Incendiarism.—The fire which occurred on the Germantown Road, near Otter street, in the buildings connected with the tannery of William F. Forepaugh, on Saturday morning, a few minutes after one o'clock, has given rise to a great many conjectures as to its origin. That it was the work of an incendiary is apparent, from the fact that five persons were in and about the premises from 9 o'clock in the evening until a short period before the buildings were discovered to be enveloped in flames. It is said the persons who went there to watch during the night, were fearful the contents of one of the buildings—a large number of butts and kips—would be smuggled away, as they were smuggled there from another place. Shortly after midnight, the watchmen became somewhat chilled, and a proposition was made to go into the house of Mr. Miller, (one of the party,) which was near the tannery, to get warm.

This was readily accepted, and after looking through and around the buildings, all five went in for the purpose designated. They had been there but a little while, however, before a cracking noise was heard, and the fire was discovered. It burned furiously for a short time, and despite the effort of the firemen to save the property, everything fell a prey to the devouring element except a portion of the butts, which were damaged. We learn there was no insurance on the property. The butts and kips were deposited in that place on Monday, Tuesday and Wednesday nights, between the hours of 12 and 4 o'clock, as was alleged by one of the witnesses who testified before Alderman Kenney, on Saturday afternoon, in the case of William F. Forepaugh & Son, who were charged with conspiracy to defraud their creditors.

Misdemeanor—On Sunday morning three of the Directors of one of the up-town Fire Companies, were arrested in the Northern Liberties for refusing to muffle the bells of their carriage while returning from an alarm of fire. They were taken before Mayor Howell who ordered them to find bail to keep the peace. He administered to the prisoners some wholesome advice, and assured them that upon a repetition of the offence, he would enforce the ordinance of the District, which inflicts a penalty of ten dollars. The police of the Northern Liberties are determined to put a stop to fire companies running through the District on the Sabbath, when there are no fires.

Stabbing Case.—On Friday evening a crowd of boys attacked a lad named William Forsyth, at the corner of Jefferson and Phillip street, and beat him in a shameful manner. One of the assailants stabbed Forsyth in the back with an oyster knife, and another one struck him upon the head with some sharp instrument, inflicting a dreadful gash. On Saturday, Constable Fearheller arrested two lads, named Charles Murry and Patrick McAnnany, on the charge of being concerned in the affair. The former was committed in default of $1,200 bail, by Alderman Hayman, to answer at Court, and the latter in the sum of $600. Forsyth's injuries are of such a character as to confine him to his bed.

Riotous Conduct.—During an alarm of fire on Saturday night, two of the Kensington fire companies run into each other at the corner of Front and Maiden streets, but the presence of a large police force prevented any serious disturbance. Two of the persons having the tongue of one of the carriages were arrested and held to bail by Alderman Clouds to keep the peace. Another person was arrested for insulting the police. He was ordered to find bail, by the same magistrate, to keep the peace. Subsequently the same two companies endeavored to get up a fight in the Northern Liberties, but were prevented through the interference of the police.

The County Board.—Mr. Crabb, Senator from the city of Philadelphia, has introduced, in the State Legislature, a bill for the reorganization of the County Board. It proposes that the members of that body shall be specially elected by the City Councils, District Commissioners, and the Judges of the Court of Common Pleas. The members of the Legislature will cease to act as the County Board, and the authority conferred upon that body will be given to persons specially elected.

Slight Fire.—The alarm of fire at half past five o'clock on Saturday morning, was caused by the burning of some combustibles in the cellar of a house in Carpenter street, near Tenth, occupied by Mr. Bernard Haffey. The flames were confined to the cellar, and the damage was trifling.

Church Troubles.—Yesterday, a man was held to bail by Ald. Shoemaker, on the charge of collecting pew rent from the occupants of pews in the First Secession Presbyterian Church in Kensington. He was ordered to find bail to answer at Court.

