THE ALLEGED CUSTOM-HOUSE FORGERIES.

Opinion of Judge Shipman—The Indictment Quashed—No Law to Reach the Forgery of Custom-House Bonds.

U. S. CIRCUIT COURT—Feb. 6.—Before JUDGE SHIPMAN.

Judge Shipman to-day rendered his decision on the motion to quash the indictment against Wm. C. Barney and others, holding that there is no law to reach the offense with which they are charged, or to punish those who may be guilty of it.

The following is his opinion:

SHIPMAN, J.—The defendants in this case stand indicted for the crime of forging and uttering a certain false and fraudulent bond, within the precincts of the Custom-House in this city. The bond in question purports to be given to the United States in pursuance of regulations established by the Secretary of the Treasury, under the authority of that part of the Sixty-first Section of the Internal Revenue Act, approved June 30, 1864, relating to the exportation of distilled spirits, &c. The amount of the bond is $5,234. The conditions relate to the exportation of a quantity of alcohol, alleged therein to be about to be exported from New-York to Havre, and require that certificates, and other proof required by the Treasury regulations, of the landing of the article at the latter port, should be produced to the proper officer within one year of the date of the bond; and that the article should not be relanded at any port or place within the United States. The bond was to be void on the performance of the conditions, otherwise to remain in force.

The Government claims to have conclusive proof that the bond was forged and fraudulent, and that it was made and uttered by these defendants for the purpose of defrauding the United States. The Grand Jury have indicted them, and now, before plea, they move to quash the indictment upon various grounds.

In order to properly notice the questions raised, it will be well here to refer to the two principal features of the indictment, and the particular laws upon which it is founded. The indictment has two counts; the first for forging the bond, and the second for uttering it. The first count is founded upon the third section of the Crimes act of 1825, 4 U. S. Stats. at Large, p. 115, in connection with a certain law, or laws, of the State of New-York, which were in force in that State at the date of the passage of the act of Congress.

The second count is founded upon the act of Congress of March 3, 1823, 3 U. S. Stats. at Large, section 1, p. 771. This section relates, among other things, to the forging, false making, and uttering of certain instruments, with intent to defraud the United States.

It will be more convenient to first consider the points raised on the motion touching the second count. It is insisted that the first section of the act of 1823 has no relation whatever to the forging, or uttering of a forged instrument, of the character of the one in question. If this point is well taken, then the second count charges no offense punishable by the courts of the United States, and must therefore fail. It is now settled law, universally acted upon by these courts, that they cannot resort to the common law as a source of criminal jurisdiction. However that body of jurisprudence may furnish the Federal courts with rules of procedure, definition, and construction, these tribunals have no power to try any offenses, except such as are, in some form, prohibited by the Constitution, or by act of Congress.

The section upon which the second count is founded is in the following words: "If any person shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or willingly aid or assist in the false making, altering, forging or counterfeiting any deed, power of attorney, order, certificate, receipt, or other writing, for the purpose of obtaining or receiving, or of enabling any other person or persons, either directly or indirectly, to obtain or receive, from the United States, or any of their officers or agents, any sum, or sums of money; or cause to be uttered or published as true, any *such* false, forged, altered, or counterfeited deed, power of attorney, order, certificate, receipt, or other writing as aforesaid, with intent to defraud the United States, knowing the same to be false, forged, altered, or counterfeited; or shall transmit to, or present at, or cause, or procure to be transmitted to, or presented at any office or officer of the Government of the United States any deed, power of attorney, order, certificate, receipt, or other writing, in support of, or in relation to any account or claim, with intent to defraud the United States, knowing the same to be false, forged, altered, or counterfeited, every such person shall be deemed and adjudged guilty of felony, and being thereof duly convicted, shall be sentenced to imprisonment and kept at hard labor for a period not less than one, nor more than ten years; or shall be imprisoned not exceeding five years, and fined not exceeding one thousand dollars."

