of "clerks and servants or persons employed in the capacity of clerks or servants," whilst our act says, "any clerk, servant or *other person in the employment of another.*" Both provide, in almost the same words, for proceeding against the party for any distinct acts of embezzlement, not exceeding three in number, which may have been committed within six months of each other. We may, therefore, look with confidence to the precedents adopted in Great Britain as our guide for framing indictments, under our act which is comparatively new. The pleader appears to have almost literally followed the form to be found in Wharton's criminal precedents, with the single exception of laying three distinct acts of embezzlement, committed on different days, in the same count. This is considered as an irregularity, in Regina vs. Purchase, 1 C. and Man. 617, cited in 3d Arch. C. P. 447—5 in notes. It was also held in Rex vs. Williams, 6 C. and P. 626, that where there is but one count, and the prisoner received different sums on different days, the prosecutor must elect some one sum, and confine himself to that, and could not give evidence of money received on other days. Archibold, who probably furnishes the best criminal precedents to be found at the present day, gives the form of each of the additional counts, so as to embrace all of the three different times of embezzlement in one indictment. It is certainly much safer to follow such a guide than to attempt to frame new precedents. The legal maxim applies with great force in criminal cases, *via trita est tutissima*, and the pleader always runs great risk when he departs from the trodden path and attempts to save labor by a near cut. If several distinct offences are thrown into one count, it is likely to create a jumble, especially when, as here, the defendant is charged with receiving a gross sum for three days, instead of stating the amount received on each day. The precise sum which came to his hand in any one day need not be proved, nor need the prosecution describe or prove the kind of money, but it should be averred, as directed by the statute, that each day laid was within six months after the preceeding day on which an act of embezzlement is charged, and such appears to be the precedents and decisions. R. vs. Purchase, Car & M. 617, R. vs. Noche, 2 Car. & K. 620. It is a general rule that every indictment upon a statute must state all such facts and circumstances as constitute the statutory offence, and bring the party within its provisions. 1 Chitty's crim. law 281, 2 & 3—Ed. of 1841; and by the common law, it is not sufficient to use the words of the statute merely, but there must be a proper description of the character of the person, and of the crime committed, laid with suitable averments of time, place, &c. The 11th section of the second part of the Penal Code declares, in regard to this subject, that "every indictment shall be deemed and adjudged sufficient and good in law which charges the crime substantially in the language of the act of Assembly, prohibiting the crime, and prescribing the punishment." This provision was certainly intended to do away with part of the particularity of description previously held necessary. The statute is remedial, and should be so construed as to avoid the inconvenience formerly existing, and advance the remedy provided by the Legislature. This indictment avers that the defendant was employed as a conductor to the Philadelphia and Reading R. R. Co., and did, by virtue of his employment, and while he was so employed, receive and take into his possession certain other moneys, to wit: one thousand dollars, for and in the name, and on account of the said Philadelphia and Reading R. R. Co., and the money so received fraudulently and feloniously did embezzle and convert to his own use. It then goes on to aver that the defendant, the said money, the property of the Philadelphia and Reading R. R. Co., from the said company feloniously did steal, &c. Now, these averments are in the very language of the act of Assembly, which speaks of clerks, servants, or other person in the employment of another, by virtue of such employment receiving and taking into their possession any chattel, money, &c., for or in the name, or on the account of such master or employer, and fraudulently embezzling the same, or any part thereof, &c.

