Mrs. Bradley Weeps as She Tells of Her Life With Brown

Borough Bank's Altered Books Betore Grand Jury

C. T. Barney's Will Filed; Bequeaths All to His Wife

Fair and colder to-night; Wednesday cloudy.

FINAL RESULTS EDITION

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PRICE ONE CENT. NEW YORK, TUESDAY, NOVEMBER 19, 1907. PRICE ONE CENT.

BROWN'S LOVE LETTERS TO MRS. BRADLEY READ IN COURT

In Missives the Ex-Senator Declared Deep and Lasting Affection, Called Her His Wife and Said Nothing Should Ever Part Them.

PRISONER TELLS STORY OF HER LIFE AS THRONG LISTENS

Jurors Weep with Her as She Recounts Brown's Devotion and His Subsequent Treachery and Desertion—Got Divorce to Marry Him.

(Special to The Evening World.)

WASHINGTON, Nov. 19.—Weeping and shrinking from the curious gaze of a throng that jammed Judge Stafford's court, Mrs. Annie M. Bradley took the witness stand to-day and told how her life had been wrecked by ex-Senator Brown, the man she shot to death in this city last December.

Her story went back to her early life before she met the man who wooed and then cast her off. During the recital, which lasted hours, the prisoner, it was plain, suffered agony. Then again in recounting events that had brought her joy, she seemed to momentarily forget her present, with its miserable settings and the gallows in the background, and revel in the memories of the past.

Mrs. Bradley, led on by the questioning of Judge Powers, her chief counsel, told how she had been mismated in marriage; how Brown was introduced to her by her own uncle; how the ex-Senator immediately laid siege to her heart, and finally, with constant and vehement protestations of love and promises to make her his wife, she had yielded her affections to him.

Mrs. Bradley claimed that Brown had made many promises to secure a divorce from Mrs. Brown and marry her; had introduced her as his wife, and given her a pistol which he told her was for her protection against Mrs. Brown. It was this pistol she used to kill him.

Mrs. Bradley identified a written acknowledgment by Brown that the two youngest children of Mrs. Bradley were his.

The court scene while Mrs. Bradley testified was most dramatic, some of the jurymen and women in the courtroom weeping with her as she told her wrongs.

As the hands of the clock in the court-room indicated the approach of the hour of 3 this afternoon, the usual time of adjournment, Mrs. Bradley looked languidly at them.

"I am so tired," she said.

The Court ordered an immediate cessation of proceedings for the day.

When Court adjourned Mrs. Bradley had almost completed her recital of her relations with the former Senator. She had not reached the events which occurred in Washington, but had approached them and they will constitute the principal part of her testimony to-morrow.

Mrs. Bradley in telling of her life went over the whole harrowing story of her relations with Senator Brown. She told how she had avoided him, how insistent he had been, how she had declared to him that she would not be the means of breaking up his home and how finally he had won her.

When Mrs. Bradley took the stand every eye in the court-room was upon her. Members of the jury who yesterday sat through hours of technical medical testimony to-day stirred in their chairs when Mrs. Bradley rose to take the stand.

Makes Jurors Weep.

Before she had proceeded far every man in the jury box showed his deep interest, and when Arthur Brown's name was first mentioned and Mrs. Bradley broke down and wept two men in the box brushed the tears away from their eyes and the others looked either out of the window or at the floor.

It was a pathetic story told by Mrs. Bradley and one that was full of dramatic features.

Judge Powers, her leading counsel, asked the questions, and they were at first directed to developing a history of the defendant, who said that she was thirty-five years of age; that she was born in Kansas City and educated in Denver; that she had had small-pox and pneumonia and had been badly hurt by a blow on the head while a child.

She went to Salt Lake City in 1890, she said, and had lived there ever since. She had occupied a clerical position in the Salt Lake Water Works for three years and eight months.

"Were you ever married?"

"Yes, sir; I was married to Clarence Bradley a week after I left the water works."

Two children, a boy and a girl, resulted from this union, she said.

She joined the Salt Lake Women's Club, a literary organization, which gave much attention to civic reform, very soon after her wedding, and later became secretary and treasurer of it. She had also become a member of the Women's Press Club and the Poets' Round Table.

Then She Met Brown.