The foregoing section may be properly divided into three parts: The first refers to the false making, forging, or altering any writing for the purpose of obtaining any money of the United States; the second for uttering any such false, forged, or altered writing with intent to defraud the United States; and the third to the presentation at or transmission to any office or officer of the United States any false, forged or altered writing in support of or in relation to any account or claim, with intent to defraud the United States. The first branch does not count in express words upon a guilty knowledge, or an intent to defraud the United States in the forger, for the very obvious reason that the fabrication of the instrument for the purpose of obtaining money of the United States *necessarily* implies both. No person could do the act prohibited without both a guilty knowledge and an intent to defraud the Government. The second branch of the section expressly counts upon both a guilty knowledge and a guilty intent to defraud the United States, because one might possibly utter as true, by passing to another, an instrument which had been originally framed to procure money of the Government, knowing of its character, with a guilty intent to defraud the person to whom it was thus passed. Circumstances might be such as to exclude the idea that the passer had any intent or expectation that the United States would be defrauded, but only that the individual receiving the false writing would be cheated. This might occur when the false writing had already been rejected by the Government, or when the money sought to be obtained had already been paid. This guilty intent would be reached by the State law. The object of this, as with many of the criminal statutes of the United States, is to punish frauds on the Government and not frauds on individuals. But if, with knowledge of the false character of the writing, one should utter it, with intent to defraud the Government, then, and not till then, all the elements of a crime against the United States would be embraced in the act of uttering. It therefore became necessary, in framing the act, to supply by express words the indispensable features of the crime of uttering, which that of forging necessarily implied. This explains the reason why the phraseology of the second is more full in descriptive terms than the first part of the section. The terms "for the purpose of obtaining or receiving any sum or sums of money" are descriptive of the character of the instrument as well as the intent of the fabricator. The tenor of the instrument and its relation to the end in view, must be, in some degree, in harmony with the object which the offender seeks to obtain. This is the class of writings with which the first clause of the section deals. It is against the uttering of *such* writings that the second clause is leveled. The first clause punishes the forging or altering of the same kind of instruments of which the second clause punishing the uttering. Otherwise the word "such" in the statute has no meaning. That it does, however, have a meaning, and was not a clerical error, or word loosely and inaptly thrown in, is evident on inspecting the third clause of this section. In that clause the word "such" is dropped, and the transmission of "any" writing in support of, or in relation to, any claim or account, with intent to defraud the United States, knowing the false and forged character of the writing, is made an offense. It makes no difference whether the account or claim is *against* the United States, or in its favor and against an individual. The forged or false paper may be for the enhancement or support of a claim against the Government, or it may be for the reduction or extinguishment of a claim in its favor against an individual. In either case, if transmitted with a guilty knowledge and intent, it is a crime of the same grade, and liable to the same penalty as an original forgery. The object of the offender might be not to obtain money, but to avoid the payment of money, acts which, in a highly penal statute, require to be distinguished by plain and unambiguous terms. The word "such" therefore was dropped in this last clause of the act, because its use would carry with it the words of the first clause, "for the purpose of obtaining and receiving any sum or sums of money of the United States," and thus greatly narrow the scope of the last clause, thereby necessarily leaving unpunished a large class of offenses which might be committed by those who were indebted to the Government, and who should seek to evade payment by false and forged writings. This would have excluded from the operation of the statute all offenses arising out of the transmission of false papers in support of or in relation to any claims for land or other property than money. It may be asked why did not Congress provide in this same act against the forgery of all this latter class of instruments. It is not easy to answer this question unless the answer be found in the fact that transmission of false papers relating to accounts and claims where no money was to be obtained, would be more readily detected and proved than the forgery of the same writings. But whether this query can be answered satisfactorily or not it is clear that the crime of forgery in this section is confined to instruments designed to obtain money from the United States. This is virtually conceded by the fact that the indictment in the present case was not placed upon that branch of the section, as well as upon that which prohibits uttering. Apart, however, from all these considerations, the plainest rules of construction show, that the use of the word "such" in the second clause, and its omission in the third, was intended to make the first and second clauses operate on the same class of writings and on no other. From these views it therefore follows that the second count describes no offense which this court is authorized to punish.

We will now consider the first count of the indictment. This is founded upon the third section of the Act of March 3, 1825, which provides "That if any offense shall be committed *in any of the places aforesaid*, the punishment of which is not specially provided for by any law of the United States, such offense, shall, upon conviction in any court of the United States having cognizance thereof, be liable to, and receive the same punishment, as the laws of the State in which such fort, dock-yard, navy-yard, arsenal, armory or magazine, or other place *ceded as aforesaid*, is situated, provide for the like offense when committed within the body of any county of such State."

