CIVIL COURTS.

UNITED STATES DISTRICT COURT.—Nov. 13.—Before Judge SHIPMAN.

A COLLISION CASE.

Wm. H. Fleeman, assignee, agt. Steam Tug-boat Niagara.

The libelant alleges that he is the assignee of Gray & Glasser, late owners of the schooner T. J. Fall, which plied between the ports of New-York and New-Bedford, Mass.; that on the 19th of June, 1866, while this schooner was lying moored at Pier No. 41, East River, libelant hired the Niagara to tow her out into the stream; that after the Niagara had fastened a hawser to the schooner and commenced to tow she commenced an unreasonable rate of speed and parted the hawser, which libelant claims was of inferior quality, and the schooner, in consequence, being left at the mercy of the wind and tide, was swept under the bows of a large ship, with which she collided and received serious damage to the amount of $1,000, for which the proprietors of the Niagara refusing to pay, suit is brought to recover.

The answer says that the hawser was made fast by the crew of the schooner; that the tide was running strong at the time and that the hawser was of good quality; that it was owing to the breaking of the chest on the schooner, to which the hawser was made fast, that the accident happened, the hawser being cut thereby; that the damage to the schooner by the collision would have been slight if the captain of the schooner had permitted the tug to come to her assistance, and that the damage was much less than claimed by plaintiff.

The Captain of the tug testified that it was the custom for vessels being towed to furnish the towing lines or hawsers, tug-boats only furnishing them as a favor.

The testimony in relation to the breaking of the hawser was very conflicting.

Decision reserved.

J. Randolph Fitzhenry for libelant; Beebe, Dean & Donahoe for respondent.

CONDEMNATIONS.

Returns of process were made in the following cases: U S. agt. 5 bbls. of whisky found in Eighth-ave.; same agt. 3 bbls. do. found at No. 53 Lewis-st. No claimants appearing, on motion of Assistant District-Attorney B. K. Phelps decrees were entered condemning the above whisky by default.

UNITED STATES COMMISSIONER'S OFFICE.—Nov. 13.—Before Commissioner OSBORN.

A LIVELY FIGHT AT SEA.

The United States agt. Ann Eliza.

James M. Barlow, carpenter of the ship Swallow, charged defendant, who was the stewardess of the vessel, with striking, while the Swallow was on her passage from Manilla to this port, on the 20th of last October, struck him on the head with an ax, felling him and rendering him insensible. It seems, from the evidence, that shortly prior to this alleged assault the captain of the Swallow and the defendant had a difficulty in relation to some words that defendant informed the captain the carpenter told her the captain had used derogatory to her (defendant's) reputation. The captain denied having used such language, and both he and the defendant repaired to the carpenter's room to have the matter explained. While there, a quarrel ensued between the carpenter and the defendant in relation to the matter, and the carpenter denied that either he or the captain had said anything against defendant's reputation. About this time the husband of the defendant, who was cook of the vessel, made his appearance, and, taking his wife's part, was about to make short work of the carpenter by splitting him with a Chinese clover, when the carpenter, not relishing the idea of being so summarily disposed of, seized an ax-helve and started in hot pursuit of the cook, who beat a hasty retreat while clearing the cook, the carpenter came in contact with defendant, who had in the mean time, seeing her husband's danger, armed herself with an ax; while passing defendant the carpenter received the blow complained of, which it seems was given with the back of the ax; and rendered the carpenter insensible for a brief time, about 15 minutes.

The carpenter when cross-examined in reply to questions, denied that he had ever made improper proposals to defendant, or that the captain had.

The defendant seemed deeply affected on hearing of the penalty that awaited her if convicted, and cried audibly for some time. The case was adjourned till to-day at 2 p. m.

SUPREME COURT—CIRCUIT.—Nov. 13.—Before Mr. Justice MULLEN.

A FIRE INSURANCE QUESTION.

Spencer T. Parmlee agt. The Hoffman Fire Insurance Co.

The plaintiff, who is the assignee of the Parmlee Piano-Forte Company of New-Haven, Conn., brings suit to recover from defendants, an insurance company of this city, $2,500, which plaintiff claims defendants are indebted to him on an insurance policy. Plaintiff alleges that the defendants on the 18th of October, 1865, in consideration of the payment by the the Parmlee Piano-Forte Company of $37 50, insured the Company to the extent of $2,500 on the stock and materials in the Company's manufactory, situated at No. 9 Howard-st. New-Haven; that the business of the Company was assigned by the Company to plaintiff, and also the policy by the consent of the defendants; that on the 30th of August, 1865, a great proportion of the stock and materials in the factory were destroyed by fire; that due notice was given defendants of the loss, with the proper proofs, but that defendants refused to pay the loss, $2,500, for which they had become liable by their policy.