It was through her connection with these and political organizations that she became acquainted with Senator Brown.

When Judge Powers undertook to develop Mrs. Bradley's connection with politics District-Attorney Baker entered a protest, but lawyers on both sides repaired to the Judge's desk with the purpose in view of settling the point by a quiet conference.

The consultation evidently resulted in a victory for the defense, as Judge Powers was permitted to develop the fact that Mrs. Bradley had taken an active part in the affairs of the Republican party of Utah, where women vote, and that she had been secretary of the State Committee.

"Were your relations with your husband happy or unhappy?" she was asked.

"Unhappy," was the reply, spoke-

TELLER CITES FRAUD OF BOROUGH BANK BEFORE GRAND JURY

Doctored Books, With Erasures and Missing Pages, Supplemented by Employee's Testimony — Cashier May Also Be a Witness.

Under the direction of Assistant District-Attorney Elder most of the facts connected with the systematic frauds in the Borough Bank of Brooklyn were laid before the Grand Jury to-day. In addition to hearing oral testimony, the Grand Jury looked over forty ledgers and accounts of the bank, in which startling corrections and alterations were pointed out by Bank Examiners G. W. Hermans and W. L. Hays.

Much of the morning session was taken up with the testimony of Frank Iles, receiving teller of the bank. He was in position to see much of what was going on and added interesting details to the already amazing allegations concerning the manner in which Director William Gow, President Maxwell and Cashier Campbell used the funds of the bank as though those funds had been their personal property.

Six of the directors of the bank were examined this afternoon. They were former Sheriff William J. Buttling, Robert J. Cuddihy, Congressman Fitzgerald, Warren Diffendorf and William F. Hurley. Subpoenas have been issued for Directors Gustav Heim, David Hutton, Albert Kleinert, Charles E. Levy, Thomas F. Martin and Herman Wischman.

No Directors Called.

Mr. Elder has not subpoenaed any of the directors or officers of the bank against whom criminal charges might lie as a result of the investigation. He does not desire to complicate the case by giving any of the persons accused of looting the bank loopholes of a legal nature such as their enforced testimony before the Grand Jury might furnish.

Friends of Arthur Campbell, the cashier, are of the opinion that he will turn state's evidence. He has already made a confession, as have Maxwell and Gow, but his testimony will be necessary if charges of forgery are to be substantiated.

Campbell has expressed a willingness to do anything in his power to further the ends of justice.

Action of the District-Attorney's office of Kings County has done much to restore confidence in Brooklyn.

DEPOSITORS COMPROMISE TO BAR RECEIVERS.

In an effort to keep the Borough Bank out of the hands of permanent receivers more than 2,000 depositors met to-day at the Columbia Theatre, Brooklyn, and agreed to leave the bulk of their money in the bank for more than a year, if the courts will allow the institution to resume business. Here is the basis upon which the depositors agreed to allow the bank to settle:

Ten per cent. of deposits payable upon resumption of business; 15 per cent. after four months; 20 per cent after eight months; 25 per cent after twelve months, and the remaining 30 per cent. after sixteen months. It is expected that all the depositors who can be reached will be glad to sign this agreement.

The agreement will be presented to the court Nov. 30, when the question of making the receivership permanent will be argued. Lawyers will be present to try to convince the Judge that the proper way out of the difficulty is to let the bank work out its own salvation with the assistance of the depositors.

Criticise Receivers.

There was a lot of disorder at the mass meeting, due to the desire of many depositors to talk at once. President W. Sparks, the chairman, criticised the action of the Attorney-General in picking his receivers from up-State communities.

"I know one of the receivers named for one of the Brooklyn banks personally," said Mr. Sparks. "He keeps a little store in an up-State hamlet. Outside of his 850 neighbors, I believe it safe to say that he does not now a dozen people in the wide world."

It was announced that effort would be made to convince depositors who were also borrowers to offset their deposits by their notes. If this can

(Continued on Second Page.)

BARNEY'S WILL, MADE AFTER SHOT, LEAVES WIFE ALL

Document in Three Paragraphs Is Filed for Probate With Surrogate.

The will of Charles T. Barney was filed this afternoon by a representative of the law firm of Marsten & Nichols. It bequeathes the whole estate to the widow, Lilly W. Barney, and names Mr. Barney's son, Ashbel H., and James Barney as executors.