The terms "in any of the places aforesaid" and "ceded as aforesaid" refer to the prior sections, first and second, of the same act, which provide for the punishment of specific offenses against the laws of the United States when committed in any place or needful building of the United States, "the site whereof is ceded to and under the jurisdiction of the United States." A question arising under this third section came before the Supreme Court of the United States in the case of U. S. vs. Paul, reported in the 6th Peters. The court held in that case that the words "the same punishment as the laws of the State in which such fort, &c., ceded as aforesaid, is situated," are to be limited to the laws of the several States in force at the time of the enactment of the statute. Whatever might be the opinion of this court, if this were now a new question, it is bound by the judgment of the Supreme Court already cited. That court limited the clause quoted above to the present tense, and confined it to the date of the act. The clause describing the places upon which the law was to operate is also, and emphatically in the present tense, and after the most careful consideration, I have been unable to find any rule of construction or reason which would authorize this court to extend the act in its reference to places beyond its scope as applied to the State laws. To do so would produce singular results. The site of the New-York Custom-House was not ceded to the United States till 1865. Between the date of the act, to wit, March 3, 1825, and the date of the cession in 1865, many criminal statutes of New-York which were in force at the first-named date were repealed, and among them the very act relied on in this case. This latter act was repealed in 1829. To hold that the act of Congress, so far as it refers to places, included places thereafter to be ceded, and restrict the words "laws of the State provide" to such laws as were in force at the passage of the act, would in effect decide that the act of cession by the State of New-York in 1865, *proprio vigore*, operated to revive and put in force highly penal statutes of the State which had long been repealed. I cannot bring my mind to believe that either Congress or the Legislature of the State of New-York contemplated any such result. Consequences so surprising and so remote might, and I think would arise, that they could not fairly be presumed to have been within the contemplation of either party. If every new deed of cession of a building site to the United States is to revive a criminal code which has been defunct for 40 years, strange results might follow. Whipping and the pillory would in some cases have to be inflicted, for they were the penalties denounced by some of the State laws in force in 1825 for offenses for which the laws of the United States provide no punishment. The United States have only abolished these barbarous relics of a barbarous age in cases where their infliction was provided for by acts of Congress. Indeed, I should hesitate long before I should decide that Congress intended that courts should resort to the repealed laws of any State as a source of criminal jurisdiction.

I have not come to these conclusions without careful consideration. It it is said that this construction of the 2d section of the act of 1825 is unfortunate inasmuch as there are many places and buildings belonging to the United States, the sites whereof have been ceded since the act went into operation, and therefore offenses may be committed within such places which cannot be punished under any existing law of the United States, the answer is that the responsibility for this difficulty does not rest with the judicial department of the Government. Courts cannot make, but only expound and enforce the laws. But a mere glance at the history of the Government will show that this act must of necessity be limited in its operation. It cannot extend to States admitted into the Union since March 3, 1825, because there were no "laws of the State" in force at that time. The State which was not in existence on the 3d of March, 1825, could of course have no laws upon which this act was to operate. I assume, of course, that the word "State," as used in this section, refers only to a State of the United States, for if it should be assumed that it was used in a more comprehensive sense, and included any State or body politic which might be thereafter admitted to the Union, then, in case the act should be held to apply to building sites or places ceded to the United States since March 3, 1825, the Federal Courts in Florida, Texas, California, and the States carved out of the Louisiana purchase since that date, might have to resort to laws in force in 1825, which were of Spanish, Mexican, or French origin. This would occur unless they resorted to territorial laws then in force, but if none were in force, and the old laws of foreign origin still lingered, they would have to enforce such punishments as those latter laws provide.

It follows, therefore, that inasmuch as the Supreme Court has declared that section 3 of the act of 1825 restricts the courts to the laws of the States then in force, the operation of the act must also be restricted to the places which had been ceded at or before that time. This is the logical result of the doctrine laid down in U. S. agt. Paul, already cited, and so long as that case stands, the only one which can be reached without producing a most singular and incongruous state of things, which I think it is not too much to say that Congress never intended.

The case of the United States agt. Davis, reported in the 5th of Mason, has been relied on as establishing a precedent for punishing offenses not expressly prohibited by act of Congress, in places the site whereof has been ceded since March 3, 1825; but the case of the United States agt. Paul was subsequent. Besides, the point was not raised in the case in 5th of Mason, and therefore that case is not entitled to very great weight in determining the present motion.

There were several other questions discussed on the argument. One was whether the 2d section of the act of March 3, 1825, was not intended only to supply penalties in cases where Congress had prohibited acts but had omitted to prescribe punishment. Another question was whether the term "laws of the State" referred only to the statute laws, or embraced also the common law so far as it was in force in the State. Another point was whether the Court could, in any event, resort for jurisdiction to a State law after it was repealed. Some of these questions are by no means free from difficulty; but the conclusion to which I have come renders their consideration unnecessary here.

I regret that I am compelled to announce this result. The crime charged in the indictment is a grave one, and I understand that one of the defendants is accused of having committed the act while in the employ of the Government in an official position, the duties of which embraced the supervision of bonds of the character of the one alleged to be fraudulent. I regret that the charge cannot be investigated in this Court, and the defendants be acquitted if found innocent, and, if guilty, be properly punished; but I am satisfied that this Court has no power to try the case on this indictment, and must therefore grant the motion that the indictment be quashed.

For the Government, Messrs. Courtney and Sedgwick.

For defendant Barney, Messrs. Benedict, Burr & Benedict.

For other defendants, Messrs. James & Dunphy.

THE ADAMS EXPRESS ROBBERY.

Detectives at Work—Another "Pile of Gold" Recovered—The Way the Crime was Committed—An Impudent Attempt at a Second Robbery.