The answer is that the Piano-Forte Company in obtaining the policy made false representations as to the occupancy of the building, stating that it was and would be occupied by them exclusively for their business, which promise the defendant contends the Company violated, a portion of the building being occupied by a fire-arms company, which was a dangerous business and increased the risk; that in the preliminary proofs furnished defendant by the plaintiff he made false representations of his losses, under oath, thereby violating and rendering void the policy, and that plaintiff kept on his premises a large quantity of benzine, contrary to the agreement in the policy.

After the reading of some written testimony, the counsel for defendants moved the dismissal of the complaint for the reasons assigned in the answer, which the Court refused to grant. Plaintiff then introduced testimony in rebuttal of the allegations in the answer, after which the Court directed a verdict for plaintiff for $2,675.

Sandford & Woodruff for plaintiff; Wheeler H. Peckham for defendant.

Before Mr. Justice JOSEPH F. BARNARD.

THE ORGANIZATION OF THE STATE MILITIA—WHO ARE THE PROPER ELECTORS OF THE COLONELS?

The People ex rel. Chas. M. Catlin agt. Wm. H. Farrar.

This is an action in the nature of a *quo warranto* to determine whether the relator the defendant is properly the Colonel of the 37th Regiment N. Y. S. N. G. Col. Ashley, its former commander, resigned in August, 1865, and on the 28th of September, the officers met and held an election which resulted in the election, by a vote of 15 to 14, of the relator. At this election the staff officers, four in number, voted, but it did not appear on this trial how they voted. A commission was accordingly issued to the relator. One of the officers, Capt. Lyons, appealed to Brig.-Gen. Hall to set aside the election on the ground that the staff officers nominated by the Colonel had no right to vote at the election of a colonel. Gen. Hall affirmed the validity of the election, and Capt. Lyon having been put under arrest, a Capt. Brougham appealed from his decision to the Governor, as Commander-in-Chief. The Commander-in-Chief through his Adjutant-General, annulled the election, for the reason assigned, and directed a new election. The new election resulted in the choice of the defendant.

The relator claims that the original election was valid and proper, and that he is still of right the Colonel of the regiment, Mr. Farrar being a usurper. They argue that the staff officers, as "commissioned officers," are included among the statutory electors, and that if they are not entitled, the defendants before appealing the election must show that the relator was elected by illegal votes—not merely that illegal votes were cast.

The defendant claims that staff officers are not included among those entitled to vote, and that their participation in it vitiates it, and that the decision of the Commander-in-Chief is correct, but whether right or wrong, that it is final and cannot be reviewed by the courts; and that the relator, by assuming to act without quality as lieutenant-colonel, and other acts, has acquiesced in the election, and is now estopped from raising the question. The Court reserved its decision. Mr. Fithian for relator; Mr. Burrill for defendant.

SPECIAL TERM.—Before Mr. Justice POTTER.

AN ALLEGED NUISANCE.

Charlotte Hirsch agt. Thomas S. Ollive.

This was an application for a perpetual injunction to restrain defendant, who keeps a bakery at the corner of Nineteenth-st. and Second-ave., from continuing such business on the ground that it is so conducted as to be a nuisance to the neighborhood. Counsel for plaintiff endeavored to show that plaintiff and her family, who reside next door to the bakery, were constantly annoyed, and suffered in their health, on account of the stench and heat from defendant's bakery, and also claimed that it was a nuisance for these and other reasons to the whole immediate neighborhood. Counsel for defendant contended that the complaint was frivolous; that his bakery was conducted in a proper manner, and was no nuisance, and that the present suit was the result of animosity against defendant by certain parties in the neighborhood, and asked a dismissal of the complaint. He was about to give additional facts in support of his motion to dismiss when the hour being late, the court adjourned to this morning. F. B. Mather for plaintiff; R. W. Townsend for defendant.

CHAMBERS.—Before Mr. Justice SUTHERLAND.

THE MURPHY DIVORCE CASE—A LARGE CLAIM FOR ALIMONY.

Anna L. Murphy agt. Andrew Gross.

The plaintiff in this suit claims that her husband has treated her in a cruel and inhuman manner, and has commenced proceedings against him for a limited divorce; that this action has been referred and is now pending; that she is without any means of support for herself and seven children, except such as may be derived from her husband; that her husband left the city secretly for California in September, 1861; that her husband is doing a large dry goods business, and is owner of an interest in a gas company in San Francisco worth $70,000; that his income in 1864 was over $100,000; that he is now worth at least $600,000; that Murphy has frequently avowed his intention of disposing of his property here and in California and going to Europe, and has gone to California for the purpose of disposing of his property. She further avers that her husband purchased the lot No. 44 East Thirty-fourth-st. as a residence for her and her children, and paid $85,000; that in November, 1864, she and her children took possession of it with his assent, and she has continued to reside in the house, being large and commodious, and the lot being 37 feet front and extending from lot to lot, and only 100 feet from Madison-ave.; but that he has since threatened to turn her out; that the defendant Gross, has combined and confederated with her husband to deprive her and her children of the house, and that since the divorce suit was commenced, Murphy has conveyed to Gross the premises in question, with the furniture and fixtures; that they were sold nominally for $60,000—though really worth $100,000—but really without consideration; that this was without the consent of the plaintiff, or any release by her, she being first informed of it by a letter of September 26, 1866, notifying her that Mr. Murphy had reserved possession down to May 1, 1868, and afterward hired the house for four months, but that having expired he, Gross, desires possession. She then avers that her husband has left her no means, and that she is dependent on the charity of her sister and other relatives for the loan of a few dollars from time to time. She says that the defendant intends to evict her, and asks an injunction.

