LOCAL MISCELLANY.

A BANK TELLER'S DEFALCATION.

THOMAS ELLIS, PAYING TELLER OF THE NATIONAL PARK BANK, ABSCONDS WITH $36,000.

The managers of the National Park Bank of this city were startled yesterday by the discovery that the paying teller, Thomas Ellis, had disappeared, taking with him $36,000 of the funds of the bank. Soon after the death of the late President of the bank, W. K. Kitchen, James L. Worth, the cashier for many years, was promoted to the Presidency, E. Kellogg Wright was advanced from paying teller to cashier, and Thomas Ellis from note teller to paying teller. This took place Sept. 26, and the new officers entered at once upon their respective duties. In conversation with a TRIBUNE reporter last evening, Mr. Worth said that Ellis enjoyed the entire confidence of the directors and officers of the bank. Twenty years ago he began as a messenger boy, and he had been gradually promoted to the position he recently occupied. As the position of note teller in a large bank was one of great responsibility, he had been selected after the death of Mr. Kitchen to fill the still more important position of paying teller. He was at his post until the usual hour of leaving on Saturday afternoon. As he did not appear Monday morning, it was supposed he had been detained by the fog, and one of the other clerks was instructed to take his place. This man soon after reported a deficiency in the cash account of $36,000. Still there was not the slightest suspicion that anything was wrong, and Mr. Wright, who was familiar with the desk, undertook to balance the account. A careful investigation disclosed the fact that the amount above-mentioned was missing. Ellis's father-in-law appeared at the bank a few minutes later, anxiously inquiring if the missing man had been seen that morning, and stating that he had not been at home since the previous Saturday morning. His family in consequence had become very uneasy on account of his absence. It then became evident that he had absconded.

Mr. Worth stated that he could assign no cause for this action, as it was not known that he had any bad habits. Upon inquiry he learned that a suspicious-looking person had been seen with Ellis frequently of late, but whether or not he was connected with the matter Mr. Worth had not yet ascertained. The case had been placed in the hands of detectives, and a thorough investigation would be made at once. Ellis had taken the large bills only, leaving the small bills in the safe. He might, indeed, have taken forty times the amount known to be missing. It was also possible that while acting as note-teller he had appropriated the funds of the bank to his own use. This could not be definitely ascertained for a day or two, however, as it would require a careful investigation of his old accounts as note-teller. The bank held his bond for $10,000 with good security, and consequently that amount would not be lost. His family, consisting of a wife and four or five children, resided in Brooklyn. His wife belonged to a very respectable family, and Ellis himself was the son of a prominent minister in Cincinnati. The bank has offered a reward of $5,000 for the recovery of the money and the arrest of the defaulter. A description of the latter appears in the advertising columns of THE TRIBUNE this morning.

POLICE CAPTAIN IRVING DISMISSED.

HIS PRECINCT REORGANIZED—CAREER OF THE DISCHARGED OFFICER.

The Board of Police, at its meeting yesterday, unanimously voted to dismiss Capt. James Irving of the steamboat Seneca from the police force, for conduct unbecoming an officer. The force of the precinct was entirely changed. The following roundsmen on the boat were reduced to the ranks: Jeffrey and Byrnes, who were transferred to the Twenty-ninth Precinct, and Jones, who was sent to the Eighth Precinct for patrol duty. Sergeant Welsh was transferred to the Twenty-seventh Precinct, and Sergeant Mullin took the Eighth Precinct. The officers of the boat were sent to other precincts, as follows: Adler to the Eighth, Frazier, Foley, Marlin, Phelps, Tingley, and Wright to the Twenty-ninth; Kelly, Long, and Roach to the First; Harvey, Lawler, Kehoe, Smith, Skunc, and Ten Eyck to the Eighth; McQuickin and Donahue to the Ninth, and Parker and Ryder to the Sixteenth. Sergeant Schultz of the Eleventh Precinct was put in command of the boat, and the following men were ordered to report to him at once for duty: Sergeant Doyle of the Tenth, Roundsman Ruck of the First, Roundsman Gerker of the Thirty-fifth, and Officers Kruger of the Sixth, Crittenden of the Seventh, Finnerty of the Fourth, Hays of the First, King of the Fifteenth, Wayland of the Seventh, Minis of the Twenty-ninth, Voss of the Twenty-seventh, Griffiths of the Thirty-second, Gorman of the Nineteenth, Morrell and Stevens of the Twenty-third, Boreman and Worman of the Fourteenth, Hersche of the Seventh, and Schier of the Fourth.