I am unable to see how the fact of embezzling and converting the money by the defendant, or its ownership by the company, could be more clearly and distinctly averred. The indictment also conforms in this particular to the precedents to be found in Archibold, Wharton and other form books. The 28th sec. of the second part of the penal code relating to embezzlement, also provides that if the embezzlement be of money, no particular kind need be described, nor need any particular amount be proved. We consider the ownership of the money well laid, and, if necessary, the averments of employment, ownership, &c., in the second count can be called in aid of those in the third. Chitty, in his work on criminal law, vol. 1, p. 205, says, "although every count should appear upon the face of it to charge the defendant with a distinct offence, yet one count may refer to matter in another count so as to avoid unnecessary repetition, &c., and although the first count should be defective, or rejected by the grand jury, this circumstance will not vitiate the residue," and we may safely add that it can be referred to for such purposes, although abandoned on the trial. That count very fully and particularly describes the employment of the defendant, by the railroad company, the character of the employment, and his receipt of the money by virtue thereof, and the ownership of the money. But it has been suggested on the argument that a conductor on a railroad train does not come within the act of Assembly; that he is not such an employee as is therein described, and we are referred to 2 Met., 343, where it is held that an auctioneer is not within the Massachusetts act; to 11 Met., 64, which decides that the collector of bills for a newspaper is not embraced by its provisions, and to 5 Denio, in which it is settled by the Supreme Court of New York, that a constable employed to collect bills, if voluntarily paid by the debtors, and to sue them when not so paid, is not embraced by the laws of that State. It must be borne in mind that our statute is differently worded from those of either of the States mentioned. They speak of clerk or servant, ours of "clerk, servant, or *other person in the employ of another*;" and we all know that the conducter of a railroad train is a person in the employ of the company, which is almost daily held responsible for his acts or negligences. I should have no more considered an auctioneer as the clerk or servant of the man who sends goods to his room to be sold, than is an attorney at law who holds himself out as a collector to all who choose to employ him; or a commission merchant who professes to sell for any one who consigns him goods. The soundness of the case in 11 Metcalf is very questionable, as it is in direct conflict with two decisions under the English statute, R. & Ry. 198, 3 Stark. N. P., cases 70, in both of which it was held that an agent, employed by many firms to travel the country and make collections, was a clerk or servant who might be convicted of embezzlement, and even when the embezzlement charged was by an employee who was to have a certain per centage on the sales, though not a partner, it was held that he was a servant within the statute. 3 Arch. C. Pl. 449, 2 in note. I have, therefore, no doubt that a conducter of a railroad train is a person employed by another within our act of Assembly, and as such may be guilty of embezzling the funds of the company; and also, that the employment, the ownership of the money, and the felonious embezzlement thereof, are all sufficiently and properly laid in this indictment, when we look into both counts. But the two exceptions already referred to—the blending of three days in one count, and laying a joint receipt of the money on those three days, and the failure to aver that the embezzlement of the money received on each day occurred within six months of the time laid for the offence of the preceding day, are fatal, unless the defect is cured by the act of Assembly. The eleventh section of the second part of the penal code already recited, in part, provides: "Every objection to any indictment for any formal defect, apparent on the face thereof, shall be taken by demurrer, or on motion to quash such indictment, before the jury shall be sworn, and not afterwards." We cannot doubt but that the object of the commissioners who framed, and the Legislature who passed this law, was to get rid of the formal defects in criminal proceedings, which had long been considered by the ablest writers on jurisprudence a blemish and shameful defect in the criminal laws of the country; "that justice was entangled in a net of form," giving just ground for the criticism of Montesque, "that laws are like cobwebs, the small flies are caught, but the great ones break through." It was no longer to be endured that after a full trial on the merits a party should be heard on formal defects, apparent on the face of the indictment, which if taken before, would have been amended on motion, or a new bill sent before the grand jury. The whole spirit of the code evinces a determination to do away with technicalities in criminal trials, and reach the substance of the case; and it is the duty of the courts to carry the Legislative intention into effect. Hence is given the authority to amend the indictment when any formal defect is pointed out, or to make it correspond with the evidence, whether oral or written, when there is a material variance; to lay the ownership of parties differently from that heretotore allowed, and so in many other essential particulars. If the defects referred to in the present indictment are merely formal, it is too late to take them. If substantial, the defendant is still in time.