Narrow Escape.—Dr. C. C. Moore, of Kensington, was yesterday, violently thrown from his carriage, and narrowly escaped injury, by his horse taking fright from the breaking of a bolt belonging to the carriage in crossing a deep gutter in Thompson street, near Fourth.

Counterfeits.—We have been shown a counterfeit five dollar bill on the Hudson River Bank, New York. It is a good imitation and well calculated to deceive. The storekeepers cannot be too cautious in the receipt of notes of this description.

Death in Prison.—A miserable vagrant, named William Dougherty, was found dead in cell No. 9, at Moyamensing Prison, on Friday. Coroner Goldsmith held an inquest on the remains. A verdict of "died of intemperance" was rendered.

His Name.—Robert F. Springer is the name of the young man who fell from the new building at the corner of Second street and Gray's Alley, on Friday evening last. Both his ancles were strained, and he was otherwise seriously injured.

Hospital Case.—Michael Nolan, a lad of ten years of age, was brought to the St. Joseph's Hospital on Saturday night with a lacerated wound of his foot. The accident occurred at the depot of the Reading Railroad, by the cars passing over it.

Buried with Masonic Honors.—The colored Masons of the city turned out yesterday in large numbers, to attend the funeral of James Melbourne, a prominent member of the order. He was buried from his residence in Lombard st. near Seventh.

Hospital Case.—James McCabe had his leg badly fractured lately, while working at the coal mines, in Luzerne county. He was brought to the St. Joseph's Hospital on Saturday.

Assaulting an Officer.—Edward Patterson was held in $400 bail, yesterday, by Alderman Ogle, for committing an assault and battery upon Mr. Thos. Tully, the officer at the Circus.

Accident.—A laborer, named Philip Monaghan, had one of his feet badly crushed on Friday afternoon, at a stone quarry near Chesnut Hill. The sufferer was admitted to the Hospital.

Mayor's Office.—There were thirty-one persons before Mayor Gilpin yesterday, for drunken and disorderly conduct, and one for passing a counterfeit one dollar note on the Bank of Middletown.

Carrying Concealed Weapons.—A man was arrested in Southwark on Saturday, on the charge of carrying concealed weapons, and held in $1000 bail by Ald. Allen, to answer at Court.

Committed.—Isaac Caleghan was committed in default of $500 bail, on Saturday, by Ald. Armstrong, on complaint of Mr. S. Martin, for disorderly conduct.

Inhuman Conduct.—A man was committed to prison yesterday by Ald. Shoemaker, for cruelly beating his wife, who is a blind woman.

False Pretences.—Yesterday, a man was sent to prison by Ald. Shoemaker, for obtaining money under false pretences.

Threatening to Shoot.—Isaac Thomas was held in $500 bail, on Saturday, by Ald. Buckman, for threatening to shoot.

LEGAL INTELLIGENCE.

Reported for the Inquirer.

U. S. COMMISSIONERS' OFFICE—Before Commissioner E. D. Ingraham—*A Slave Case*—On Saturday morning, a hearing took place, before the Commissioner, of Chas. Wesley, a young colored man about twenty years of age, charged with being a *fugitive from labor*. His claimant is Gideon E. Rothwell, of New Castle county, Delaware, who claims to hold the alleged fugitive under the laws of the State of Delaware. The writ of arrest was issued on Friday by the Commissioner, and placed in the hands of U. S. Deputy Marshal Henry L. Smith and Constable John Agen, of Third Ward, Southwark. The arrest was made on Friday night, about 10½ o'clock, at the head of the Inclined Plane, on the north side of the Schuylkill. He is alleged to have absconded about the first of June last.

The story of the boy is, that "he is a free born boy," and was born in *New Jersey*, about one mile from Camden. He lived on a farm with a man named Rowley, for four years before he came to this side of the river.—He then went to boating on the Canal, and continued that business for four months. He has *resided* for the last four months at the head of the Inclined Plane, and denies any knowledge of the person who lays claim to him. Wm E. Lehman and Jos. E. Costello appeared for the claimant, and D. P. Brown and Wm. S. Pierce for the alleged fugitive.

