THE COURTS.

MURDER TRIAL IN BROOKLYN.

Frank Drake was put on trial in the Court of Oyer and Terminer, Brooklyn, before Judge Gilbert, yesterday. He was indicted for the murder of Wm. Fitzpatrick by shooting on Sunday, June 13. District-Attorney Morris appeared for the people and ex-Judge Culver for the prisoner. A number of witnesses were examined.

The principal testimony was that of James Smith, who happened to be near by at the time of the homicide. He testified that he lived on Wyckoff-st., near Buffalo-ave.; knew the prisoner, but had not known the deceased; the prisoner lived on Buffalo-ave; on Sunday, the 13th of June, he saw a disturbance on Buffalo-ave, and saw a colored man beat a man in a red shirt; heard the colored man holler for his pistol; the man in the red shirt was then running away; the colored man's wife handed him a pistol, and he shot a man who was standing by; had not seen the commencement of the difficulty; when witness first saw Drake he was hollering, "I'll shoot the son of a b——h." The man who was shot was about twenty rods off, and when witness heard him hollering he was saying, "Die, you son of a b——h; you've got to die;" witness went to help take up the man who was shot; his eyes were open, but he was dead; had never seen the deceased before; he did not see anybody strike the prisoner, who was talking in a loud tone of voice, "kind of jawing;" prisoner did not appear to be at all under the influence of liquor; prisoner called for his pistol before the man in the red shirt ran away; witness had been told that his name was Bradshaw; Fitzpatrick died right away; was cold when witness took him up; did not know where the pistol came from, and did not see any one hand it to him.

Cross-examined: His house was about thirty rods from Drake's; the disturbance took place between 9 and 10 o'clock on Sunday morning; he first saw the man called Bradshaw, and then a smallish colored man went up to him and said, "If anybody threatened to strike Frank Drake he'd strike back again; at that time Drake was across the street standing with some colored men; in about two or three minutes he heard Drake call for his pistol; was not able to say who gave it to him; saw Drake's wife there, but did not see her bring the pistol out of the house; did not hear anything said about a knife; neither Bradshaw nor Fitzpatrick had a coat on; a coat was afterward found and put on Fitzpatrick; Bradshaw had his coat hanging over his arm; Fitzpatrick was standing close in front of Drake when the pistol was called for; could not tell what was said, because they were all talking together.

Matthew Newton testified as follows: I live in Flatbush; I know Francis Drake; was passing his house on the Sunday morning in question; I heard a noise and went there; before I got there the man was shot; when I was about half a block off I saw six men come out of Frank's yard and go straight across the street out on to the open lot; I was about 50 feet from Frank when he fired the shot; I saw the man fall; he was about six feet from Frank when he fell; I did not hear any of the parties say anything; two other men were standing near the man who was shot; I saw Bradshaw run away; some colored fellows hit him three times with a club, and then he ran away; I saw Drake go across the road; he was with the others; they walked very fast; the shooting took place just a short distance from Frank's gate; the first thing I saw when they got to the vacant lot was the colored man striking Bradshaw with a club, and Bradshaw ran away; I saw a colored woman there, but do not know who she was; I do not know Frank's wife.

Cross-examined: There were two men named Moore with the crowd when they came out of the gate; Frank came along, too, and his wife, at least there was a colored woman there; Bradshaw and Fitzpatrick were with them and a colored man named Watts; there was some pretty loud talk; I was about fifty feet off; the clubbing was done before the pistol was fired; I don't know the man who struck Bradshaw; I did not see any stones thrown; I only saw one colored fellow with a club; Bradshaw had a red shirt on; Fitzpatrick had neither hat nor coat on; I did not see any one strike Frank Drake or throw him down or throw dirt in his eyes; I did not hear any one call for a knife or a pistol.

The defense put several witnesses on the stand to prove that the prisoner's life had been threatened at different times, and that at the time of the shooting deceased was about to throw a stone at him. The evidence is all in on both sides, and counsel will sum up to-day.