During the course of the trial at Bridgeport, Conn., of Clark, the young man implicated in the recent Adams Express robbery, a large force of detectives have been at work guarding both sides of the railroad for a distance of nearly 25 miles. Their labors have been rewarded by the recovery of another extensive pile of gold, which has been duly turned over to the Express Company. It appears that suspicious persons, as well as persons speculating on the chance of finding some of the scattered treasure, have been met at various times by officers and warned to quit the neighborhood, an admonition which has, in most cases, been effective. It is possible that other persons more directly interested in the robbery may be arrested in the course of a few days. It is supposed that old and experienced thieves were engaged in the first part of the robbery; that they threw the gold aside, but the less available property into the hands of Tristram, and planned so as to benefit by the gold themselves. Such a scheme has been most remarkably unsuccessful. The Adams Express Company appear fully determined to pursue the thieves until they are all caught and punished, even if it should cost more than is recovered. They propose, in connection with this case, to make an investment for safety in the future to public and private property.

Perhaps the boldness with which crimes are committed at the present time may be illustrated by an attempt which was made on Monday to steal the small safe containing a large amount of money and articles used in evidence during the trial last week, from the ante-room of the Court at Bridgeport. The thief was frustrated in his design, however, by a detective, who found the safe lodged in a position convenient for immediate removal. The person suspected of this transaction was seen about the Court previous to the finding of the safe, but was subsequently lost sight of.

The Metropolitan Health Bill—Meeting of the Chamber of Commerce.

A meeting for the purpose of considering the Metropolitan Health Bill was held yesterday afternoon by the Chamber of Commerce, at their rooms, corner of William and Cedar-sts., Mr. Jonathan Sturgis occupying the chair.

The following resolutions were offered by Mr. E. C. Cowdin and unanimously adopted:

Resolved, That the Metropolitan Health Bill, as passed by the Senate of this State almost unanimously, commends itself to every good citizen, and that the cause of philanthropy demands its immediate passage, without amendment, by the House of Assembly, unembarrassed by political interests or partisan considerations.

Resolved, That the physicians named in the said bill are men of practical knowledge, executive ability, approved integrity, and, by their long experience in sanitary science, well qualified intelligently and promptly to carry out the duties which would devolve upon them.

Resolved, That the provisions of the bill incorporating the Board of Metropolitan Police, with its proved efficiency and perfect discipline, as the executive arm of the Commission, will insure its prompt and energetic organization.

Resolved, That these resolutions, signed by the President and Secretary of the Chamber, be published, and that a copy be transmitted to the Governor of the State and to each of the members of the Legislature.

There was barely a quorum of members present, and the resolutions passed almost without debate.

No other business was transacted, and the Chamber adjourned to meet on Thursday to hear the report of a Committee upon the Piers and Harbors of the City.

CITY NEWS.

BULL'S HEAD.—The cattle were all sold this week, and on that account the market was a little better than a week ago, though prices are only a shade higher. Canada beef, as well as mutton, is now coming forward in place of the live animals. Sheep are low, and owners lose heavily, in some instances $3 per head on stock bought last Fall, to say nothing of the cost of feeding. Hogs are doing better, selling at 11@11½c. to-day in a quick market. The weather favors the meat as well as the live stock trade.

ARREST OF ALLEGED RIVER THIEVES.—On Saturday morning last, Roundsman Baker of the Twenty-eighth Precinct saw a row-boat containing a bale of cotton, lying alongside a canal-boat in the slip near Pier No. 45, N. R. With the assistance of Officer Burns of the same precinct, he secured the cotton, and it was subsequently identified as the property of Mr. Edwards of No. 57 Broadway, having been stolen from Pier No. 47. While looking for the owner of the cotton, the roundsman found another boat beneath Pier No. 47, containing a large quantity of rope. This he at once took possession of. In a short time it was claimed by Michael Cassidy and Samuel Thompson, they stating that they owned the boat and had purchased the rope. They were at once arrested and the boat and rope taken in charge. Subsequently the roundsman discovered that about $150 worth of the rope had been stolen from the schooner White Cloud, Capt. John Adams, and $50 worth from the schooner W. C. Nelson, Capt. Joel Ross, leaving some $200 worth of good serviceable rope not yet identified, but which without doubt had been stolen from one or more of the vessels lying in the vicinity. Yesterday the prisoners were committed for trial by Justice Ledwith.

EXTRAORDINARY SALE OF VIRGINIA LEAF TOBACCO AT AUCTION FOR ACCOUNT OF UNITED STATES GOVERNMENT.—Nine hhds. common lugs, 9c., gold; 8 hhds. common lugs, 7½c. gold; 7 hhds. low leaf, 12½c., gold; 7 hhds. medium, 13½c. gold; 5 hhds. medium, 11½c., gold; 10 hhds. long leaf, 16½c., gold; 10 hhds. long leaf, 19½c., gold; 8 hhds. English, 19½c., gold; 5 hhds. English, 19c., gold; 4 hhds. manufacturer's fillers, 28c., gold; 5 hhds. manufacturer's fillers, 42c., gold; 5 hhds. common bright lugs, 30c., gold; 5 hhds bright fillers, 36½c., gold; 5 hhds. bright fillers, 23c., gold; 5 hhds. bright low leaf, 42½c., gold; 5 hhds. bright good leaf, $1 42½, gold; 6 hhds. bright fine leaf, $1 77½, gold; 2 boxes bright leaf, 85c., gold; 433 hhds. Virginia stems, 1½@1½c., gold. Otherwise the market is quiet.