Capt. Irving's record as a police officer is a remarkable one, covering a period of 18 years. At 21 years of age he was appointed patrolman, on Feb. 24, 1858; he was promoted to be roundsman Aug. 30, 1870; promoted to be sergeant Nov. 16, 1870, and promoted to be captain Jan. 9, 1876. Eight charges have been preferred against him during his service on the police force, all but two being dismissed. He was sentenced on one charge to lose ten days' pay for conduct unbecoming an officer. On this last charge he has been dismissed the force. One of the charges brought against him was for complicity, while captain of the detective force, in one of the greatest forgery cases on record—that of McDonald on the Bank of England. The evidence against him was conclusive, it was thought, but was dismissed by the Board of Police on a legal technicality, because the agents of the Bank refused to appear as prosecutors. The faults of the captain, however, did not include cowardice. He was brave to recklessness, and the latter disposition frequently retarded rather than increased his efficiency. He was at times insolent to his superiors and tyrannical to his subordinates, but was never retarded from undertaking any duty involving great danger from fear or cowardice. This made him conspicuous in his early police career, and hastened his advancement. He was always, however, regarded as lacking in principle, and consorting with disreputable persons.

A GENUINE LONDON FOG.

FERRY BOATS IMPEDED AND NAVIGATION SUSPENDED—NO SERIOUS ACCIDENTS REPORTED.

The dense fog, accompanied by a drizzling mist, which has hung over the city and bay for the past three days, has not only made navigation difficult, but has converted the streets into such a filthy condition as to make them almost impassible. Of the trials and vexation of pedestrians and would-be pedestrians it is needless to speak. A Londoner would have been excusable for indulging in disparaging remarks on such surroundings. Foggy weather in this vicinity at the present season is not unusual, but to have three foggy days occur in succession is decidedly unusual. When it is remembered that no clearing up can be expected until there is a change of wind to the westward, the weather vanes are watched with considerable interest. The fog, which was the most dense up to 1 p. m. yesterday, cleared up a little at that hour, but the wind shifted around to the eastward, and at 5 p. m. the fog and mist settled down upon the city thicker than before. On both rivers the thick fog formed a great impediment to travel on the ferries. The boats were crowded with passengers, and long lines of vehicles stretched along the streets leading to the ferries, the drivers patiently waiting their turn to get on the boat. The pilots ran their boats by compass as nearly as possible, and in most cases seemed to lose their bearings, and entered their slips with difficulty. The fog bells were tolled at the ferry landings constantly for the guidance of the boats, and the whistles maintained a series of deafening blasts as a warning to all approaching craft. The several ferries kept their boats running, but the trips were less frequent than usual, as the utmost caution was observed to guard against collisions.

Strange to relate, the number of accidents was far less than was anticipated. This was due to the fact that the numerous sailing craft had anchored in all the convenient places of refuge, intending to remain until they could proceed with safety. Off Red Hook, South Brooklyn, and between Hamilton and Wall Street Ferries, Brooklyn, were anchored between 100 and 200 sailing craft. The North River, below Cortlandt Street Ferry, was crowded with schooners and other vessels at anchor waiting for the fog to lift, and the ferry-boat pilots had to exercise great care to avoid collisions. The only accident recorded up to 6 o'clock last evening was the collision of the ferry boats Weehawken and Hoboken, belonging to the Hoboken Ferry. They struck a few yards from the Hoboken slip, when the fog was densest. As few passengers were on either boat at the time there was little excitement, and the damage was trifling, not amounting to more than $500 in all. The Hoboken's injuries were slight, and she continued her trips, but as the rail of the Weehawken was carried away, and her bow cut through to the copper, she was withdrawn and laid up for repairs. The steamer Newport of the Fall River line, which was unable to leave her dock on Sunday afternoon, did not start until 8:45 o'clock yesterday morning. The Sound steamers were from two to three hours late in arriving at their piers in the morning. The Stonington boat left on time last evening, but the boats of the Fall River and several other lines remained in their slips. The ocean steamers City of Chester, Moselle, Boston, and other mail steamers, are several days overdue, and are supposed to be outside Sandy Hook, waiting for the fog to break away before entering the harbor. Several vessels are anchored in the South-West Spit. The Adriatic and Kenilworth are thought to be among those at anchor, but the fog is so dense that the vessels cannot be distinguished, but are known to be steamers by the sound of their paddles in the water and from the blowing off of the steam through the escape pipes. The fog broke slightly about 8 a. m., when the steamship California of the Anchor line, which had been detained by the fog at Quarantine over Sunday, steamed up to her pier and landed her passengers. The steamship Navarino from Southampton, which arrived on Saturday, came up in the afternoon. The Germanic, outward bound, is anchored in the lower bay, having been unable to get to sea on account of the fog.

TWEED'S APPEAL IN A CIVIL SUIT.