COLLISION—THE RIGHT OF WAY.

Robert P. Parrott agt. *The Knickerbocker Ice Company.*—In the Superior Court, at the General Term, Justice McCunn, associated with Justices Barbour and Fithian, delivered a voluminous opinion touching all the points in issue, and laying down new ruling concerning vessels upon the rivers. This is an action to recover damages occasioned by a collision on the Hudson River between the defendants' propeller Cornelia and the plaintiff's sloop Westchester, in consequence of which the plaintiff's sloop was sunk. The action was referred to the Hon. William Mitchell, as sole referee, who reported in favor of the plaintiffs for the sum of $11,250 80. The testimony on the part of the plaintiff established the fact that the collision occurred about 2 o'clock on the morning of November 14, 1865; that the night was a clear star-light; that there was no wind, and that for several miles just preceding the collision the sloop was allowed by her captain to drift with the current over safe anchoring ground, and where she would have been out of the beaten track of other vessels; that the defendant's steamer, at the time of the accident, was heading up stream in the usual channel, against a swift current, with a heavy tow of barges and boats in charge; that she had all her lights properly set, and that they were of such magnitude and clearness that they were seen by the crews of the sloops at the distance of miles; that there was no wind, and that the sloop's company had to row her to get her head down stream, in order to enable her, I suppose, to drift with the current; that there were no vessels' lights in sight except those of the defendant's steamer and of her tow. The evidence establishes beyond a peradventure the fact that the sloop was allowed to drift with the current for miles in mid-channel of one of the greatest inland navigable thoroughfares in the world. So that the first and principal question that presents itself is whether the plaintiff under these circumstances is free from blame or free enough from negligence to entitle him to recover. We think, upon a careful consideration of all the facts and circumstances of this case, that he is not. Before the plaintiff can recover in the case he must establish the fact that he has suffered damage by the negligence of the defendants, and second that he did not, by any act of negligence, contribute to the act or damage. The rule now is that if the plaintiff, by even slight negligence, contributed to his injury, he cannot recover. (Nell agt. Gilbert, 25; Cow, 43.7) Had the captain of the sloop exercised ordinary care this accident would not have happened. (Bly the agt. Bingham, 31—Eng. Law and Equity.) To enable a party to recover for negligence there must be clear proof on his part of due care at the time of the accident happening. A sailing-vessel has no right to neglect proper caution, and throw the entire responsibility of accidents upon steamers. It was negligence to allow the sloop to drift down a river thickly covered with all kinds of vessels in the dead hour of night, without the slightest power to control or manage her, because it is evident to the commonest mind that a vessel drifting with the current without wind has no steerage power. The captain saw the steamer approaching miles off, he should have selected a safe anchorage and brought his vessel too. His not doing so was gross negligence. The law requires from those in charge of vessels upon the water constant care and vigilance. The testimony of the captain of the sloop is that she was drifting down the stream without a breeze, and the proof of the pilot or captain of the steamer is directly contrary to this, for he says that she (the sloop) was going about eight miles an hour down stream under a good breeze, and that if the sloop had kept her course all would have been well; but that when within about 50 yards of the steamer she luffed right across the steamer's bow, and in consequence the Camelia struck her and she was sunk. There was gross negligence committed by the captain of the sloop in luffing across the steamer's bow, and plaintiff cannot recover. According to the testimony of both plaintiff and defendants in this case, gross negligence was committed by the captain of the sloop. Judgment is reversed with costs. Fithian, J., concurred. Titus B. Eldridge, esq., for defendant and appellant; Mr. Smedberg for plaintiff and respondent.

CHARITABLE USES.