On this an injunction was granted restraining him from dispossessing the plaintiff or from disposing of the property.

The defendant denies an information and belief that the plaintiff's husband has treated her in a cruel and inhuman manner, and says that the plaintiff only took possession of the house in question as one of Mr. Murphy's family. He denies that there was any fraud on his part in the purchase of the property, or intent to injure the plaintiff on his part. That in fact the property was offered by Murphy for sale to others, but in the absence of his wife's signature could not get the price he wanted, and that ultimately, after a ten days negotiation, Murphy and Gross came to an agreement for purchase on defendant's notes; that Mr. Murphy hired a handsome, furnished house last Spring, known as the Mansion House, near New-Brighton, Staten Island, at a rent of $666 66 per month as a residence for himself and his wife, and requested his wife to move thither, but that she refused, and the house is now vacant for her.

The affidavits which the defendant used on the motion to dissolve the injunction, set up that the husband had left a provision for paying the bills of Mrs. Murphy, and that she had sent in bills to his agent, amounting to nearly $100 per day. That this agent was instructed to furnish her with money, but that she had declined to receive it.

The Court interrupted the discussion by suggesting that an independent suit of this kind was not the proper remedy; that the wife's right depended on her success in the divorce suit, and that perhaps the proper means to settle the matter was an order in the original suit when it was decided.

The Court, after some further discussion, took the papers, reserving its decision.

THE BOARD OF HEALTH AND THE MANUFACTURERS OF MANURE.

Enoch Coe agt. Jackson S. Schultz and others.

The following elaborate opinion has been rendered by Mr. Justice Sutherland in the above entitled action, the argument of which was reported in the columns of this paper:

