say exactly but thinks it would be from twenty five to forty dollars.
(C. X. by Mr. Glenn) The flooring on the stage is very rotten and there is danger of persons dancing on it falling through about five or six years ago one of the Arabs was dancing when jumping on the stage and throwing a somerset broke through the stage the place thus broken was effectually repaired and that part made safe, deponent does not know how soon some other part may give way.
(C. Ex by Mr. Schley) There has been a number of dancers on the stage of Holliday Street theatre since the Arab broke through At the time Fanny Elsler came deponent cut out some parts of the stage which he thought unsafe and made the stage as he supposed secure. Deponent has seen about one hundred and fifty persons on the stage at one time this about four or five years ago in the performance of the Naiad Queen at different times within the last four or five years there have been frequently thirty or forty persons on the stage at one time within the last year deponent does not think that he has seen more than forty persons on the stage at one time, In the present year he has seen between thirty and forty persons on the stage at one time Deponent considers the stage in its present condition unsafe for any person to dance on thinks that there being no spring in the floor if the foot of a person dancing should touch a rotten part it would go through, deponent considers the stage safe for all ordinary performances where they require merely walking on the stage.
Jacob I Cohen Jr. a witness of lawful age a witness produced on the part of the excepting being duly sworn deposes and says that, He was present at the sale of the Holliday Street theatre on June 20th 1844, Mr. Schley solicitor for the excepting asked the witness if he supposed that the property would be sold at that time to this question the solicitor for James B Wagner objected and desired that his said objection should be noted. Deponent answered that he did not suppose the property would be sold at that time from what he had heard before the day of sale and his observations after he entered the exchange before the sale. By his expressions of what he had heard before the day of sale he refers to a conversation which he had with Mr. Latrobe, the Trustee. Some days before the sale deponent called Mr. Latrobe to obtain information in relation to a claim which deponent, had as a stockholder in consequence of an advertisement requiring claimants to file their claims Mr. Latrobe said that there was no occasion for deponent to do that he being a stockholder those claims would come in as a matter of course. Deponent and Mr. Latrobe had some conversation in relation to the probability of the claim in the hands Messrs Brune and Brown being settled and also in relation to the probability of a sale of the theatre in case the claims should not be settled among other matters deponent inquired of Mr. Latrobe as to the probable price which the theatre might bring and whether he would limit the price deponent and Mr. Latrobe spoke of the former occasion when the theatre had been knocked off

for twenty thousand dollars, It was a matter of doubt with both Mr. Latrobe and the deponent whether the theatre would bring twenty thousand dollars at this time deponent enquired of Mr. Latrobe if he intended to fix any limit under which the theatre would not be sold, He Mr. Latrobe said no that he had not fixed any price, but would be governed by that discretion which trustees generally exercise in relation to property in their hands, That he would make up his mind between that time and the time of sale as to the price, He seemed to settle down so far as deponent could judge at fifteen thousand dollars as the price which the theatre should bring, at the time Mr. Latrobe remarked that although it might not bring fifteen thousand dollars at this time, At some future time it might bring a less amount if so he would consider himself justified in accepting a less sum than fifteen thousand dollars after having exercised the discretion which he thought he might use in relation to the matter, deponent parted from Mr. Latrobe under the conviction that he would not sell the property for less than fifteen thousand dollars on the day of sale, that conviction was produced by Mr. Latrobes remarks during this conversation. Deponent attended the sale which took place some twelve or fifteen days after above conversation, under the conviction arising from this previous conversation with Mr. Latrobe that the property would not be sold for a less sum than fifteen thousand dollars. From the small number of persons attending the character of the persons attending and the other circumstances deponent supposed that there would be no sale, deponent saw Mr. Wagner at the sale did not suppose that he was interested in the sale as he was not a stockholder, the crier read off the advertisement and was then ready for a bid, Mr. Cannon then bid thirteen thousand dollars the bid was cried the usual time and in the usual manner there was no other bid given and the property was knocked off, the offering did not occupy a long time, about the time the bid was closed a few other persons came into the rotunda after the property was knocked down deponent on retiring inquired of Mr. Cannon if the property was sold, He said that he did not know, that he had made the bid for Mr. Wagner. After the conversation which deponent had with Mr. Latrobe deponent was firmly under the impression that the theatre not be sold at a price under fifteen thousand dollars. Deponent and his brother Mendez Cohen went together to the exchange to the sale, In going down he remarked to his brother that he did not think there would be any sale, not that he supposed the theatre would not bring over fifteen thousand dollars but that he thought some arrangement would have been made to supersede the necessity of a sale. When the property was cried at thirteen thousand dollars deponent did not suppose it was a real bid - but thought it was one such as auctioneers generally make to start property he would have gone from the exchange under the impression that the property was not sold if he had not made the enquiry of Mr. Cannon and received the answer which he has above stated. The sale was on Saturday a day on which neither deponent or his brother trans-