James Dool, sworn—I know the negro boy before me, and the claimant, Mr. Rothwell; have worked on his place in Delaware, and saw the boy; worked with him; he was a slave; I have conversed with him as to his condition; he told me he was sold until he was 28 years of age to Mr. Rothwell, and he *thought* he had 9 years to serve; this was last February; I left last March; I next saw him in a lime boat coming into the wharf at Philadelphia; knew him as soon as I saw him, but did not speak to him until night; I said to him, "Charley, you did get away at last;" he didn't speak to me; I said "Charley, you need not think to get away from me that way;" he said he ran away and hid in the marsh until night, when a lime boat passed and he got into it and came to Philadelphia; he invited me into the cabin to take a drink of whiskey with him; I told a young man that he was Mr. Rothwell's negro; I *asked him about the family*, and about a young man who worked on the farm; he said the family were all well, and that the young man had been married; I have no doubt that this is the boy.

Cross ex. by D. P. Brown—I was born in Ireland, and came to Philadelphia in 1847; I lived with my parents, Hugh and Ann Dool; lived with them when I did not follow the water; first went to Delaware in 1850; went there with a load of lime; went to live there last October a year; went to Mr. Rothwell about the 7th of January, 1852, and left on the 1st March; saw this boy first at Mr. *Rothwell's* on the 7th or 8th of January. I cut cord wood, and this boy hauled it away from the land we were clearing. I left him there; I was intimate with him; he did not know his age when sold; he said Mr. Temple sold him to Mr. Rothwell, and had been one year with the latter at that time; had seen Mr. Temple, but did not know him; was at his store once for provisions; saw this boy about the 15th or 16th of June last, in Philadelphia, on board a lime boat; on the Schuylkill; the name of the boat was Sampson Riddle; recognized him 60 feet off, going up the river; went to see him the next night at Callowhill street wharf, at the lime kiln; a man named Holmes was captain; nothing said about slavery before the captain, and nothing when I first saw him, but what I said about his getting away. I told Captain Henderson *of Del.*, that Mr. Rothwell's *slave* was here, about a month after; I did so because I said Mr. Rothwell treated me well when I went to Delaware, and I thought it was wrong to let his slave stay here; he had bought me shoes when I had none to my feet; I went in the vessel with this boy for a month, but did not tell him I had sent word to his master; I was on board the vessel with him on the 8th of July, and left on the Sunday before the last of August; the boy drove the horse on the canal; I saw the boy since on Mr. Shaw's wharf, and asked if Captain McGahey was on board. I had sent word be*fore*; his master came up in August, but I did *not* take the boy; I showed the boy to the master; can't tell why the master did not take him then, but suffered him to remain here for six months longer; we were standing *on the bridge looking* at him; the boy was steering and lying down; the master said he could not recognise him while lying down; his master went back to Delaware the next day; he said he was so busy on his farm, that he could not attend to him now; when we were frozen up at Delaware his master asked me to find out where the boy lived, and offered to pay my expenses up; I found out he lived at Mr. Scott's, at the Inclined Plane; we did not go near the boy; I took the officers, yesterday, and showed them the boy; when the boy was arrested, he called out for Mr. Scott; his master and *myself stood* out in the field about a hundred yards off; I told the officers there was no other black boy about there; they put him into a carriage; Mr. Rothwell asked him if he knew him; the boy said no; his master then asked him if he would not like to go home; the boy replied yes; he then asked him if he did not treat him as well as Mr. Temple; the boy replied yes, better; his master then asked if he had even whipped him, to which the boy replied no; he was asked why he ran away; he answered, a white man in a lime boat had persuaded him; his master lives near Smyrna, New Castle County, Del.

Ben. R. Hansell testified that he knows Rothwell and the boy; he knew Temple, and knows that the boy owes service to Mr. Rothwell until he is 28 years of age; the boy told him so before he ran away.

The bill of sale was offered in evidence, showing that the claimant had purchased a boy named Charles Westley, for $300, of Emery Temple, until he should be 28 years of age.