Holmes and others agt. *Meade and others.*—Supreme Court—Special Term.—Before Mr. Justice Sutherland.—Dr. William Creighton of Tarrytown left, among other devices, the land on which St. Mary's Church, a then unincorporated church, stood, with a lot for a Rectory, and $5,000 to trustees during the lives of the Rev. Edward N. Mead and J. Butler Wright, to be applied for church purposes, and on the death of the longest liver, to convey them to the church, should it be incorporated by the Legislature, and if not then the property was to go to testator's heirs. This provision was contested on the ground that it was a trust not within the provisions of the revised statutes authorizing uses and trusts, charitable purposes not being within the three classes allowed. That it was a naked trust, and, therefore, executed at once, and the cestui que trust was not a person in being in whom it could be executed, and that the residuary disposition must be considered a remainder, and so void for remoteness. For the trust it was contended that charitable uses were not abolished by the revised statutes, and that the ultimate disposition was to be considered as a power in trust, and not as a remainder and valid, either as such power or as an executory devise. Judge Sutherland has rendered an elaborate opinion affirming this latter view, and sustaining the trust. Evarts, Southmayd and Choate for the trust; G. V. N. Baldwin opposed.

RIGHTS OF INDORSERS.

Archibald M. Allerton agt. *Wm. H. Belden.*—Supreme Court—Special Term—Before Mr. Justice Barnard.—According to the complaint, which for the purposes of the argument the demurrer admits to be true, the plaintiff lent his indorsement to Freeman & Co., who raised money on their note, so indorsed, from the defendant at a usurious rate. The note is past due, but Mr. Belden did not sue plaintiff on it. Plaintiff, however, commenced suit to have the note declared void, setting up his liability on the note. Defendant demurred that the complaint did not show that plaintiff was charged as indorser, not averring presentment and notice of non-payment. Judge Barnard holds that an indorser is a borrower within the meaning of the statute of usury, and that the admission of liability is equivalent to averment of the notice of nonpayment, amounting to a waiver of such notice. The demurrer is therefore overruled.

THE NEW FIRE-ALARM TELEGRAPH COMPANY.

The Cleveland Fire-Alarm Company agt. *the Board of Metropolitan Commissioners, Charles T. Chester et al.*—Supreme Court, Chambers—Before Mr. Justice CLERKE.—This was a proceeding to prevent the confirmation of a contract of the Commissioners with the Messrs. Chester for a new telegraphic fire alarm, on the ground that the plaintiff had put in lower bids for the same work. A motion for an injunction was argued at great length before Mr. Justice Clerke, the defendants claiming that the offer of the plaintiffs was not for the same thing as the Chesters had offered and as they desired. That the offer was in some respects elusive, as plaintiffs had no power to fulfill all their offers, owing to patents in the hands of the Chesters, and that the Board had a discretion in accepting or rejecting such bids. Judge Clerke has denied the motion with costs.

A TOBACCO SUIT.

Charles F. Tag agt. *Moses Straus et al.*—Supreme Court—Part 1—Before Judge Ingraham.—This was an action of replevin brought by the plaintiff to recover a lot of tobacco which he alleges he was induced to sell to one Moral by fraudulent representations, and by Moral turned over to defendants in payment of a preceding debt immediately after he received it. It appeared, however, that the plaintiff had failed to prove a demand for the tobacco from the defendants before the commencement of the action. Thereupon the defendant moved to dismiss the plaintiff's complaint, which was granted by the Judge, and judgment rendered for the defendants. Judge Van Vorst for plaintiff; Royal S. Crane and A. C. Thomas for defendants.

WHAT CONSTITUTES A SLANDER.

Charles Gehnny agt. *Henry Sipman and Wife.*—Supreme Court—Trial Term—Before Justice Barbour.—The plaintiff accuses the defendant's wife of slandering him to his wife, in the presence of others, by saying "he set fire to his store, and his wife had pawned her dresses and her watch to get him out of the Tombs." The defendant raised the question that the words were not actionable, but this point was overruled. The question then was whether there had been any publication of the slander, and the witnesses called were doubtful if they heard it, and still more doubtful whether they understood it. The jury found for the defendants. George F. Martens for defendants.

CONDEMNATIONS.