ARREST OF A BURGLAR.—Late on Monday night, James McCluskey, a bar-tender, residing at No. 116 Roosevelt-st., broke into the liquor store of Charles Hussey, No. 58 Madison-st., by forcing one of the rear windows. Officer Van Duser of the Fourth Precinct, heard the crash of the broken glass, and procuring the assistance of Officer Wansley, entered the building. After a lengthy search, the burglar was found secreted under a stoop in the rear of No. 44 Oliver-st. He was taken into custody, and yesterday committed for trial by Justice Regan in default of $2,000 bail.

FIRE IN TENTH-AVE.—The one-story frame building owned and occupied by John Burke, in Fifty-fifth-st., near Tenth-ave., was completely destroyed by fire yesterday. Loss on building and contents, about $300. No insurance.

[Advertisement.]

"Reconstruction" can be properly understood only by those invisible and others who use KENT'S EAST INDIA COFFEE. For sale by all grocers at 25 cents per pound. Wholesale depot, No. 154 Reade-st.

[Advertisement.]

A SILENT SEWING-MACHINE, making the celebrated "Wilcox & Gibbs Stitch," strong, elastic and durable. WILCOX & GIBBS, No. 508 Broadway.

Dwelling-Houses at Auction.

James M. Miller yesterday morning sold at auction on account of executors, the five three-story and basement brick dwelling-houses, Nos. 122, 124, 126, 128 and 130 Fifth-st., warranted in good order, with gas and water and modern improvements, situated on the south side of Fifth-st., between First and Second aves.; also, the two-story, attic and basement brick house No. 131 Madison-st. A large number of persons were in attendance, but the bidding was rather slow, as if the bidders were in doubt whether the present great demand for real estate might not meet a revulsion during the coming year. The house first above-mentioned sold for $8,150; the next two for $8,000, and the other two of the block for $8,200 and $8,250. The Madison-st. house brought $8,200.

AN ASSISTANT PASTOR FOR PLYMOUTH CHURCH.—As a matter of some interest to the public it may be mentioned that Mr. Beecher, on Sunday, announced to his people that an adjourned meeting would be held on Friday evening next to consider the propriety of employing an assistant to attend to the pastoral work of the congregation. The question is one which excites much interest in the Society, and on which quite a variety of views are said to be expressed.

LAW INTELLIGENCE.

SUPREME COURT—SPECIAL TERM—FEB. 6.—Before Justice FOSTER.

DECISIONS.

Dennison agt. Conrad.

That the plaintiff is entitled to judgment in this action against the defendant, the Importers' and Traders' Bank, requiring them to pay the said funds, amounting to $7,124 20, without costs, to either or any of the parties, and I order judgment to be entered accordingly.

Ames R. Eno agt. Phebe J. McAdam, et al.—See decree.

Doane and Corbin agt. J. G. Conrad.—See findings.

Mendershall agt. Klinch.—See findings and decree.

Lunt and Corbin agt. Importers' and Traders' Bank.—See findings.

CHAMBERS—FEB. 6.—Before Justice BARNARD.

DECISIONS.

Geo. W. Palfrey agt. Abby A. Palfrey.—Report of referee confirmed and judgment of divorce granted.

Oscar Frisbee agt. Helen C. Freeman.—Motion granted and referee ordered to hear, &c.

Jas. R. Vail agt. Erastus Wheaton.—Motion granted.

Anthony Baptist agt. Geo. G. Sickles.—Motion granted and referee ordered to hear, &c.

Geo. R. Thompson agt. John McKillop.—Motion denied.

Before Justice INGRAHAM.

DECISIONS.

Reuben Ross, jr., agt. Nath'l Dale, et al.; Henry Frier agt. Wm. Grasch; David Levy agt. M. Barseys; R. H. Lambert agt. Amos De Le Ferre; Chas. J. Cogill agt. Manley Paddle-Wheel Co.; Bernard B. Hagerty agt. Arthur Gentil; Benjamin Wood agt. E. B. Davidson; Daniel F. Atherson agt. Baylis Sanford; Henry Spalding agt. Charles Flowelling; Keaman Reed agt. William Perine; Wm. Atwater agt. Carlos Butterfield; Mathew Costello agt. Henry S. Shafer; American Exchange National Bank agt. New-York Steel Company; Henry Meyer agt. John H. Bachede; Geo. E. Fraughlah agt. Anthony W. Morse; Daniel Talmage agt. Thos. James; Fred. Newman agt. Geo. D. Watrous; Olevecl & Co. agt. Hammond.—Motions granted.