The substantial rights of a defendant are to be so fully apprised of the offence with which he is charged as to enable him to meet it by evidence, and to have the crime so clearly described that whether acquitted or convicted, the charge never can be brought against him a second time. The defendant has as full notice that he is charged with three distinct acts of embezlement, when the indictment states that the acts were committed on the 17th, the 22d and 24th days of September, 1863, as though they had been laid in three several counts. Laying the money as received on all three of the days, instead of stating the amount received on each day, is to him wholly unimportant; as the statute provides that the Commonwealth need not make proof of the amount, or kind of money which he embezzled on any day or time, and the failure to aver that the sums were embezzled within six months of each other, is in the present case, mere form, as the days of the respective receipts are stated, and the indictment was preferred to, and found by the grand jury, within three months, from the date of the receipt. We are of the opinion that all of these defects are merely formal, and are cured by the act of Assembly, when not objected to in a preliminary stage of the proceeding, by demurrer or on a motion to quash the indictment; therefore the judgment cannot be arrested. The next question for our consideration relates to the alleged misdirection of the jury by the court upon the trial. We instructed them that if Hill was employed either *by or for* the Philadelphia and Reading Railroad Company as a conductor on its trains, was paid a portion of his wages, either directly by that company, or indirectly through settlement with the connecting companies—by virtue of his employment, received the money belonging to the Philadelphia and Reading company, and by the terms of his contract was bound to account for, and pay over to it the money received on its road, he might properly be considered a person "in the employ of that company," and if he embezzled its money could be convicted of the offence. That the proper test of being in the employ of another was the contract of hiring, which could be done directly, or through the agency of another, the obligation to pay, or actual payment of wages, and the right to discharge the party from service in case of misbehavior or neglect of duty. Mr. Nicolls, called by the Commonwealth, testified in substance, that four distinct companies owned the railroad from this place to New York; it was agreed that the New Jersey, Philadelphia and Reading companies should each furnish a train; conductor, baggage master and brakesman, the wages of these employees were to be paid by each company in proportion to the distance traveled over its road, and settled by monthly statements between the companies; the money received for each road, was, by the regulations furnished the conductors, to be paid over to the clerk of the proper company daily. It was agreed that each company was to appoint a conductor, and the wages were to be paid *pro rata*, according to the distance passed over each road. Hill was appointed a conductor by the New Jersey company, and by that arrangement he became a conductor on the Philadelphia and Reading railroad, and was paid by them through monthly statements as agreed.

The various conductors did not remain on any particular train, but Mr. Wing, appointed by the Philadelphia and Reading company, and Mr. Hill changed trains to suit their convenience.

Mr. Sterns, the superintendent of the New Jersey road, called by the defendant, states the arrangement between the four companies as to trains, conductors, &c., mainly as proved by Mr. Nicolls; says in substance that their company appointed and paid Hill, but received the proportion of his wages from the Philadelphia and Reading and the other companies. He was instructed to carry out the orders of each company, and to pay to each the money received on its road, and to make four separate reports. He was to pay over to the Philadelphia and Reading company the money received on its road, and carry out its instructions. It was by the authority of the Philadelphia and Reading company that he received any fare on that road. It could have put him off that company's road, if it thought proper, but not off the New Jersey road. In another part of his evidence the witness stated that the Philadelphia and Reading company had no right to discharge Mr. Hill from its road; he was not in its employ. He (the witness) could not see how it would get clear of him, except by breaking up the arrangement. But again he stated that if found dishonest or careless, that company could have put him off its end or part of the road, if it thought proper, and it had to pay its portion of Hill's wages. We called the attention of the jury particularly to the statements of this witness, and pointed out its contradictions, not that we supposed there was any intention to misstate the facts, but the witness undertook to draw legal deductions, and was not consistent therein. We then stated to the jury that if the Philadelphia and Reading company neither hired the defendant nor paid him, or was bound to pay his wages, and had no power to discharge him for dishonesty or carelessness, he was not in its employ, within the meaning of the act of Assemby, and although he might have received the money of that company, denied its receipt and furnished false statements thereof, it was not money received belonging to his master or employer by virtue of such employment; but if the arrangement was as stated by Mr. Nicolls, he might properly be considered in the employ of that company, and could be guilty of embezzling its money. Were we right in that instruction?

Bishop, in his work on criminal law, vol. 2, s. 238, lays down the general principle that "a person may be the servant or clerk of a particular individual or corporation, though the appointing power is in another;" and again, "the servant or clerk need not have received a formal appointment in fact, and certainly none need be proved, if only he has been permitted to act, and has acted in that capacity, and this is shown." The authorities cited fully sustain the principle—see 1 Moody, 434, 25 Eng. Law and E., 579, 23 L. J. N. S. M. C., 110, 18 Jur., 408, 24 Eng. L. and E., 568, 6 Car. and P., 606, 1 Moody, 474, Cox and M., 178, 1 Car. and P., 457. It matters not how the clerk or servant may be appointed; he may be clerk for one though appointed by another. 8 Car. and P., 174.