The defendants constituting the Metropolitan Board of Health made an order that the manufacturing of superphosphate of lime, or poudrette, by the plaintiff, at Hunter's Point, within the Metropolitan Sanitary District created by the act of Feb. 26, 1866, be forthwith discontinued until the mode of conducting said manufacture should be so altered as that no noisome fumes could escape into the external air, and further ordered that such order be executed by the Metropolitan Board of Police, and a temporary injunction was granted restraining the execution of said order. The plaintiff in his complaint insists that the business or manufacturing process as carried on by him, was in no respect a nuisance. The defendants, in their answer, insist that said business, or manufacturing process, was a public nuisance, and not only disagreeable, but infectious to life and health. On the hearing of a motion before me to continue the injunction, many affidavits were read on the part of the defendants, tending to show that the said business, or process of manufacturing, was, and had been for some time, a public nuisance, and not only disagreeable and annoying to many persons residing in the neighborhood, and to persons passing and repassing, but also injurious to public health; and many affidavits, on the part of the plaintiff, tending to show that the said business, or process of manufacturing, was not, had not been, and could not be, injurious to life or health. After hearing these affidavits, I at once said, that, considering them, and the presumptions in favor of the defendants as public officers, having a great public duty to perform, I should not feel justified in continuing the injunction, on the ground that the thing or act ordered to be discontinued or altered, as a public nuisance, was not or could not be a public nuisance; but the counsel for the plaintiff, urging certain constitutional objections to the Act under which the defendants had acted, and to their proceedings under it as to the pertinency or materiality of which, in this particular case, I was not then prepared to judge,—as such constitutional objections, I not only heard the counsel at large, but permitted him to submit an elaborate written brief. A careful consideration of the case, and of the common law and common law decisions as to nuisances, and of the counsel's brief, has led me to think that having substantially held at the hearing, that it appeared that the manufacturing business or process, as carried on by the plaintiff was, and had been a public nuisance and injurious to the public health, I ought at once to have vacated the temporary injunction, and denied the motion to continue it, without considering the constitutional questions, that is, irrespective of them, unless indeed, I assume, that plaintiff's counsel in taking and in giving the point that the execution of the order would deprive the plaintiff of his property "without due process of law," intended to go so far as to say, that the State Constitution had abolished the common law principle, that any subject or citizen has the right of his motion summarily to abate a public nuisance; a constitutional construction, so moral and so utterly without any colorable support, that respect for the counsel and his brief forbids the assumption. At common law a private nuisance was a tort; a public or common nuisance a criminal offense. At common law a very concise definition of a public or common nuisance was, that it was a public annoyance; but a more extended definition was, that it was an offense against the public, either by doing a thing which tends to the annoying the public, and common against all, or by neglecting to do anything which the common good requires. See Jacob's Law Dic. and 2 Roll. Abr., 83; Hawk., Book 1, p. 197, sec. 1. It was a principle of the common law that anyone might abate or remove a public nuisance without staying to have the thing abated or removed, found to be a nuisance by a jury, or in, or by any preliminary legal proceeding. Hawk., same book, p. 1,965, sec. 12; James agt. Hayward, Cro. Chas., 184; Hart agt. The Mayor, &c., of Albany, 9 Wend., 571-588, 589, 508, and authorities there cited; Weimore agt. Tracy, 14 Wend., 250. Of course, any one who undertook, in good faith, thus summarily to abate a public nuisance of his own motion, by his act absolved that he regarded and declared the thing stated to be a nuisance, but he nevertheless took upon himself by his act the work of being able to show, in a proper action by the party whose interests were injuriously affected, that the thing abated was a public nuisance. It seems, however, to have been held, that in a plea justifying such abatement or removal, it was not necessary to show that the defendant did as little damage as might be (Hawk., Sect. 13, before cited); and this clearly shows, the favor with which the common law regarded this summary process of abating a public nuisance. No one has probably ever suggested that Magna Charta interfered with this process of summarily abating a public nuisance. If the abatement involved the deprivation of property, the owner was deprived of his property "by due process of law," if the thing abated was a public nuisance, for then, the summary process of abatement was authorized by the common law, and any process authorized by law must be due process. The common law was adopted by our State Constitution, and if this summary process of abating a public nuisance was "due process" within the meaning of Magna Charta, there is not a room for a doubt, that it is "due process" within the meaning of our State Constitution. It was substantially held to be due process without any trial by jury, in Hart agt. the Mayor, &c., of Albany—Supra. The temporary injunction in this case restrains the defendants from interfering with the property, or the manufacturing business of the plaintiff, at Hunter's Point. The defendants have justified, or undertaken to justify, their proceedings, as public officers, under the Metropolitan Sanitary act; but, if the business, or manufacturing process of the plaintiffs was a public nuisance, how can I, in deciding this motion, disregard the common law rights of the defendants as citizens to abate the nuisance? I see no principle upon which I can. See Denning agt. Brown, 6 Wend., 351, 355. If the Metropolitan Sanitary Act is Constitutional, it did not abolish or impair the common law right or remedy (Wetmore agt. Tracy, 14 Wend., 250, 259), and if it is Constitutional and void it could not. I have my conclusion, that, when determined at the hearing that the injunction ought no to be continued, on the ground that the business or manufacturing process of the plaintiff was not a nuisance, I might have decided the motion without considering the constitutional objections urged by the plaintiff's counsel—but in view of any possible doubt as to the correctness of this conclusion, or as to the propriety of resting my decision exclusively upon the common law right of the defendants in common with others, as citizens, to abate the nuisance, considering the great public purpose and importance of the Metropolitan Sanitary Act, I will look at the case and briefly examine the constitutional objections, as if the injunction was to be continued, unless the defendants were justified as officers under the Act. 1. As to the Constitutional objection, that the execution of the order would deprive the plaintiff of his property "without due process of law." I am not willing to concede that the Legislature can create a public nuisance or a new definition of a public nuisance, unknown to the common law decisions. I am not willing to concede that the Legislature can constitutionally declare an act or thing to be a common nuisance, which palpably, according to our present experience or information, is not and can not be under any circumstances, a common nuisance, by the common law definition, or common law decisions. I am not willing to concede that the Legislature can constitutionally declare or authorize any Sanitary Commission or Board to declare the keeping or the use in any way of sugar or vinegar to be a common nuisance, because the one is sweet and the other sour, or for any other reason. By such an unlimited power it is easy to see that any citizen might be deprived of his property without compensation and without any elaborate pretext, that the public good required such deprivation. It is not impossible to conceive that at some future day there might be a legislator, thinking the use of water in any way to be a nuisance. But my construction of the Metropolitan Sanitary Act is, that it does not authorize, and was not intended to authorize, the enactment, or any part of members of it, to declare a nuisance or common nuisance, or to declare an act or thing to be a common nuisance, which, clearly, under any circumstances, is not or cannot be such at common law. Notwithstanding the evidently labored effort by section 14 and other parts of the act to give the Board full and complete power to remove, abate, suspend, alter, improve and purify anything dangerous to life or health as a public nuisance, yet my construction of the act is that the question whether the thing which has been or is to be removed, abated, &c., was or is dangerous to life or health, or was or is public nuisance, is a jurisdictional question; but of course independent of the special provision in the act to this effect, considering that the act not only gives power but imposes a great public duty on such a question, all presumptions are and should be in favor of the Board. This appears to have been Justice Ingraham's construction of the act in Mayer, &c., of New-York agt. the Board of Health. One part of the opinion of Judge Daly in Charles Cooper and another agt. Jackson S. Schultz and others, goes to show that it was his construction. This being the construction of the Act—conceding, for the purpose of answering this constitutional objection, that the execution of the order of the Board is questionable, or, if not, deprive a citizen of his property—yet it is clear that it cannot be said that the plaintiff would thereby be deprived of his property "without due process of law," if the business or manufacturing process of the plaintiff was a public nuisance, for it cannot be doubted that the Legislature had the power to give the Board the right to do, and to make it their duty to do, the same thing, which any citizen might do of his own motion. The history of the Health laws relating to this city, from 1794 to the passage of the Metropolitan Act, shows that the Legislature have from time to time exercised this power, and I suppose the charter of a municipal corporation carries with it the power and the duty of protecting the life and health of the inhabitants of the municipality from nuisances. If then the summary abatement of a public nuisance, including the deprivation of property, by a citizen of his own motion, and without a preliminary trial by jury, at common law, was "due process of law," then the execution of the order of the Board in question would be "due process of law," though its execution might deprive the plaintiff of his property without compensation. 2d. As to the constitutional objection, that the act establishes an inferior local court within the prohibition implied by Article VI of the Constitution. In the first place, though the powers conferred by the act are unquestionably mainly judicial, yet I do not think that the Board can properly be called a Court; but if otherwise, there are two decisions of the Court of Appeals which prevent me from sustaining the objection. The one is the Metropolitan Police decision (People agt. Draper, 15, New-York R., 532), and the other is Sill agt. The Village of Corning (15 N. Y. R., 297). The first shows, that the Legislature had the power to create this new political or Governmental District, called the Metropolitan Sanitary District, and to provide for the *appointment* of its officers; the second shows, that this District, not being a city, though including *more than one city*, the Legislature had the power to provide for the organization of an inferior local Court in it. 3d. As to the constitutional objection that the act authorises the Board to pass laws. It is plain, that the bye-laws, and ordinances, which the Board is authorized by the Act to pass are not laws within the meaning of the cases, holding that the Legislature cannot delegate its legislative trust; that there are not such laws, any more than the bye-laws of any corporation. In fact the Act, without using express words of incorporation, by the powers and capacities conferred, especially the power to make by-laws, creates the Board a body politic, or corporate, and if the Legislature had power to create the Sanitary District and the Sanitary Board, I cannot see why the Legislature had not the power to give the Board the right to pass by-laws and all proper ordinances to carry out the purpose of such creation. In fine, I think it follows from the Metropolitan Police decision, and the foregoing construction of the Metropolitan Sanitary act, that it is constitutional. Of course, that the Board might undertake to make by-laws or pass ordinances not authorized by the act, and outside of the purpose for which the district and the Board were created, is a consideration which has no bearing on the questions as to the constitutionality of the act. The temporary injunction must be vacated, and the motion to continue it denied with $10 costs.