Cornelius Fiske agt. Ewald Bernhard.—Motion for Circuit calendar granted.

Phenix Fire Insurance Company agt. Cesar De Banco.—Motion granted, with $10 costs.

J. B. T. Grady agt. O. Oddie.—Motion for judgment granted.

Billings agt. Carver—Motion granted for 16th February.

Miller et al. agt. Cameron—Motion granted, with $10 costs.

Tuska agt. Talbert—Motion granted for 23d February.

COURT OF COMMON PLEAS—SPECIAL TERM—FEB. 6.—Before Judge BRADY.

DECISIONS.

Mayer et al. agt. Noelte—The male defendants will not be discharged; the female defendants have been discharged by order.

Goldsmith agt. Maenel—Order settled.

CHAMBERS—FEB 6.—Before Justice BRADY.

THE PRUSSIAN EMBEZZLEMENT CASE.

Herman Mayer et al. agt. Carl Noelte and others.

In the motion in this case for the discharge of the defendants, the Court has decided that the affidavit though founded on a mere letter, still being sustained by various circumstances such as the arrival of the party as described, the assumed name, the possession of money and other matters corresponding to the letter was sufficient, and sustains the arrest of the male defendants, but holds that there is nothing made out against the female defendants.

SUPERIOR COURT—TRIAL TERM—FEB. 6.—Before Justice BARGUS.

WILL PETROLEUM EXPLODE?

Samuel B. Schieffelin agt. Seth R. Robins.

The defendant in this suit undertook to carry in a lighter from a wharf in South Brooklyn to a wharf in Williamsburgh. He carried and actually delivered some barrels, but by some accident the rest took fire and burned, together with the lighter. The plaintiff claims that the defendant is liable as a common carrier. The defendant admits that he was a carrier, but claims that he had completed his contract as carrier, and was prevented by the plaintiff himself from delivering the remainder of the oil. That therefore it was at his own risk. In addition to this, he claims that the petroleum was represented to him as inexplosive and safe from fire, while in reality the substance delivered to him to carry was highly explosive. This opens up a variety of questions on the origin, nature, character and constituents of petroleum, on which various experts have been called. The case is not yet concluded.

E. & E. Brown for plaintiff; ex-Judge Dean for defendant.

UNITED STATES CIRCUIT COURT—FEB. 6.—Before Judge SHIPMAN.

The Grand Jury yesterday brought up indictments against several parties, among which were the following: David G. Williams, for embezzling letters from the Post-Office; Leopold Solomen, John C. Quinn, George Forest and John Goff, for having or passing counterfeit money.

COURT OF OYER AND TERMINER—FEB. 6.—Before Justice BARNARD.

ASSAULT AND BATTERY.

Cornelius Eagan and Michael McGrath were placed at the bar for an assault and battery on policeman Edward Colegrove.

From the evidence it appeared that Colgrove was driving away some calves in the upper part of the city which belonged to a neighbor of Eagan's, and that the latter interfered, when some difficulty ensued, resulting in the policeman being badly beaten, as alleged, by Eagan.

It also appeared that McGrath assisted Eagan in beating the officer. On the part of the defense it was shown that the policeman very freely clubbed the prisoners. This Judge Barnard regarded as unimportant, and expressed his determination to sustain policemen while in the discharge of their duties, and that he should endeavor to stop fighting in the streets of New-York if he had to fill the Penitentiary. He then sentenced the prisoners to one month's imprisonment each in the Penitentiary.

The Grand Jury here came into Court with a number of indictments, among them one against Richard S. Colburn for libel on A. T. Stewart.

Charles Marshall, indicted for burglary in the second degree, pleaded guilty to an attempt at burglary in the third degree, and was sentenced to the Penitentiary for one year, and to pay a fine of $100, to stand committed until paid.

UNITED STATES DISTRICT COURT—FEB. 6.—Before Justice BENEDICT.

RETURN OF PROCESS.

Yesterday a very heavy calendar of over 200 cases, many involving very large amounts, was called in the District Court. This calendar is probably the largest that has ever been called in this Court. Mr. Ethan Allen, Assist. District Attorney, appeared on behalf of the Government, and the cases were set down for various days during the present month.

MARINE COURT—PART II.—FEB. 6.—Before Judge ALKER, and a Jury.

Frank Mayner agt. John P. Gruber.