In Reg. vs. Batty, 2 Moody 258, it is said in general terms, "*the wages made the prisoner a servant*," though the wages are only to be considered in connection with other circumstances. The mode of payment, or probably whether the person is to be paid at all or not, has no *controlling* effect on the question whether he is a servant, clerk or the like, if only it does not operate to place him in some relation incompatible with this; such, for instance, as to make him a partner; 2 Bishop, C. L. I., 289. In Regina vs. Bayley, 37 Eng. Law and E., we have the case of four railroad companies which had one common depot. They employed a committee to attend to the business thereof, or conducted thereat, who employed the servants. A package came by one company, a servant delivered it as was his duty, but embezzled a portion of the receipts, held that he might be indicted for embezzling the funds of that company, or it might be laid as the funds of the committee. He was the servant hired by the one, but for the joint benefit of all the companies, and bound to render a proper account of the funds received from each, *pro hace vice;* he was the servant of each." It has also been held that where a servant is employed by a firm, he is so far to be considered the servant of the individual partners, as to be capable of embezzling the property of the one of them, within the provisions of the statute, 3 Starkie 70, 8 Car. and P. 742, he may be the servant of many persons at the same time. Rus. & Ry. 198, Reg. vs. Batty, 2 Moody, 257. Applying these principles to the case before us, we think that they abundantly prove that where the party charged with embezzlement, was at the time of committing the act, in the actual employment of the person or corporation whose property was embezzled, it matters not whether he was hired *by* that person or not, so that he was employed *for* him, and by virtue of such employment received the money. If the New Jersey company employed the defendant for the benefit of all these four companies, his wages were paid by them, he was to receive the money of each, and to pay it over to the company for which it was received, he was to all legal intents and purposes in its employ, *pro hace vice*, and could, as to it, be guilty of embezzlement. After receiving its wages and paying over its funds for some two years, the defendant is too late to say that he is not in its employment. We have no doubt that if any one had been injured in person or property on the Philadelphia and Reading Railroad through the carelessness of Mr. Hill, whilst conducting his train, that company would have been held responsible, and we do not believe that it would have had any remedy over against the New Jersey Railroad company; and further, if Hill had been injured or killed whilst on this road, through the carelessness of the Philadelphia and Reading company, he or his representatives would have been without redress, as he would have been accounted an employee of that company. This is entirely unlike the case reported in 5 Barnwell and Creswell 547, where the owner of a carriage hired horses from a livery man, who sent his own servant to drive them, and it was held that the owner of the carriage was not accountable for the carelessness of the driver, by which another horse was injured, as the driver was not in his employ, nor under his control. We have carefully examined the whole class of cases referred to in the English and American reports, where it is held that the party is not accountable for embezzlement, either because he was not a clerk or servant, being a public officer, and employed as such, or not the servant, or in the employment of the person whose property was embezzled, or engaged for the particular occasion, and out of the course of his ordinary duties, and consider that the present case is plainly distinguishable from them. This defendant was, as we conceive, in the employ of the Philadelphia and Reading company, though hired by another for it, in common with the other companies, that it was part of his duty, and in the very nature of his employment, to receive the money of this company, and therefore he comes within the letter and intention of the statute. We conceive that his case is covered by that class of decisions which hold that a person may be the clerk or servant of one, though appointed by another, and is stronger than that of Rex vs. Beacall, 1 C. & P. 457, where it was held that if a person was *employed* as the servant of a corporation, he might be guilty of embezzlement, though not duly *appointed*. The great object of these statutes is to protect employers against the dishonesty of their employees, who receive money into their hands and fraudulently secrete and embezzle, instead of paying it over; and were intended to cover all such dishonest cases of fraud as do not amount to larceny; for if the money be once in the possession, either actual or constructive, of the employer, it is larceny in the servant to abstract it. And in construing this law we must endeavor to prevent the mischief against which it was most especially aimed.