After the testimony for the defence had been concluded, Messrs. Brown and Pierce asked for a postponement until Friday morning at 10 o'clock, to afford the defendant an opportunity to send for his friends in New Jersey to establish his freedom. This was granted, and the case adjourned over until that time.

Another Alleged Counterfeiter.—On Saturday, before the Commissioner, Franklin Kauffman had a final hearing on the charge of selling counterfeit $1 coin, and was bound over in the sum of $3000, to answer at the present term of the Court. The testimony against him was that he sold the witness who testified against Bowman, at the same time and place in Lancaster, that the latter made the sale, about a dozen spurious coin. The prisoner was defended by J. Simon Cohen and Reah Frazer. The defendant obtained the required security from a citizen of Lancaster, who was present. U. S. District Attorney Ashmead appeared for the United States.

SUPREME COURT—Chief Justice Black, and Judges Lewis, Lowrie and Woodward.—The following opinions will be read with interest:—

McDonald vs. Todd—Gibson, J.—The assignment of error indicates that the defence was put on the supposed official character of the plaintiff's mispayment, as Sheriff; and of his means of ascertaining the truth of the fact which was the basis of it. But that it was unofficial, appears by the exigence of the writ, which was to have the money before the judges at the return day. In contemplation of law, money made on an execution is theoretically in Court, though it is seldom actually there, except when it has been ruled in, and then the party entitled to it has leave to take it out. In an English Court there is no contest for the ownership; for the money is adjudged to him on whose execution the property was sold, and without regard to priority, the remedy of an injured execution creditor being an action against the Sheriff for the false return of a *nulla bona*; in other words, according to Bradley vs. Windham, 1 Wils. 44, for selling on the wrong execution. In nothing, however, does the practice in that country and in this, differ more strikingly than in regard to an execution in the Sheriff's hands. There, the Sheriff goes by the mandate of his writ, and the Court hears no more of his doings till he returns; here, the Court *superintends* the execution of it by receiving motions to set aside a levy, or an inquisition, or a sale, or by correcting any other irregularity. There he acts at his peril; here he is put on his path again when he has strayed from it; and since the foundation of the province, the practice has been to sell on all the executions in his hands at the time, leaving the responsibility of distribution to the Court, as if the executions were liens on the money, and thus relieving the Sheriff, with reasonable care on his part, from all risk whatever. And this practice, so far as the distribution of money is involved, has the sanction of a comparatively recent statute, by which it is established and regulated. Now, had the plaintiff had the money before the judges, pursuant to the command of his writ, his function, in paying it into Court, would have been official; and there would have been an end of his responsibility. But in order to prevent delay and save the expense of cumbrous forms, it has been usual, where the right to the money is not disputed, to pay it immediately to the creditor supposed to be entitled to it, and to retain the execution. In such a case, however, the payment is private, unofficial and unformal; and when the Sheriff has departed from the line prescribed by his writ, he acts on his own responsibility. He discards its authority, which consequently gives no further stamp to his act. In regard to acts without the pale of it, he can neither be protected nor prejudiced by it. If he sells the goods of a stranger by color of an execution, he is an ordinary and a defenceless trespasser. An executor, or an administrator, sometimes pays legacies or distributive shares without an account or a decree; but no one would think his payment official to bar the correction of a mistake—"The only payment by which a party is bound," said Mr. Justice Buller, in Malcolm vs. Fullerton, 2 Term 645, "is that which is made *into Court*: *that* is a payment of *record*, and the party can never recover it back again, though it afterwards appear that he paid it wrongfully; but that does not extend to payments between party and party." Now, instead of thus disburthening himself of the money with its responsibilities, the plaintiff made himself a party to an irregular, though a usual, transaction, by dealing with it as stakeholder; and it cannot be said his wrongful payment of it was payment of record.