Returns of process having been made in the U. S. District Court, before Judge Blatchford, and no claimants appearing for the following-described property, it was condemned by default: 12 barrels of whisky, found on Piers Nos. 27, 37, and 40, N. R.; 20 barrels of whisky, 5 barrels do., and 5 barrels do., found on Pier No. 33, N. R.; 16 boxes, containing 800 cigars, found at Nos. 24 and 26 Murray-st.; 18 boxes, containing 900 cigars, found at No. 181 Broadway; about 5,000 cigars, and 86 boxes of Angostura Bitters, found at Nos. 40 and 42 Broadway; 3 barrels of whisky, found at No. 104 Pearl-st.

ARREST ON CHARGE OF ABORTION.

George Philippi agt. *Gabriel Wolf.*—Supreme Court, Chambers, before Justice Cardozo.—Gabriel Wolf has been arrested on a civil suit brought by George Philippi, in which he charges Wolf with having killed his wife in an attempt to bring about an abortion by drugs. The plaintiff lays his damages for the loss of his wife at $50,000.

ARREST OF DISTILLERS.

Adolph Newman and Joseph Ross, distillers at No. 353 West Thirty-ninth-st., have been brought before Commissioner Osborn, charged with removing whisky from their distillery on which the tax had not been paid. Newman was held for trial, and Ross for further examination.

THE GOLD EXCHANGE CASES—ANOTHER POSTPONEMENT.

The arguments of the motion to vacate the injunction in Millard agt. Cox, in the Supreme Court Chambers, before Judge Cardozo, were again postponed, Judge Cardozo refusing to give them a preference on account of the state of his calendar.

CRIMINAL.

At Jefferson Market Police Court, yesterday, before Justice Dodge, George Pierce was charged by Bernard Lee, a countryman from New-Jersey, with having won about $185 from him on the 9th inst., at No. 615 Broadway, by the game of faro. Pierce was admitted to bail in $500 to answer.

In the Court of General Sessions, before John D. Hackett, Recorder, yesterday, there was a large calendar, Assistant District-Attorney Hutchings appearing for the people. The case of Frank Adams, arrested for complicity in the robbery of Gudare Bobau, was again postponed until to-morrow, on account of the difficulty in obtaining a jury. Charles Franklin was charged with larceny from the person of Mr. Moses Mielziner, while riding in a Second-ave. car, on the afternoon of the 30th August. The evidence showed that the prisoner was near Mielziner, and attempted to leave the car at the time the theft was discovered. He was, however, prevented from doing so by the conductor, and the pocket-book was found on the platform near where he stood. The jury found him guilty, with a recommendation to mercy, and he was sentenced to State Prison for two years and six months. After this the Court adjourned until to-day.

COURT CALENDARS—THIS DAY.

OYER AND TERMINER AND SUPREME COURT—CIRCUIT.—PART I.—Nos. 4247, 1819, 1833, 1835, 1841, 1843, 1845, 1849, 1851, 1853, 1857, 1859, 1861, 1863, 1867, 1871, 1873, 1877, 1879, 1881. PART II.—Nos. 739, 1006, 897, 1256, 792, 720, 540, 1042, 1400, 1222, 1324, 1328, 1534, 1536, 1540, 1544, 666, 862, 1316, 1546.

SUPREME COURT—SPECIAL TERM.—Demurrers.—Nos. 31, 22, 25, 26, 27, 44, 18, 23, 33, 43. Law and Fact—Nos. 154, 211, 212, 214, 115, 216, 217.

SUPREME COURT—CHAMBERS.—First Monday Calendar exhausted.

SUPERIOR COURT—TRIAL TERM—PART I.—Nos. 1091, 949, 985, 1029, 1121, 1131, 1135, 1137, 1139, 1143, 1145, 1147, 1149, 1151, 1153. PART II.—Nos. 1190, 1072, 1052, 1228, 1094, 1100, 1104, 1106, 1118, 1236, 1238, 1240, 1242, 1244, 1246.