It is greatly to be regretted that in passing our act of Assembly, the code commissioners had not adopted a provision, to be found in the statutes of New York and Massachusetts, bringing cases within the penalty where an employer received "any money, goods, rights in action, or valuable security or effects whatever *belonging to any other person*, which shall have come into his possession or under his care by virtue of such employment." It would have covered a whole class of cases over which the English courts have been much perplexed, embracing all of those where a clerk or servant, by virtue of his employment, received and afterwards embezzled the property of third persons, entrusted to them—as packages sent by mail carriers, railroad conductors, and public or private messages of all kinds, under like of any employer. Under these statutes, the courts of those States have construed the law to cover every case of goods received by virtue of the employment of a hired clerk, servant or employee, belonging to any other than the person so employed, whether of the master or another (see 15 Wend, 147, 2 Metcalf, 343, 346.) And had our act been so worded, the question presented in this case never could have arisen—it would have been too plain for argument. After the most careful consideration of the subject, we are satisfied that the instruction given to the jury was correct, and that tribunal decided according to the weight of evidence—that the defendant was, at the time of committing the offence charged, in the employment of the Philadelphia and Reading Railroad Company. Consequently this motion, both for a new trial and in arrest of judgment, must be overruled, and judgment rendered in favor of the Commonwealth on the verdict.

JOHN J. PEARSON,
President Judge.

ANNOUNCEMENT OF SENTENCE.

After the delivery of the above opinion, the District Attorney, A. J. Herr, moved that sentence be announced, whereupon his Honor addressed the prisoner, viz:

F. P. Hill:—You have been indicted, and after a full, fair, and impartial trial, convicted of feloniously embezzling the money of your employer, the Philadelphia and Reading Railroad Company.

The law of the land treats this crime as one of the deepest dye. It is in many of its features worse than ordinary larceny, for besides dishonestly converting the property of another to your own use, it is a gross breach of trust, thereby destroying the confidence that man should have in his fellow man.

Locks and bolts and vigilance may guard against the depredations of the thief, but how shall the owner protect himself against the plundering propensities of the man whom he employs to guard his treasures and transact his business?

There is but too much reason to believe that this course of plunder by railroad conductors, ticket agents, and other employees, has been, in many parts of the United States, reduced to a regular system, and the thefts from railroad companies may be computed by thousands and hundreds of thousands.

The demoralization arising from the avidity for unlawful gain does not stop here, but seems to permeate almost every portion of society, from the high and confidential officers of the Government, down through army and navy contractors, to the pettyest clerk that attends a dry goods or grocery store, or the bar of a tavern or restaurant. Strict scruplous and conscientious honesty may be considered the exception, and not the rule. It therefore behooves the judicial tribunals of the country, charged as they are to a great extent with the conservation of the public morals, to promptly and impartially punish every one who is proved before them to have participated in this great private and public wrong. This duty we shall certainly perform in every case of a conviction on clear evidence. We have pondered greatly over your case on account of the high and unexceptional character which you have established. We have given you the benefit of every doubt arising therefrom, but have been forced to the conclusion that if the number of detectives who have testified were on the cars under your care at the times stated, and you collected fares from them, as you were bound to do, that you made a false return of the money received, and feloniously embezzled a portion of the fare.

Believing as we do, that your course as a conductor on the New Jersey road must, for the last twelve years, have been generally fair and honest, else you would not have obtained the confidence of your employers and the community in which you lived, yet, we must deplore that in an evil hour you yielded to the sin which was so generally besetting your brethren on the Philadelphia and Reading railroad, and commenced the system of petty plunder which was proved on the trial; thus not only forfeiting the good name previously acquired, but bringing on yourself punishment, and on your family indelible disgrace.

We have most carefully examined and considered every legal objection raised in your behalf, both to the charge of the court, and the finding of the jury as to the character of your employment; and also as to the validity of the indictment, and have arrived at the conclusion that there is not even a well-founded technical error in the proceeding.

You are not to suppose for a moment that we are about to make you a victim to deter others by the terror of the example in order to put a stop to this general system of private plunder. On the contrary, we, as individuals, deeply commiserate your situation, and believe you less guilty than very many others who have hitherto escaped detection; but our sense of duty and the high responsibility thrown on us by official situation, will permit us to indulge in our private sympathies; we are obliged to pronounce upon your crime a sentence commensurate with its enormity. The sentence of the law, as pronounced by the court, is that you pay a fine of one hundred dollars to the Commonwealth, the costs of prosecution, and to undergo imprisonment in the Eastern penitentiary at solitary confinement at labor for the period of one year.