Before Justice BARNARD.

DECISIONS.

Louis Frasse agt. Susan Frasse.—Report of Referee confirmed and judgment of divorce granted. Custody of the children, Angelo Frasse, Rosie Frasse and Alice Frasse, awarded to plaintiff.

John H. Myers et al. agt. Israel Ritterman.—Motion denied.

SUPERIOR COURT—TRIAL TERM.—Nov. 13. Before Justice BARBOUR.

CONTRACTS WITH BOUNTY BROKERS AND GOVERNMENT OFFICERS ACTING AS BOUNTY BROKERS.

George F. Cook agt. John A. Hull.

The defendant's story in this case is this: The plaintiff, in 1864, came to him very anxious to enlist and get bounty. The defendant himself knowing nothing about enlisting men, introduced the plaintiff to a friend of his, George E. Kasmire, who was then Assistant Provost Marshal. Kasmire agreed to try and enlist the plaintiff, and to give him, in case of success, $300, keeping the rest of the bounty himself. This agreement, he says, was thoroughly understood by the plaintiff, and was with Kasmire and not himself.

On this understanding they took plaintiff to Tarrytown; but he was there rejected, and they then took him to Poughkeepsie, where they succeeded in enlisting him. The defendant was satisfied at the size of the bounty—in all $900—and suggested to Kasmire that they should let the plaintiff have an extra $100, leaving Kasmire's share but $300. To this Kasmire assented; the $900 was paid over to plaintiff's wife, and Hull subsequently received from the plaintiff $300, which he took around to Kasmire as his portion under the agreement. He had no agreement or understanding with Kasmire, but the latter, to his surprise, handed him over one-half, $150.

Kasmire confirms this story in every point, and both say that this was their only bounty-broking affair. They spent some $75 in the matter.

The plaintiff denies the agreement, says that the $300 was sent home for his wife, and asks that he be repaid.