MARINE COURT—TRIAL TERM.—PART I.—GROSS, J.—Nos. 3779, 3029, 3089, 3814, 3645, 3095, 3091, 3716, 3728, 3751, 3762, 3778, 3626, 3672, 3683, 3705. PART II—CRAVEN, J.—Nos. 2993, 3075, 3636, 3418, 3012, 3625, 3235, 3843, 3572, 3599, 3690, 3002, 3803, 3804, 3006.

GENERAL SESSIONS.—Minnie Watson, Albert Meyer, Fred Wellcroft, Moses Sickless, Laurence O'Brien, and Charles Start, grand larceny; Peter Kehoe, robbery; Francis Gallagher, Jas. Fitzpatrick, Jas Holden, and Casper Sawyer, burglary; Wm. H. Blake and John Keating, felonious assault and battery; Richard Carroll and Wm. Johnson, receiving stolen goods; Richard McMekin, forgery; James Geary, grand larceny; Maurice O'Connell, larceny from the person; George Baker, bigamy; Lucien Albetes, and Luigi Stefanerie, obtaining goods by false pretenses.

AMERICAN INSTITUTE FAIR.

Nearly $2,000 were received last Saturday at the ticket office of the great Fair at the Empire Rink, which it now in its sixth week, and the daily receipts attain a generous figure, which wreathes the managerial countenance with smiles, and suggests the propriety of continuing the exhibition beyond its appointed limit, the 30th of October. The attractions of the Fair are as varied and multitudinous as ever, and the present week is an excellent time for visiting it. Perhaps the most noticeable among the recent additions to the exhibition is an ancient cushion, upon which a venerable French dame shows with marvelous dexterity how "real thread lace" is made. This is of the kind called Mignonette, which is even finer than the famous Valenciennes, and the skill with which the old lady handles her small regiment of little bobbins is well worth seeing. Another article particularly worthy of notice is Crimmins's patent burner and reflector for street lamps. This improvement consists in a convex reflector, placed in the ordinary street lamp, instead of the usual glass top. By this means all the light is thrown down where it is needed, instead of being wastefully allowed to escape skyward where it is of no use. The burner has four small side-jets instead of one at the top, and it is claimed that this arrangement, in connection with the reflector, gives more than three times the light with the same amount of gas, beside entirely doing away with the annoying shadows cast by the corners of the lamp-frame when the burner has but one jet. This invention seems to be exactly what is needed to treble the illuminating power of street lamps at a comparatively trifling cost, and a series of searching experiments will soon be instituted for the purpose of demonstrating its value. In the Horticultural Department, Wm. A. Burgess of Glen Cove, Long Island shows a beautiful and fragant collection of more than 200 cut roses, and Samuel Ruth, gardener at Blackwell's Island, exhibits several prodigious squashes, large beets, and fine, egg-plants. The American Patent Extension Ladder Company exhibit in front of the Rink a fire-truck invented by Thomas Watson and Charles Perry. This is two feet shorter than the ordinary truck and elevates 70 feet. It is self-supporting and carries the hose up with it, and in two minutes two streams of water can be projected from a hight of 56 feet. This truck carries all the extra ladders, hooks, axes and lanterns and five lengths of hose, and can be easily worked by six men. Nelis Poulson exhibits an awning, a blind, and a shutter, manufactured at the Architectural Iron Works on Fourteenth-st., and ingeniously contrived on the "lazy tongs" principle, so as to be closed or opened from the inside, and removed entirely out of the way when not in use.

NAVIGATION INTERESTS—MEETING OF THE CONGRESSIONAL COMMITTEE.