PENNSYLVANIA LEGISLATURE.

REPORTED EXPRESSLY FOR THE TELEGRAPH.

HOUSE OF REPRESENTATIVES.

TUESDAY, February 23, 1864.

The House met at 7½ o'clock, and spent the evening in the discussion of the resolution relative to the non-payment to disloyal citizens of damages by the rebel raids. Messrs. BOYER and ALLEMAN spoke, and the House adjourned.

By Telegraph.

FROM WASHINGTON.

OPENING OF THE PATENT OFFICE FAIR.

Capture of Rebel Letters, &c.

WASHINGTON, Feb. 23.

OPENING OF THE PATENT OFFICE FAIR.

At the opening of the Patent Office fair last night, after Mr. Chittenden had delivered his speech, Major B. B. French read a patriotic poem, which was loudly applauded.

Loud calls then being made for President Lincoln, he stepped forward and said that he appeared before the audience to apologize for not speaking rather than to speak. He thought that the committee had practised a little fraud on him, for they did not intimate, when they called to see him in the morning, that they expected him to speak; therefore he had come before the audience totally unprepared to say anything; that was taking one at a great disadvantage; after the eloquent speech of Mr. Chittenden and the poem of Mr. French, there was great objection to his saying anything, for necessarily, in consequence of his position, everything went into print. [Laughter and applause.] If he made any mistakes it might do both himself and the nation harm. [Applause.] It was very difficult to say sensible things. [Laughter.] He therefore hoped that the audience would excuse him from expressing his desire that the charitable enterprise in which they were engaged might be abundantly successful. [Applause.]

CAPTURE OF REBEL LETTERS, &C.

Capt. Scheetz's detectives have lately ferreted out several lots of rebel letters. The vigilance of this corps has made epistolary communications with rebeldom quite perilous. By their activity they have also captured quite a quantity of contraband goods in several different places. We understand they have found that a member of the Maryland Legislature, who lives in Southern Maryland, has secreted a quantity of arms, ammunition and rebel flags, &c.

IOWA STATE CONVENTION.

Renomination of President Lincoln Recommended.

NEW YORK, Feb. 23.

A special dispatch from Des Moines, Iowa, says that the Union State Convention to-day, by a large majority, passed resolutions instructing their delegates to the National Union Convention to vote for the re-nomination of President Lincoln.

Another special dispatch from Indianapolis says that the Union Convention to-day will be enthusiastic on the re-election of Lincoln, and will direct the delegates to vote for him.

Gov. Morton will be re-nominated for the Governorship by acclamation.

MARKETS BY TELEGRAPH.

PHILADELPHIA, Feb. 23.

But little movement in breadstuffs; flour dull, and 1,000 bbls. Penna. and western extra family sold at $7 25@7 50 and fancy at $8 50@9, the receipts are very small; Rye flour steady at $6 25; in corn meal, nothing doing; fair demand for wheat, and 4,000 bush. red sold at $1 65, and small lots white at $1 75@1 95; small sales rye at $1 30; yellow corn comes forward slowly, and is in demand at $1 12; oats steady at 86c: 2,000 bush. malt sold at $1 70@1 73; provisions held firmly, sales mess pork at $23, hams in pickle at 13½c and lard at 14¼c in bbls and tierces, and 16c in kegs; petroleum is quiet at 28½@29½c for crude, 45@46 for refined in bond and 53@54c for free; whisky held firm at 92@94c in bbls. and 90c in drudge.

NEW YORK, Feb. 23.

Cotton is quiet at 79c. Flour dull and declined 5c; sales of 8,000 bbls at $6 25@6 35 for State, $7 20@7 40 for Ohio, and $8 for Southern. Wheat dull and nominally lower—Chicago spring $1 56@1 58, Milwaukie club $1 57@1 59, and red $1 65@1 68. Corn—sales of 41,000 bushels at $1 27½@1 28. Pork steady—mess $23 50@23 75. Lard steady and unchanged. Whisky nominal and unchanged.

FROM TENNESSEE.

12,000 Bales of Hay Destroyed by Fire.

LOSS $200,000.

Capture of a Rebel Mail, $200,000 in Money, Cotton, Horses, Mules, Wagons, etc.