When the case was closed, the Court said that, taking the defendant's story as true, he was blameless; but there was this peculiarity about the case. Here was an officer of the Government, employed by it to protect its interests, entering into an agreement to receive money for enlisting a man who was, for some reason, hard to enlist, and paying out money to do what f To defraud the Government. But if that were not so, he did not see how, for reasons of public policy, such an agreement could stand. But he was inclined to go even further. Judge Field had, in a carefully considered opinion, decided that a contract to pay an agent for procuring a Government contract was void, as against public policy. It had a tendency to place the pecuniary interests of Government officers in opposition to their duty. The same principle was illustrated in the case of contracts to get an act passed by the Legislature. Now, he could not distinguish the case decided by Judge Field from the case at bar, in principle. The same principle would make all contracts with bounty brokers void, and probably all moneys paid by enlisted men under such contracts could be recovered back. If he were to decide on the spot, he would direct the jury to render a verdict for the plaintiff, but as it might be better for the purposes of a review, he would let the case go to the jury.

The case was then summed up and the jury rendered a verdict for the plaintiff for $225, being the amount claimed, less $75, the amount actually expended by Kasmire.

SPECIAL TERM.—Before Justice MONELL.

DECISIONS.

Solon S. Goodridge agt. The National Fire Insurance Co.; Wm. Gabel agt. The Third-ave. Railroad Co.; Horatio Howarth agt. Thomas Medley.—Motions granted. James Brooks agt. Jackson S. Schultz; Ezekiel Donnell agt. The Same.—Orders granted.

[Before Justice Jones.]

Stoddart agt. Stoddart.—Motion for alimony granted.

COURT OF COMMON PLEAS.—Nov. 12.—Before Judge BRADY.

MORE PROMISSORY NOTES.

John Pettigrew agt. C. A. Waterbury.

The facts of this case, as admitted, are that in 1861 the defendant executed three promissory notes, amounting to $999 99, drawn to his own order, and indorsed over to one A. W. Shipman. Shipman indorsed them over to John Pettigrew the plaintiff. The notes not being paid at maturity, this action is brought upon them.

The defendant admits making the notes but alleges that he gave to Shipman as security a chattel mortgage for $1,000; that in October, 1861, the plaintiff forcibly entered his premises, No. 91 Maiden-lane, and took therefrom goods to the amount of $7,000; that a portion of the goods were stored in the stable of the plaintiff; he also alledges that he afterward made a compromise with Shipman and received from him an order on the plaintiff for the goods. Upon presenting the order he received a portion of the goods which were stored in the plaintiff's stable, amounting to $2,500, but has never yet received the balance, which he claims are still in the plaintiff's possession.

The plaintiff claims that the forcible entry was made by Shipman, and that the goods were only stored with him; that upon Shipman's order he surrendered all the goods of the defendant which were in his possession. Jury out.

D. C. Briggs for plaintiff; Birdseye and Crosby for defendant.

DECISIONS.

[Before Justice Daly.]

Kachler agt. Frank.—Motion granted. Same agt. same.—Motion, so far as it asks for a commission, granted, but stay of proceedings denied.

MARINE COURT.—Nov. 13.—Before Judge AIKEN.

A QUESTION OF LAW.

Lewis agt. Thomas.

The plaintiff shipped certain goods on board the steamboat City of Norwich, by order of the defendant. The goods were lost on the passage, and the plaintiff brings suit to recover payment. The defendant pleads a special agreement that the goods should be delivered. The jury were directed to bring in a sealed verdict.

COURT CALENDARS.—THIS DAY.