The petition accompanying the will says ambiguously that the estate consists of "over $10,000 real estate and over $10,000 personality."

The will consists of only three paragraphs and bears date Nov. 14, the day of his suicide.

Contrary to the statements that Mr. Barney had created a trust by his will so as to hold his property intact for the benefit of his family, he bequeaths his all to his wife without reserve and absolutely. The will is, verbatim:

"I, Charles T. Barney, of the City of New York, do hereby make, probate and declare this to be my last will and testament, hereby revoking all former wills and codicils thereto by me at any time made.

"I give, devise and bequeath all my estate, both real and personal, of whatsoever nature and wheresoever situated, unto my wife, Lilly W. Barney, her heirs and assigns forever.

"I nominate, constitute and appoint my wife and my sons, Ashbel H. and James W. Barney, to be executrix and executors of this, my will.

"In witness whereof, I, Charles T. Barney, have to this, my last will and testament, subscribed my name and set my seal, this 14th day of November, 1907."

Arthur W. Masters, No. 101 East Seventieth street; George L. Nichols, of Katonah, and George A. Dixon, No. 15 West Forty-ninth street, signed the will as witnesses.

ROOSEVELT TO VARY THANKSGIVING DAY TRIP.

WASHINGTON, Nov. 19.—President Roosevelt this year is to vary his Thanksgiving Day plan, and instead of going to Pine Knot, Va., where Mrs. Roosevelt owns an estate, will make a day's trip to Montepelier, which is a few miles this side of Charlottesville on the Southern Railway.

The details of the day's outing have not as yet been made public, and it is not known whether the President intends to try his luck at wild turkey shooting or whether the diversion is to be of another character. The trip is to occupy but a single day, the departure being from the White House in the morning and the return before dark.

BOOKMAKERS HIT PLAYERS A BLOW AT BENNINGS

Falcada a 1-to-2 Favorite, and Talent Made a Plunge on Him.

(Special to The Evening World.)

BENNINGS RACE TRACK, WASHINGTON, D. C., Nov. 19.—Bookmakers cleaned up good on the two-year-old handicap, fourth on the card, here this afternoon. Falcada was a 1-to-2 favorite, and the talent went to him in chunks. The way the money poured into the bookmakers' satchels it looked like the race was over and Falcada was galloping in.

The result proved how little the talent knows, for Rosimiro, a 6-to-1 shot, led all the way and after running out at the head of the stretch came on to win handily. Falcada did his best, but could only annex the place money. Jubilee was third. Had Falcada won nearly every book in the ring would have been hit hard.

The weather conditions were greatly changed here to-day. The sun was on the job early, and by race time had dried up everything. Except that the track was heavy, there were no other signs of yesterday's all-day rain. A good sized crowd was out, and the moving bookmakers did a lively business. Those on the lawn, who got all the worst of it yesterday, had the better of it to-day.

Firebrand Just Got Up.

Firebrand was an even money favorite in the opening dash, after Tinscratched, leaving a field of eleven to scratched, leaving a field of eleven to go. He won, but it took every ounce out of him to beat Eminola. Bill Daly's Umbrella was third, closing very strong right at the end. Firebrand led all the way, and running to the stretch turn had an advantage of five lengths. He began to stop in the stretch, however, and was all out as he passed the judges a length in front of Eminola.

Tenakoe Was Disqualified.

Gwyn Tompkins and his Washington friends came within a head of winning thousands on the result of the second race. They played Tenakoe from 60 down to 10 to 1. The money was put down quietly, not even the New York friends of the Tompkins family being let in. It all went for naught, however, for after the numbers were hung up Tenakoe's being placed second, and Orfano's third, the stewards disqualified the Tompkins' entry, making the race Omnipotent first, Orfando second and Bobbin Around third. There was a weeping and wailing from Tenakoe's backers, but it was of no use. The action of the stewards saved the books a pile of money, nearly every one of them having a sheet of Tenakoe's winners. Tenakoe led all the way but swerved into Omnipotent right at the end while Jockey McIntyre was making heroic efforts to get him home.

Favorite Gets Third.