This was an action to recover damages for a malicious prosecution. The defendant is a scale manufacturer and owns a factory at No. 2 Mott-st., near Chatham square. The plaintiff was in his employ for five years, and, on the 11th Nov., 1865 was arrested by his employer for an alleged theft of certain tools and mechanical instruments. The plaintiff charges in his complaint that the defendant appeared before Judge Wm. H. Mansfield, and maliciously and without probable cause, charged the plaintiff with stealing tools, and obtained a search warrant, took away tools from him; had him arrested and locked up for three hours, and that he was obliged to give bail for $500. The defendant in his answer set up probable cause and want of malice, and that he had reason to suspect the plaintiff. There was much evidence given as to the ownership of the tools, both parties claiming them as their own. The plaintiff was afterward tried before Judge Dowling at the Tombs and acquitted of the charge.

The jury returned a verdict for $50 for the plaintiff.

Ex-Judge Ulitzendorf and George T. Langbein for the plaintiff. Ex Police Justice Mountford and Mr. Hart for defendant.

SUPREME COURT—SECOND DISTRICT—FEB. 6.—Before Justice GILBERT.

THE COLES HABEAS CORPUS CASE IN A NEW SHAPE.

Justice Gilbert of Kings County on the 31st of January granted a writ of habeas corpus directed to Gen. Burke, requiring him to produce the body of Charles H. Coles.

The writ is returnable on the 12th of February, at the City Hall in the City of Brooklyn, and was served on Gen. Burke at Fort Lafayette on the 5th of February. Gen. Hooker gave a permit to the officer to enter the Fort to serve the writ.

Secretary Stanton has ordered Gen. Burke to obey the writ and produce the body of Coles before the Court.

The proceedings in this County in the Supreme Court, before Justice Sutherland, will be suspended in the meantime, until something definite transpires in regard to the matter in Kings County.

John Hewitt of counsel for petitioner.

COURT CALENDARS—FOR WEDNESDAY.

SUPREME COURT—CIRCUIT—PART I.—Over and Terminer—Adjourned without day. PART II.—Nos. 1026, 627, 630, 702, 720, 723, 730, 734, 738, 742, 746, 748, 752, 764, 768, 772, 784, 786, 792, 802. PART III.—Nos. 573, 574, 566, 579, 581, 433, 311, 621, 620, 1038, 20, 636, 1079, 881, 895, 909, 675, 561, 467, 915. SPECIAL TERM.—Nos. 130, 135, 136, 145, 149, 150, 151, 152, 153, 154, 155, 156, 158, 160, 161, 162, 163, 164, 165.

SUPERIOR COURT—PART I.—Nos. 1509, 1793, 1325, 1475, 4615, 969, 491, 1537, 1679, 1755, 1395, 1779, 5417, 2643. PART II.—Nos. 4925, 1438, 2336, 1592, 2769, 2268, 2270, 2372, 2756, 2758, 2380, 2382, 2384, 2386, 2388, 2390.

COURT OF COMMON PLEAS—PART I.—Nos. 114, 1368, 1376, 1398, 1407, 465, 1317, 1329, 1089, 1305, 372, 938, 1352, 805, 1050. PART II.—Nos. 1419, 1420, 1146, 1325, 1400, 1384, 839, 773, 1174, 760, 1210, 1118, 7.92, 854, 1109.

NEW-YORK CATTLE MARKET.

RECEIPTS

FOR THE WEEK ENDING TUESDAY, Feb. 6, 1866.

Beeves.	Cows.	Veals.	Sheep and Lambs.	Swine.	Total.
4,913	93	538	22,342	11,069	38,950

These were sold at the following Market Places:

	Beeves.	Cows.	Veals.	Sheep and Lambs.	Swine.	Total.
At Allerton's, 40th-st.	2,362	17	268	1,652	11,069	....
At Browning's, 8th-st.	79	25	71	11,134	....	....
At O'Brien's	20	4	....	1,000	....	....
At Chamberlin's, Robinson-st.	91	57	29	6,085	....	....
At Bergen	1,442	....	....	704	....	....
Sent from the cars direct to Butchers	170	....	....	1,000	....	....
Average weekly receipts last year	5,215	118	1,500	16,931	11,623	33,872
Receipts last week	4,913	139	436	17,242	10,181	32,707

PRICES OF BEEF AT THE PRINCIPAL MARKET, THIS WEEK.

The following are the quotations per pound upon the estimated net weight of meat—seller sinking offal. That is, a bullock whose quarters will weigh 7 cwt., at 10c. a pound, amounts to $700:

	Cents per pound.
Prime, or extra Holiday Beef	none.
The very best on sale to-day	17@18
That generally rated first quality	16@17
Medium or good fair quality	14@16
That of ordinary thin Steers, Oxen and Cows	13@14
Inferior or lowest grade of Cattle	10@12
The general average of the market to-day, estimated at	15½
Extreme range of prices from	13@18
The most of the sales are from	14@16½

WHERE THE CATTLE ARE FROM.