300 REBELS BAGGED.

LATER FROM NEW ORLEANS.

CAIRO, Feb. 22.

The steamer Graham, from Memphis, with dates of yesterday, has arrived. She brings ninety bales of cotton for St. Louis.

Twelve thousand bales of hay were burned at Memphis on the evening of the 20th. The hay was valued at $200,000, and belongs to Goff, Cochrane & Co. Another account says it had been delivered to the Government.

The gunboat Conestoga, ten miles below the mouth of Red river, recently captured four rebel officers, two of them colonels, while attempting to cross the river with a large rebel mail, $200,000 in New Orleans money, thirty bales of cotton and a number of mules, horses and wagons. The property was delivered to the quartermaster at Natchez. The prisoners were retained on board the gunboat Marly.

300 rebels have been captured in the neighborhood of Helena and sent to Nashville, by General Buford, during the past month.

The steamer Olive Branch from New Orleans, with dates to the 15th, has arrived. She brings 91 bales of cotton and a large lot of sugar and molasses for St. Louis. She also has the 2d Illinois cavalry, Col. Mudd, who have re-enlisted as veterans.

From Fort Monroe.

FORT MONROE, Feb. 22.

Washington's birthday was duly celebrated to-day in this Department by the firing of a salute from the battery and the United States frigate Minnesota. The English and Russian frigates lying in Hampton Roads also honored the day with salutes. A review of the troops inside of Fort Monroe also took place.

General Butler returned this morning from Point Lookout, where he has been on business for the last two days.

The flag-of-truce steamer New York arrived this afternoon from City Point. She was detained some time by ice in the James river.

Ebenezer Paine, a citizen of Norfolk, was committed to jail yesterday for attempting to run the blockade. Michael Heely and William Kennedy, charged with desertion, escaped from Norfolk jail on Saturday night. A rebel prisoner of war, named Jones, has also escaped from Fort Norfolk.

The Priate Tuscaloosa Seized by the British Authorities.

BOSTON, Feb. 23.

The bark John Gilpin, which arrived at this port to-day, brings dates from Cape Town to December 31st.

She reports that the rebel pirate Tuscaloosa had been seized by the British authorities at the Cape for violation of the neutrality laws, in landing a portion of her captured cargo on that coast.

The Tuscaloosa put into Simon's Bay on December 26th, to obtain supplies and repairs. Shortly after dropping her anchor, Sir Baldwin Walter despatched a boarding party who seized the vessel under the authority of the British Government.

The Tuscaloosa was in command of Lieut. Lowe, who had returned to Simon's Bay after a three months' cruise, during which, out of nearly one hundred vessels, she met only one United States ship.

In the meantime she had been ordered away from a Brazilian port, in consequence of which her crew were placed upon short allowance.

After the seizure of the vessel, Lieut. Lowe lodged a formal protest against the proceeding and went to Cape Town to consult with legal advisers.

Mr. Graham, the U. S. consul, had also lodged a claim against the vessel in behalf of her former owners, and it was thought that the question raised as to the legality of her condemnation by Captain Semmes, who claims to constitute a prize court by authority from the rebel Government, will have to be argued before and decided by Sir William Hodges, in the Admiralty Court.

[The pirate Tuscaloosa was formerly the bark Conrad of Philadelphia.]

Loss of the Bohemian—Statement of One of the Passengers.

PORTLAND, Feb. 23.

From a passenger, who came up on boat No. 5, I learn that he was standing on deck at the time the accident occurred. They had passed the buoy, and the passengers were just remarking that it was a pilot boat coming out, when the ship struck. The boats were got out safely, with the exception of No. 2, which was swamped. No. 5 took aboard all she could hold, including several who had jumped into the water. Being unable to find a landing place, she was rowed up the harbor. She contained mostly cabin passengers, and some steerage passengers, whose names I did not learn, with the exception of a Mr. Brown.

XXXVIIIth Congress—First Session.

WASHINGTON, Feb. 23, 1863.

HOUSE OF REPRESENTATIVES.

The House resumed the consideration of the bill to establish a Bureau for Freedmen's Affairs.

Mr. Kelley (Pa.) advocated the bill and pressed its immediate passage to meet the exigencies which have arisen under the present war.