Hooray was made favorite in the third race and just did get home in front of Higginbotham, with Weldsome, a long shot, third. Sam H. Harris, on whom there was a great play, was running over the rest at the end, after being away last and ten lengths behind the strung-out field in the backstretch. L'Amour made the early pace, but Hooray was never far away, and in the stretch he came away with Higginbotham. The two had a battle of it through the stretch. Weldsome, the third horse, was six lengths back.

Destroyer a Winner.

Destroyer was the well-backed winner of the selling event for maiden four-year-olds. He won easily from Noblesse Oblige. Grenadier was the favorite at the opening of the market, but he receded in favor of Destroyer. He never was prominent in the running. Benals made the pace to the stretch and there quit. The race was for boys who have never ridden more than one winner.

WEATHER FORECAST.

Forecast for New York City and vicinity: Fair and colder to-night; Wednesday, partly cloudy. Fresh northwest to north winds.

Eastern New York: Cloudy to-night; colder in north portion, Wednesday, cloudy, rain in afternoon or night in south portion; light to fresh north to northwest winds.

EVENING WORLD RACE CHART

THIRD DAY AT BENNINGS.

AUTUMN MEETING.

NOV. 19. CLEAR. TRACK HEAVY.

1248 FIRST RACE—Three-year-olds and upward; $400 added; six and a half furlongs. Columbia course.

Time—1.20. Post time, 1.55; off, 1.58. Start good. Won ridden out; place easily. Winner, br. g., by Hamburg—Lizzie Montrose. Owner—A. Simons. Trainer—Same.

Index.	Starters.	Wts.	St.	¼	½	¾	Fin.	Jockeys.	Open.	High.	Clos.	Pl.	Sh.
1200	Firebrand	130	3	1¹	1¹	1¹	1½	Notter	4-5	1	9-10	2-5	—
1238	Eminola	122	7	4¹	2¹	2¹	2¹	Liebert	6	8	5	8-5	4-5
1164	Umbrella	125	6	8½	4½	3ʰ	3²	J. O'Brien	15	50	30	10	5
—	Aiken	120	8	8½	8½	8²	4²	Simons	15	20	12	4	2
—	High Jumper	120	10	9¹	7¹	7½	5½	Christian	6	12	12	4	2
—	Morning Light	125	4	7¹	6²	4¹	6¹	Fairbrother	8	10	8	3	1
—	Wilton Lackaye	123	5	2½	3ʰ	5½	7½	McCabe	10	30	30	10	5
1062	Kempton	120	2	3ʰ	5ʰ	6ʰ	8¹	J. Walsh	15	40	30	10	5
1199	Village King	120	11	10¹	9¹	10¹	9¹	C. Miller	15	40	30	10	5
—	Telemon	123	9	6¹	11	11	10	Beckman	7	12	12	4	2
*49	Dominator	123	1	10	10	10	11	Henry	20	40	30	10	5

Scratched—Thistledale, Hoot Mon, Dario.

Firebrand just lasted long enough to win. Eminola was easily next best and would have won in a few strides. Wilton Lackaye tired easily.

1249 SECOND RACE—Selling; for maiden two-year-olds; $400 added; five and a half furlongs. Columbia course.

Time—1.10 2-5. Post time, 2.21; off, 2.23. Start fair. Won driving; place easily. Winner, ch. g., by Dieudonne—Mary McCoy. Owner—Chelsea Stable. Trainer—P. M. Burch.