The question then comes to this:—was payment of the defendant's judgment procured by misrepresentation of the state of the liens. If it was not, it may be retained; if it was, the defendant cannot retain it with a clean breast. It would not be competent for him to say that having the means of detection in your hands, you ought not to have believed my agents; but as the luck has succeeded by your overweening confidence, there is an end of the matter. It is scarce necessary to say that an attorney who has obtained judgment for his client, continues to be his agent in the collection of the money; and that the fraud of an agent or a sub-agent, in the management of the business, affects his principle as if it were his proper act. And as the question of fraud was left to the jury, what we have to do is to determine whether there was evidence to enable them to entertain it. The attorney testified that he told the plaintiff he thought the first judgment was paid or nearly so; but that *he could get more light on the subject from the judgment* creditor. But another witness testified, that when the attorney claimed the amount of the defendant's judgment, the plaintiff said it might be necessary to have an auditor to ascertain the priority of the liens; that the attorney replied it would unnecessarily be the matter up and create expense; and that the defendant's judgment was the first lien; and that the plaintiff then said, that if such were the fact, he would pay the money immediately. The jury were thereupon properly instructed, that if there was such a representation, the plaintiff would be entitled to recover.

Judgment affirmed.

Culin's Appeal—Lewis J.

The question arising upon the construction of the will in this case is, whether the testator intended to prefer his grandson over his own daughter. After giving a life estate to his wife, he gives a residuary share to his daughter Hannah, in terms as absolute as it is possible to express them. But he afterwards appoints a trustee, who is directed to observe certain conditions in regard to the payment of it. If his daughter's husband continues to refrain from taking strong drink to excess for one year after the death of testator's widow, the daughter's portion was to be paid to her as to the other children. But if otherwise, and he should prove to be of intemperate habits, then the interest only was to be paid to her annually, and at her decease the principal is given to her son Benjamin. Peter Wright, the husband, died before the testator's widow; so that it *became impossible to bring the legacy within* either of the conditions respecting its payment. A dead man cannot be said to refrain from drinking to excess, within the meaning of the testator, although, in another sense, nothing is a more peremptory termination of such excesses than the solemn sobriety of the grave. Nor can it, with any propriety, be said of him, that while quietly reposing beneath the clods of the earth, he indulged in intemperate habits; so that the legacy to the grandson, never vested, because it was to take effect only upon the happening of this last event, and upon the necessity thereby created, of withholding payment from the daughter. The general intent which overbears all others in this will is to secure the share of the daughter from being wasted by the improvidence of her intemperate husband. As between the daughter and the *grandson*, the former was first in the thoughts of the testator, when he gave her, in absolute terms, a full share of his estate. She was still in his thoughts when he created the trust for the purpose of preserving her interests from the intemperate habits of her husband.

With affectionate consideration of her unfortunate condition, he desired to promote her interests when he hopefully offered encouragement for her husband's reformation, by directing the payment, in that case, to be made to her as to the other children. And he manifested the same unshaken regard for her even when he yielded to the necessity of withholding the principal from her, after her husband had proved by his conduct, that it could not be paid to her with any advantage or safety. *But his death removes all obstacles*; and renders its payment to her perfectly safe, and therefore entirely consistant with his will. When a son attempts to seize the inheritance which the natural consent of human affection would carry to the mother who brought him into existence, and nourished him during the period of helpless infancy, he should establish a title entirely free from doubt. No such title is shown. The case is clearly with the daughter upon the manifest intention of the testator. It is equally clear upon the law of conditions which has been invoked to defeat her. In this case the gift to her was absolute in the first place, and the condition was annexed to the *payment* not to the *gift*. It is therefore a condition subsequent, which was possible in its creation, but became impossible afterwards by the act of God. *In such a case the rule is familiar* and well established that the condition is discharged and the legacy become absolute.

It is ordered and decreed that the decree of the Orphans' Court be affirmed.