SUPREME COURT—CIRCUIT—Part I.—Held by JOSEPH F. BARNARD, J.—Court opens at 10 o'clock a. m.—Nos. 2080, Aspinwall et al. agt. The Aster Fire Insurance Co.; 1441, The Oswego Starch Factory agt. Rodrigues; 3501, Schwartz agt. Clancy; 2331, Comelle agt. The Philadelphia Steam Propeller Co.; 2379, Worting et al. agt. The Hoffman Fire Insurance Co.; 663, The First National Bank agt. Patterson et al.; 2357, Holmes agt. Heath et al.; 1192, Griswold agt. Dawson; 1926, Fuchs agt. Gilman; 2149, Pettigrew agt. Treadwell et al.; 2325, Recktenwald et al. agt. Mathews; 879, Nichols agt. Kelly; 503, Hartley et al. agt. James et al.; 2155, Weaver agt. The First National Bank of New-Orleans; 1191, Prouty agt. Mallett et al.; 2068, Colgate agt. The Second Avenue Railroad Company; 2403, Yeamans, jr., agt. The Pacific Fire Ins. Co.; 1935, Hutchinson agt. Allen et al. PART II.—Held by MULLIN, J.—Court opens at 10 o'clock a. m.—Held at No. 57 Duane-st.—Nos. 4358, Dry et al. agt. Clew et al.; 4, Everett agt. Garrison; 2396, McDuff agt. Lamekes; 1940, O'Donnell agt. Osgood et al.; 2224, Lefferts et al. agt. Bleecker et al. Fulton Ferry Company; 894, Britton et al. agt. Francis et al.; 1238, Horschland agt. Tapscott; 1420, Christie agt. Hoskell; 972, Kennedy agt. Randall; 1930, Peterson et al. agt. Long; 964, Donaldson agt. Pine et al.; 1963, De L'Orme agt. Schwarzgabler; 1374, Am. Spiral Spring R. R. Co. agt. Perin; 341, Williams agt. Sewell et. al.; 2540, Allen agt. Kennedy; 234, Austin agt. Gilspert; 698, Boyd agt. Clake; 956, Tuble agt. Bergbelmer; 1, Freeman agt. Scandrett; 1926, Mulligan agt. Mulligan et al.; Smith. SPECIAL TERM.—Held by POTTER, J.—Held at No. 12 Chambers-st. Court opens at 10 o'clock a. m. Demurrer—No. 11, Taylor agt. The Quicksilver Mining Company. Issues of law and fact—No. 862, Marvin agt. Hoffman; 169, Pillot agt. Wood; 366, Moore agt. Pine and another; 172, Martin agt. Pierce et al.; 1, Bell agt. Ackerman et al.; 12, Haverson agt. Zion Church of New-York; Protestant Episcopal Public School agt. Hogg et al.; 211, Mechanics' Building Association agt. Whitney & Co.; 212, The Union Bank agt. Hunt et al.; 213, Baird agt. Baird; 214, Woodcock agt. Collins et al.; 215, Burnell agt. Hayes et al.; 216, Little agt. Tremlow; 217, Banks agt. Conover; 218, Sauer agt. Wright; 219, Tweedsdell agt. Pinchney; 220, Chase agt. Jackson; 221, Horton agt. Smith; 222, Geyer agt. Coleman. GENERAL TERM—Held by BARNARD, J., CLERKE and INGRAHAM, J. J.—Court opens at 10 o'clock, a. m.—Enumerated Calendar—Nos. 29, Brett agt. Catlin and others; 30, Pepperhanes agt. Irving Insp. &c.; 31, Wooster agt. Lansing, jr., executor; 32, Del Vecchio agt. Leslie; 33, Sailes agt. The Mayor, &c.; 34, Gray agt. Norris; 35, Maud agt. Haspard; 37, Greene, executor agt. Wood; 38, Same agt. Same; 39, Mix agt. Niagara Fire Insurance Co.; Whitehill agt. Hoffman; 40, Same agt. Same; 41, Same agt. Same; 42, Brett; 44, Cleary agt. Deane; 45, Mathews agt. Hobby; 46, Howland agt. Coffin et al.; 47, Thrall agt. Rich; 48, Hoyt agt. Smith; 49, McCamble agt. Spicer; 50, Keen agt. Decker; 51, Same agt. Same; 52, Simms agt. Van Wyck; 53 Morgan agt. A. S. Peabody et al.; 54, Wilkinson agt. Mechanics' Bank. Argued: Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54. Adjourned: Nos. 55, Spoford et al. agt. Leland. EXAMINER—Held by SUTHERLAND, J.—Court opens at 10 o'clock, a. m.—Reserved cases—Nos. 79 to 108, The Washington Alexandria and Georgetown Railway Co. agt. Lemon, 109, Williams agt. Pendergast; 140, Butler et al. agt. Hingham et al. The general calendar—Nos. 146.

SUPERIOR COURT—PART I.—Held by Justice BARBOUR.—Court opens at 11 o'clock a. m. Nos. 2599, Mackenzie agt. The Second-ave. Railroad Company; 2745, Wakeman agt. Lowery; 2477, Lundy et al. agt. Chase; 1858, Londe agt. The Camp Gen. Trans.; 631, Delafield et al. agt. Hall; 2, Bell agt. Ackerman et al.; 2, McIntyre agt. Dryden; 2591, Stewart agt. Herbert; 2711, Autry agt. The Mayor, &c.; 2543, Richardson agt. Jones; 2122, Bruce agt. Taylor et al.; 2603, Hoy agt. Denier; 2559, Burrows et al. agt. Block et al.; 2607, Hoyt et al. agt. Wallerstein et al.; 2478, Wilson et al. agt. Jewett et al.; 2619, Cooling agt. Lee et al.; 2653, Archer agt. the H. R. R. R. Co. PART II.—Held by Justice JOHNSON.—Court opens at 10 o'clock a. m.—Nos. 2748, Bennet agt. Bender; 2703, Ryan agt. Henry et al.; 2803, Brownell agt. Van Riper; 2716, McDonald agt. Kelly; 2376, Buck et al. agt. Guilleaume; 2761, Ross agt. the Mayor, &c.; 2765, Campbell agt. the Mayor, &c.; 2736, Fry agt. the Same; 2776, Birdsall agt. Bond; 2779, McFadden agt. Blake; 2530, Tillotson agt. Dolt; 2758, Herman, infant, agt. Yillinski; 2764, Brunjes et al. agt. Groom et al.; 2412, Blake et al. agt. Peck; 2806, Kimball agt. the Mayor, &c.