Index.	Starters.	Wts.	St.	¼	½	¾	Fin.	Jockeys.	Open.	High.	Clos.	Pl.	Sh.
1005	Omnipotent	109	5	4½	3ʰ	2½	1ʰ	W. Doyle	8	10	8	3	8-5
1214	*Tenakoe	100	3	1²	1ʰ	1½	2½	W. McIntyre	15	15	15	6	3
1214	Orfado	109	14	10	5ʰ	5¹	3ʰ	McDaniel	1	8-5	6-5	1-2	1-4
1203	Bobbin Around	112	4	3ʰ	1½	3ʰ	4ʰ	Hanley	30	40	30	12	6
1003	Mary Holland	104	7	7½	7ʰ	8¹	5¹	Cullen	20	30	30	10	5
1235	Winning Star	104	8	6¹	6ʰ	4½	6½	J. Hogg	6	8	7	5-2	7-5
1151	Fielder	112	1	2½	2ʰ	6¹	7¹	Notter	7	12	10	4	2
1146	Proclivity	104	2	5ʰ	10	9¹	8ʰ	C. Brady	8	10	8	3	8-5
—	Student King	109	10	13	8½	7½	9¹	Beckman	15	30	25	10	5
1163	Amontillado	104	13	15	12	10	10	Henry	20	20	20	8	4
—	Croydon	112	15	11	11	11	11	Crider	50	50	50	20	10
958	Pontiac	109	12	8¹	12	12	12	Brussell	12	15	15	6	3
52	Superstition	109	6	9¹	13	14	13	McCabe	15	20	15	6	3
1236	Whirl	104	16	16	14	13	14	F. Murphy	15	20	15	6	3
—	Princess Navarre	109	11	12	9ʰ	15	15	G. Swain	15	30	25	10	5
80	Easter Belle	112	9	14	14	16	16	Raynor	15	30	25	10	5
85	Strongheart	107	17	17	17	17	17	Liebert	8	12	10	4	2

Scratched—Risk, Tinker, Belle, Woolspun.

Winner entered for $1,500; no bid. *Disqualified for foul.

Tenakoe had all the speed, but bumped and interfered with both Bobbin Around and the winner. Orfano, pocketed throughout, had no chance.

1250 THIRD RACE—Selling; three-year-olds and upward which have not won more than three races in 1907; $400 added; one mile, Columbia course.

Time—1.44. Post time, 2.50; off, 2.53. Start good. Won handily; place easily. Winner, ch. g., by Plaudit—Reading. Owner—A. L. Aste. Trainer—W. McCann.

Index.	Starters.	Wts.	St.	¼	½	¾	Fin.	Jockeys.	Open.	High.	Clos.	Pl.	Sh.
1239	Hooray	109	7	6ʰ	3¹	2½	1½	McDaniel	8-5	2	9-5	4-5	2-5
1146	Higginbotham	104	3	2½	1½	1ʰ	2¹	Notter	8	10	5	2	6-5
764	Weldsome	106	11	12¹	4¹	3½	3½	Smith	20	50	50	20	10
1219	Sam. H. Harris	107	13	13	13	4	4½	Clare	6	10	8	3	8-5
1222	D'Arkle	104	8	4½	7½	7½	5½	Henry	15	20	15	6	3
1112	Lord Badge	109	9	10	10	9	6	Brussell	6	10	10	4	2
1241	Workmaid	99	12	9½	9¹	11	7²	J. Hogg	10	20	15	6	3
—	Hancock	99	10	8¹	5½	12	8½	Fairbrother	15	20	20	7	3
1238	Neoskaleta	106	5	7½	11	8¹	9¹	Beckman	6	8	5	2	1
821	Society Bud	104	2	3¹	8	10	10	Liebert	8	20	15	6	3
1185	Yorkist	104	6	5½	6	9¹	11	C. Miller	4	8	8	3	7-5
1200	L'Amour	99	4	1ʰ	2½	5½	12	Bergen	20	30	30	10	5
1238	Star of Bunnymede	105	14	11	12	13	13	W. Doyle	30	100	60	20	10

Scratched—True Boy, Clements, Away.

Winner entered for $1,500; no bid.

Hooray caught Higginbotham tiring in the stretch and was going cleverly at the end. Latter needed the race. L'Amour showed a flash of speed, but stopped.

1251 FOURTH RACE—Handicap; two-year-olds; $500 added; six furlongs. Columbia course.

Time—1.15 4-5. Post time, 3.10; off, 3.23. Start good. Won handily; place easily. Winner, ch. c., by Pontiac—Nil Desperandum. Owner—W. L. Ryan. Trainer—F. C. Frisbie.

Index.	Starters.	Wts.	St.	¼	½	¾	Fin.	Jockeys.	Open.	High.	Clos.	Pl.	Sh.
1217	Rosimiro	110	3	1ʰ	1²	1½	1¹	W. Doyle	5	8	7	6-5	1-3
1202	Falcada	122	5	3½	2ʰ	2½	2¹	McDaniel	11-20	3-5	1-2	1-5	—
(678)	Jubilee	124	1	5	4½	3½	3¹	Liebert	4	7	6	6-5	1-2
1240	Smoker	113	2	2ʰ	5½	4½	4¹	Brussell	6	6	9	2	1-2
695	Laughing Eyes	97	4	4ʰ	3½	5	5	C. Brady	20	50	40	8	2

Scratched—Alauda, Sanguine, Monopolist, Woodlane.