The Bullocks sold at Allerton's are reported from the following States:

New-York	500	Illinois	720
Ohio	1,096	Iowa	105
Michigan	43	Kentucky	106
Indiana	325	Connecticut	119

They came by the following routes: Erie Railroad, 277; Hudson River Railroad, 17; Harlem Railroad, 1,904; New-Haven Railroad, 12; New-Jersey Central Railroad, 678; on foot, 44. About 3,000 were in the yards on Monday.

LIST OF DROVERS.

The following are the names of drovers, owners or consignees of the principal droves, and where the cattle are reported from:

H. Myers, Ohio	96	C. S. Green, Ill	51
J. Connors, N. Y	22	W. H. Monroe, Ill	66
J. Connors, Mich	26	J. Ellis, Mich	23
H. Eckstein, Iowa	52	Seigle & Lauterbeck, Ill	52
J. Van Atta, Ohio	92	Jas. Ryan, Ohio	55
J. Morgan, Ohio	141	T. Gillis, Ky	49
A. Greenley, Ohio	32	J. Maxwell, Ohio	30
J. Mattoon, Ind	16	N. J. Holcomb, Ky	68
W. Marvin, Ohio	12	J. L. Bond, Ind	26
J. P. Long, Ind	35	Lawless & Trainor, Ohio	32
J. Faught, Ind	19	J. Levi, Ill	91
P. Wilson, N. Y	26	J. Dalbey, Ill	174
Jackson, Conn	12	Jacoby & Penn, Ky	49
M. Bird, N. Y	17	H. Eisner, Ill	65
M. Myers, Ohio	31	Henwick & Seymour, Ohio	40
J. Lindsay, Ohio	16	Lane & Montgomery, Ohio	162
Healey & Co., Ill	56	Colgrove, N. Y	12
J. Caldwell, Ind	37	R. Kennedy, N. Y	15
M. Dalton, Iowa	18	J. Dunaway, Ill	72
Geo. Wells, Iowa	35	R. R. Allsdorf, O	17
Sus. Schuester, Ind	131	W. Snider, O	29
F. Goodstein, O	50	Kellenger, O	34
P. O. Neil, O	29	Wm. B. Stephens, O	19
J. A. Merritt, N. Y	12	J. Bates, N. Y	10
Kelley & Co., Ind	71	N. Loughman, Ill	12
Wm. Clark, O	55	Phelps, Jones & Co., O	29
E. Rittener, O	60	H. Westover, N. Y	15
Bickles & Thompson, Ill	49	J. Ferris, Conn	21
Mills & Phillips, N. Y	73	P. Wilson, N. Y	20
J. Carman, N. Y	15	Harlem Local, Conn	80
Mead, O	15	Harlem Local, N. Y	300

REMARKS ABOUT BEEF CATTLE.

The total number this week, 4,913 head, compares with 4,628 head last week, and with 5,258 head average per week last year, and with 5,291 for the corresponding week one year ago.

The number sold yesterday and to-day at the principal market, 3,100 head, compares with 3,564 head last week, and with 3,650 head, the average per week last year, and with 3,192 head at market one year ago.

THE OPENING, OR PRINCIPAL DAY, OF THE MARKET.

Monday, Feb. 5.—We find only 2,933 head of bullocks in market at Forty-fourth-st., to-day, and the total for the week at all the market-places foots up so far only 4,695, which is considered a short supply, and in consequence an effort was made early in the morning to advance the rates current last week, but it proved a failure, except upon real first-class stock, which were held rather stiffer, and some of them sold at a shade better rates for drovers than last week; but upon all grades below first-class there is no improvement, and on the average the market is not quite as good for drovers as it was a week ago, and nobody seems to have any confidence that present prices can be maintained in future. They may rise higher for a single week, in consequence of some failure in transportation. It is probable that the market was slightly affected to-day by a loss and injury of nearly 300 head by the upsetting of the ferry-boat Kill Von Kull of the New-Jersey Central Railroad line. The cattle were principally from Ohio, mostly shipped by John Moss, and the drove of 60 good Ohio Durhams, owned by John Boggs, were entirely lost. The very best stock sells to-day at 17@18c. ℔ lb. net, seller sinking offal. A real good drove of Illinois steers will average 16c., and good up-country oxen about the same, and inferior stock range at 12@14c. The weather to-day is quite favorable to drovers, being clear, dry, severe cold; but trade has not been very active at any time, and in the afternoon is called "slow," and not as good as in the morning. The number of up-country cattle is large, but none of the owners brag any of the money they make, nor do those who bought at Albany, while Western drovers, with stock bought two or three months since, are all losing money. The price is certainly declining, and it cannot be stopped by speculators, brokers and butchers, all combined. The people have decreed that they will have cheaper beef, and the butchers may as well obey the decree as fight against it. Some extra fine bullocks are expected here next week. One from Dutchess County, 7 years old, to arrive Friday, is reported to weigh 3,795 lb. He was raised and fed by T. H. Trump of Stamford.

THE CLOSE OF THE MARKET.