A special committee on the "Navigation Interests," appointed by the House of Representatives, is now in session in this city, having met at the Astor House yesterday, informally, and adjourned until Thursday. The committee consists of the Hon: John Lynch, Maine, Chairman, and Messrs. J. Buffington, Massachusetts; C. C. Washburn, Wisconsin; G. W. Hotchkiss, New-York; N. B. Judd, Illinois; D. J. Morell, Pennsylvania; W. S. Holman, Indiana; H. C. Calkin, New-York, and E. Wells, Missouri. They will act under the following resolution passed March 22:

Resolved, That a select committee of nine be appointed to inquire into, and report at the next session of Congress, the cause of the great reduction of American tonnage engaged in the foreign carrying trade, and great depression of the navigation interests of the country; and also to report what measures are necessary to increase our ocean tonnage, revive our navigation interests, and regain for our country the relative position it once held among nations, as a great maritime power.

Messrs. Lynch, Buffington, and Wells were present today. Mr. Morell is detained by the Pennsylvania State election, and Gen. Washburne by business matters. All of the Committee but Mr. Hotchkiss, who is sick, will be present on Thursday, when the inquiry will be fully opened. Delegations from Philadelphia, Maine, and this city were in attendance to-day, for the purpose of presenting the views of the shipbuilders and owners of those localities. Maine shipbuilding interests are represented by the Hon. Mr. Hichman, recently the Temperance party's candidate for Governor, and the Hon. John H. Hayden, State Senator, Kennebec. The Committee are desirous of hearing from all parties interested in the subject matter of their inquiry.

SUICIDE OF AN INSANE PEDDLER.

An inquest was held yesterday by Coroner Keenan, at No. 15 Ridge-st., over the body of Charles Hecht, a peddler, who committed suicide by hanging himself to a hook in his apartment. For some time Hecht has busied himself in reading abstruse German works, and has of late exhibited symptoms of insanity. Late on Monday night he arose from bed, and went down stairs. His absence was noted by his wife, but she paid no particular attention to it. Yesterday morning she discovered her husband suspended by the neck by a woolen comforter, which he had twisted into a rope. He was a native of Germany, aged 40 years, and leaves a wife and five children.

THE CINCINNATI BURGLARY.

Yesterday Julia De Haan, Jacob Lampert, and Jacob Utt, who were arrested on Monday, for having in their possession a portion of the $5,500 worth of human hair, stolen from the store of Messrs. Steinberg & Mayer, in Fourth-st., Cincinnati, on the 1st inst., the full particulars of which were given in THE TRIBUNE of yesterday, were brought before Justice Dowling, at the Tombs, yesterday. The fact of the finding of a portion of the stolen property in the possession of the male prisoners, at No. 366 Broadway, and the remainder in the apartment of the woman, in East Broadway, was detailed by Detective Bradford. A telegram from Chief-of-Police Ruffin of Cincinnati was also exhibited by the detective, announcing that one of the owners of the property was on his way here to make complaint against the accused. Justice Dowling decided to commit the woman, who is alleged to have brought the stolen hair here from Cincinnati, and allowed the other prisoners to go on their parole, there being no evidence to show that they knew the hair to be stolen.

NEWS PACKAGES FOR THE PRESS.

Captains and pursers of vessels arriving at this port are requested to deliver packages addressed to the New-York Associated Press only to persons exhibiting the written authority of J. W. Simonton, General Agent. News packages for the *Journal of Commerce, Times, TRIBUNE, World, Sun, Express, Evening Post, Commercial Advertiser, Staats Zeitung*, and *New-Yorker Demokrat* should also be delivered only to the same persons.

PASSENGERS ARRIVED.

FROM HAMBURG—In steamship Silesia, Oct. 12.—T. Sassmihl, wife and 2 children, Z. Case and 3 ladies, O. Ottenkorfer and 2 ladies, R. Ranft and daughter, John Shelley and wife, H. Crittenden, J. Dietz and wife, E. Bader, wife and child, Mrs. Prentice, Minnie Rohrheimer and 2 children, Jette Baer and 2 children, A. Blum, A. F. Kircher, W. H. Kircher, C. A. Page, H. Stubbendorf and wife, Mrs. H. Fuller and 2 children, Jose Hiller, W. M. Tonso, J. E. Wolfe, F. George and two