Rosimiro found the going to his liking and had plenty of speed left at the finish. Doyle took him wide at teh head of the stretch, where he found the best going. Falcada had no excuse, and was under a drive all through the stretch. Jubilee was badly outrun at every stage.

1252 FIFTH RACE—Selling; maiden two-year-olds and upward; to be ridden by boys that have never ridden more than one winner; $400 added; one mile, Columbia course.

Time—1.46 3-5. Post time, 4.[illegible]. Start good. Won easily; place same. Winner, b. g., by Macy—Vidonia. Owner—S. Lazarus. Trainer—R. Minton.

Index.	Starters.	Wts.	St.	¼	½	¾	Fin.	Jockeys.	Open.	High.	Clos.	Pl.	Sh.
1199	Destroyer	108	2	4ʰ	1½	1²	3	McCabey	7-5	9-5	8-5	1-2	—
—	97 Noblesse Oblige	104	[illegible]	[illegible]	[illegible]	[illegible]	2½	Goines	7-2	4	7-2	1	1-2
—	Llanthony Boy	113	3	3½	6ʰ	3ʰ	4ʰ	Hildreth	2	3½	2-5	1	2
718	Grenadier	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	4¹	Bryant	2	13-5	2	7-10	1-4
—	Benals	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	6¹	A. Lee	15	25	25	7	2
—	Honean	103	3	2ʰ	3ʰ	4ʰ	6	Johnson	15	30	30	6	3

Scratched—Nautic, Camden.

Destroyer came away easily when called on and was nicely in hand at the end. Noblesse Oblige, outrun early, closed a big gap. Benals showed a turn of early speed, but stopped to nothing. Honean quit badly. Grenadier had no excuse.

1253 SIXTH RACE—Handicap; two-year-olds and upward; $500 added; one mile and seventy yards. Columbia course.

Time—1.47 2-5. Post time, 4.16; off, 4.17. Start good. Won easily; place same.

Index.	Starters.	Wts.	St.	¼	½	¾	Fin.	Jockeys.	Open.	High.	Clos.	Pl.	Sh.
423	Berkeley	103	1	1ʰ	1½	1ʰ	1¹	Notter	8-5	9-5	8-5	—	—
1203	Dolly Spanker	113	3	2½	2½	2½	2½	McDaniel	7-10	6-5	9-10	—	—
1241	Campaigner	99	2	2ʰ	5	3	3	Henry	4	6	6	1	—

Scratched—Miss Crawford, Falcada, Alauda, Oxford, Solon, Shingle, Ivanhoe.

Berkeley found the going to his liking and was under a stiff pull at the finish. Dolly Spanker went to him, but stopped badly in the deep going of the stretch. Campaigner was never a contender.

DUCHESS STIRS HORSE SHOW BY SITTING IN BOX

Her Grace of Marlborough Makes Seats Mark of Big Crush.

The Horse Show took on an interesting air this afternoon with the arrival of the Duchess of Marlborough, who came in with the Reginald Vanderbilts. The appearance of the Duchess at the show caused a rush on the part of the spectators for the vicinity of the Vanderbilt box.

Another popular feature with the society folk was the winning of a blue ribbon by one of August Belmont's entries. His Fumé took the prize in the pony stallion class. Judge William H. Moore captured the first two honors in the class for carriage horses under 15 hands and 2 inches in height.

A number of well-known horsewomen participated in the saddle classes. Mrs. John Gerken tried out several of her candidates for honors. Miss Holloway and Mrs. Allan Potts also appeared in the saddle.

Col. Frederick Pabst, the Milwaukee brewer, had a field day with his entries. He captured a total of four blue ribbons and a red one. Col. Pabst was successful with Merry Pet in the yearling filly class, while his Morning Glory walked away with the red in the same event.

Later the brewer's Matchless Queen won a blue and his Cayuton Phyllis won the event for brood mares. Col. Pabst captured his fourth first prize in the pony stallion class, his Delham Prime Minister winning this.