COMMON PLEAS—Judge Thompson—*Application for an Injunction.*—Beebe and others vs. Boswell and others.—This is an application for a special injunction to restrain the transfer or other disposal of the property of a limited partnership; to prevent a creditor from having judgment and execution upon the assets of the partnership, and to appoint a receiver to take charge of its property. The complainants were creditors, and alleged that Burroughs, one of the defendants, was about to obtain judgment for a large amount against the general partner, and by his execution he would obtain a preference over other creditors of the partnership, while the law establishing limited partnerships forbade preferences of any kind to be made. After argument by Jos. A. Clay for complainants and Henry M. Phillips for the defendants, Judge Thompson refused to grant an injunction, expressing the opinion that while the limited partnership prohibited a *preference* either by *sale, assignment* or *transfer*, it did not prevent a vigilant creditor from obtaining the fruits of a judgment, even to the exclusion of other creditors. Injunction refused.

Special Commission.—Ryerson vs Lloyd, Richmond vs Same, Smead vs Same, Bush vs. Same, and Ryerson vs Same again. This was a rule to show cause why a special commission should not issue to the City of New York and to the City of Newark, N. J., to take depositions of witnesses to be read in evidence on the hearing of the said cases. Judge Allison refused the commission on the ground that the Court had no authority to issue it.

THE CIVIL COURTS.—The Supreme, Nisi Prius, District and Common Pleas Courts, were engaged in the usual current business of Saturday—such as motions, &c.

QUARTER SESSIONS—Judge Thompson—*New Trial Granted*—Wm. Mountain, who was recently convicted of keeping a disorderly Dance House in Plum street, below 4th, on Saturday morning had a new trial granted him. His counsels, D. P. Brown and F. C. Brewster, were, at the time he was convicted, both actively engaged in a trial in the United States Court. The District Attorney had given notice *of the day fixed for* the trial of Mountain, but as the case in the United States Court took a greater space of time than was anticipated, the defendant's counsel could not be in attendance, and the case of Mountain was submitted to the jury without a defence, and he was convicted. On this account the new trial was granted.

A Case of Bigamy.—On Saturday, in the Quarter Sessions, before Judge Thompson, Rebecca Lacy was called up for sentence, on the plea of having been guilty of bigamy. Legally she was guilty of the crime; but her moral guilt is certainly entitled to merciful consideration in the minds of the Court and the community. According to the testimony, she was married to her first husband about seven years ago, with bright hopes for the future. The honey moon had not passed before she was compelled, by ill-treatment, to separate herself from him. A short time after their separation he made an attempt upon her life by shooting her in the head with a pistol. The wound did not prove fatal. Further instigated by bad influences, this husband committed a crime of high grade in New Jersey, and fled from the State.

Some time afterwards, he was arrested in Delaware, taken back to the State of New Jersey, and after trial and conviction there, sent to prison for four years, which term he actually served out. All the time between their separation and his discharge from prison, they lived apart; and from the fact of his becoming a *felon*, she was led to believe that she was at liberty legally to marry again. This error prevails to no limited extent among people in the lower walks of life. In last June she married again, and was prosecuted for bigamy. When informed that her act was contrary to law, she plead guilty. The old law maxim is, "that ignorance of the law excuseth no one;" but there are cases, and this we believe to be one of them, where punishment would "be more equitable in the breach than in the observance." Sentence deferred until Saturday next.

Why is it?—During the present term of the Quarter Sessions, Mr. Hagert, the Solicitor to the Board of Guardians of the Poor, has had twenty cases of alleged desertion against husbands, on the complaint of wives. Husbands seldom or never make this kind of complaint against wives, though many instances of this sort occur. The fact of twenty cases occurring in one term, shows either a very bad state of morals, or an ill adaptation of the parties to the duties of wedlock. We have thought for some time past that we discovered a gradual loosening of the marriage tie, arising, probably from the eager haste with which many rush into it, and then *speedily repent* of their folly. Marriage is a solemn step, and should be carefully considered. There were several cases heard in the Criminal Court on Saturday.

Acquitted—Wm. Rodgers, who was charged with keeping a disorderly eating cellar, in Shippen, below Fourth street, was acquitted by the jury on Saturday morning.