COURT OF COMMON PLEAS—TRIAL TERM—Held by Judge BRADY—Court opens at 11 a. m.—Nos. 1,506, Waterbury agt. Shipman; 1,843, Van Dyker agt. Hatch; 1,337, Farrington agt. Robbins; 1,549, Cohen agt. Ferris; 1,924, Foote agt. Burnham; 1,710, Mitchell agt. McIlvaine; 1,718, Lewis agt. Ward; 1,724, Reynolds agt. Stanton; 1,726, Meaney agt. Bayer; 1,691, Flynn agt. The Ninth ave. R. R. Co.; 1,663, Hamon agt. Keys; 1,693, Birles agt. De Levidan and others; 1,729, Brinkerhoff agt. O'Callagan; 622, Abernethy agt. Bird; 1,652, Anderson agt. Hitch. PART II.—Held by Judge CARDOZO.—Court opens at 11 a. m.—Nos. 1,672, Norris agt. Sawyer; 936, Shipman agt. Hyun; 1,743, Brady agt. Schepper; 1,864, Foote agt. Burnham; 1,710, Mitchell agt. McIlvaine; 1,718, Lewis agt. Ward; 1,724, Reynolds agt. Stanton; 1,726, Meaney agt. Bayer; 1,691, Flynn agt. The Ninth ave. R. R. Co.; 1,663, Hamon agt. Keys; 1,693, Birles agt. De Levidan and others; 1,729, Brinkerhoff agt. O'Callagan; 622, Abernethy agt. Bird; 1,652, Anderson agt. Hitch. PART III.—Held by Judge CARDOZO.—Court opens at 11 a. m.—Nos. 1,672, Norris agt. Sawyer; 936, Shipman agt. Hyun; 1,743, Brady agt. Schepper; 1,864, Foote agt. Burnham; 1,710, Mitchell agt. McIlvaine; 1,718, Lewis agt. Ward; 1,724, Reynolds agt. Stanton; 1,726, Meaney agt. Bayer; 1,691, Flynn agt. The Ninth ave. R. R. Co.; 1,663, Hamon agt. Keys; 1,693, Birles agt. De Levidan and others; 1,729, Brinkerhoff agt. O'Callagan; 622, Abernethy agt. Bird; 1,652, Anderson agt. Hitch.

MARINE COURT—TRIAL TERM—Held by ALKER, J.—Calendar called at 10 o'clock, a. m. Nos.—Smith agt. Ayres; 41, Roelofs agt. Hecht; 77, Dixon agt. McManus; 11, Stapp agt. Rickards; 43, Turner agt. Dedich; 69, McKenna agt. McCaffrey; 96, Norman agt. Second-ave R. R. Co.; 31, Hunter agt. Eaton; 92, Courtney agt Johnson; 93, Schmidt agt. Talern; 94, Selser agt. Gilbert; 9, Pope agt. Legal; 46, Webber agt. Sellingberg; 97, Rach agt. Hoppe; 99, Van Haken agt. Stutts; 100, Ritter agt. Livingston; 101, Hendrickson agt. Bull; 102, Moullier agt. Chermis; 103, Farrell agt. Martin; 104, Geiger agt. Mole.

EDUCATION.

PENNSYLVANIA CONVENTION OF COUNTY SUPERINTENDENTS.

DEPARTMENT OF COMMON SCHOOLS, HARRISBURG, Nov. 1, 1866.

To the County Superintendents of Pennsylvania.

GENTLEMEN: My predecessor calling a meeting of the County Superintendents of the State, to be held at Harrisburg, on the 4th of December next, at 2 o'clock p. m., to continue in session three days, I cordially indorse that call, and earnestly request every Superintendent to be present. There has been no time since 1864, when such a Convention was more needed, or its deliberations calculated to do more good.

No reduction of fare could be expected at the hotels in Harrisburg if the Superintendents scatter among the several houses, but the proprietor of the State Capital Hotel has consented, if all or nearly all of them should think fit to stop at his house, to furnish boarding at $2 a day, which is two-thirds of his usual charge.

Mr. Coburn assigned some time since a number of topics to different Superintendents, and requested written reports upon them. It is expected that these will be read, and that the subjects treated of will be discussed. In this connection the whole work of the County Superintendency can be reviewed, and the School Department will be able to give such instructions as seem to be called for.

In addition to this, I shall ask the Convention to resolve itself into a kind of Executive Session, at least every forenoon, for the purpose of enabling the School Department to learn the views of the Superintendents and of the people throughout the State on the following points, in which changes in the law or in the practical operation of it have been thought of:

1. The minimum length of time the schools should be kept open.—Should it be increased to five or six months?

2. Uniformity of text-books in counties.—Should a provision be made in the law for effecting such uniformity?

3. County Aids to Teachers' Institutes.—Should the law now in existence in eight counties be made general?

4. Provisional Certificates.—Should they be dispensed with? If not, what changes should be made in the policy now practiced in regard to granting them?

5. Renewing and Indorsing Certificates by County Superintendents.—Is it good policy to renew and indorse them?

6. District Superintendents.—Should there be a general