There was much interest in the fight for the Addie Challenge Cup for the best American-bred hackney. Under the rules the honor must be won twice by the same horse and the same owner to carry the cup. The winner was the Avondale Farm's entry Flashlight, which also won two years ago, but at that time was owned by E. D. Morgan, of Boston.

The celebrated McClay team, Rose Worthy and Marguerite Margrave, driven by Alfred C. McClay, won first money in event 15, for the best appointed pair and road wagon.

The pretty driving of Doncaster Model by Mrs. John Gerken was a feature in event No. 64 for ponies other than Shetlands 2 hands high. Mrs. Gerken's entry won second prize, the blue ribbon going to William H. Moore's unbeaten Berkley Bantam. Third and fourth moneys were taken by Miss Watt's separate entries, Violet and Fanny.

RECOUNT BILL IS ADJUDGED NOT CONSTITUTIONAL

Court of Appeals Declares Legislature Acted Beyond Law.

ALBANY, Nov. 19.—The Court of Appeals in a decision handed down this afternoon declares unconstitutional the so-called Recount bill, passed by the last Legislature, under which there could have been a recount of the ballots cast in the McClellan-Hearst Mayoralty election in New York in November, 1905.

The opinion is by Chief Judge Cullen, and is unanimously concurred in by the other Judges sitting in the case—O'Brien, E. T. Bartlett, Haight, Vann, Hiscock and Chase.

Judge Cullen, in his opinion, declares it the view of the Court that "the statute so clearly contravenes the Constitution in one or two respects as to render it unquestionably invalid." The proceeding authorized, he says, "either is, as its title indicates, a recanvass of the votes cast for the office of Mayor, or is a judicial hearing and determination of the title of the respective candidates at that election to the office of Mayor."

Election Officers Sufficient.

It is unnecessary to determine which, he adds, because "if it is a recanvass it contravenes Section VI. of Article II of the Constitution, which provides: 'All laws creating, regulating or affecting Boards of Officers charged with the duty of registering voters, or of distributing ballots at the polls to voters, or of receiving, recording or COUNTING VOTES AT ELECTIONS shall secure equal representation of the two political parties which at the general election next preceding that for which such boards or officers are to serve, cast the highest and the next highest number of votes.'

"If, on the other hand, it is a judicial determination of the title to office it contravenes Section 2, Article 1, of the Constitution, which provides: 'The trial by jury in all cases in which it has been heretofore used shall remain inviolate forever.' That the courts by whom the recanvass is to be made are not bipartisan bodies is apparent, and that the statutes provide for no determination by a jury of the disputed issues of fact is equally clear.

"Here we may well rest, and it is necessary to consider the arguments adduced to withdraw the statute from both these constitutional limitations."

McClellan's Title Indorsed.

After exhaustive discussion of the two possible aspects of the case, Judge Cullen sets forth "an objection that we have to the constitutionality of this statute that goes beyond any that we have discussed. The results of the election were canvassed and determined under the provisions of law then existing, and a certificate of election given to McClellan, which conferred prima facie title to office and under which he entered into the office.

"In this State, prima facie title to elective offices has always been conferred by certificates of election according to the results canvassed, and conclusive title has been the subject of determination by judicial proceedings. The incumbent holding the prima facie evidence of title has never been subject to be ousted in any other manner than by legal proceedings, members of the Legislature only excepted."

Even admitting that it were possible that the present incumbent might be legislated out of office by an act of the Legislature changing the official term, Judge Cullen declares that "no other man can be legislated into office."

"As long as his official term has not been reduced by legislation the appellant, McClellan, is entitled to hold the office until he is ousted as the result of a judicial determination, or is removed for misconduct. A canvass has been concluded under the statutory provisions for its conduct existing at the time. The Legislature has no power to create a new tribunal with power to recanvass the election and to award possession of the office to another claimant."

Mayor McClellan was in an unusually happy mood this afternoon after he had received word that the Court of Appeals had decided that the Recount bill was unconstitutional.

"I expected it, all along," said the Mayor. "It was no surprise to me."

When questioned about the two other suits pending against him, one brought by Corporation Counsel Jackson, to oust him from office, Mayor McClellan said "I do not see how this decision could have any bearing upon the two suits.

"I presume that they will go merrily on," said the Mayor.