The argument of the appeal of Tweed from the judgment against him for $6,000,000 was finished yesterday in Supreme Court, General Term. Wheeler H. Peckham argued at length that the evidence justified the verdict, and that it, as well as the judge's charge, was strictly within the rules of law. James C. Carter spoke briefly to the same purport. Charles O'Conor was present, but did not speak. Dudley Field answered on behalf of Tweed, claiming that the exchange of juries had been without any waiver of any of Tweed's rights as against the jury that was actually selected. The Court reserved its decision.

MEETING OF METHODIST PREACHERS.

At the regular meeting of the Methodist preachers yesterday the discussion concerning "Praying Bands" in the church was resumed, the opening address being made by the Rev. Dr. George R. Crooks, formerly editor of *The Methodist*. He favored their continuance provided they were subject to competent authority. Other addresses were made on the same topic by the Revs. A. C. Morehouse, D. DeVinne, John Dickinson, D. A. Goodsell, and George Lansing Taylor. The Rev. Dr. Tiffany of Chicago described the revival now in progress in that city under the labors of Moody and Sankey, and spoke of the decease of Dr. Durbin. The theme for discussion next Monday was announced as "The Prophecies of Heathenism Interpreted by Christianity."

RETURN OF THE SCHOONER ERA.

The schooner Era, 120 tons, which was fitted out at New London for a scientific expedition to Cumberland Sound, in Davis Strait, arrived in the bay yesterday and anchored off Red Hook. Shortly after her arrival she was seized by the United States Marshal for pilotage amounting to $74, due to E. Mason, and contracted in 1873 under previous owners. The vessel was fitted out last Spring by Mr. Short of New-London and Mr. Merriman, father of Commander E. C. Merriman, United States Navy, of Williamsport, Penn., for the purpose of loading with mica at Nianilic, in the Cumberland Sound, in 65° 03' north latitude. Lieut. William Mintzer of the Engineer Corps, United States Navy, had obtained a grant of the mine from a previous claim when attached to the United States steamer Tigress, in the Polaris Search Expedition in 1873. He was sent in charge of the expedition, and Capt. Buddington, who accompanied the Juniata in the search expedition, was in command of the ship. The Era left New-London June 6 and reached Nianilic in the middle of July, after being detained 11 days in drifting pack ice.

The expedition does not seem to have been as successful as was expected. After working at the mine nearly two months they secured only about 15 tons, when it was stated that the mine very mysteriously gave out. Capt. Buddington brought back a quantity of graphite of good quality, which it is thought is abundant in that vicinity. The minerals are still in the vessel, but as the hatches were locked and no one on board who could open them, the cargo, which was supposed to be the source of wealth for those engaged in the work, could not be inspected. It was stated that considerable money had been lost in the speculation, and that Mr. Merriman had sunk $6,000 in the enterprise. The Era started on her return from Nianilic on Sept. 6, and reached New-London, Oct. 12, leaving there on Sunday for Philadelphia, whither she is bound upon her release by the Marshal.

A POLICEMAN'S BRUTALITY.

Superintendent Walling yesterday afternoon directed charges to be preferred against Officer McNeally of the Seventeenth Precinct for brutally clubbing a little boy on Saturday night. From the affidavit made by the boy, whose name is James McCormack, age 13, of No. 154 First-ave., it appears that he and a companion were passing Second-ave. and Eighth-st. when they playfully engaged in a boyish scuffle. Officer McNeally, who was near at hand, told them to desist, but they laughed at him, when he suddenly grasped McCormack by the shoulder and said he would take him to the police station. The boy tried to escape, when the officer raised his club and dealt the boy a heavy blow on the head. In falling his head struck on an iron railing, and he received another wound. The blood ran down the boy's face, but he was dragged to the police station at First-ave. and Fifth-st., where he fainted. Upon reviving him, it was found that the officer's club had made an ugly wound on the top of his head, while the fall on the railing had caused another on the side of the head. One of the boy's eyes was also swollen and discolored. He, although suffering from his wounds, was locked up over night on a charge of disorderly conduct, and on Sunday morning was taken before Justice Flammer at the Essex Market Police Court and discharged. When he appeared before Superintendent Walling he presented a pitiable appearance, and the Superintendent remarked that there was no excuse for using a club upon such a small boy, whatever might be the provocation. The case will be investigated at once.

UNDERVALUATION OF IMPORTED GOODS.

In the case of the United States against Philip Ronzoni, in which the defendant was charged with passing goods through the Custom-house at an undervaluation, a motion was argued in the United States Circuit Court, before Judge Benedict, yesterday, by Judge Dittenhoefer, defendant's counsel, to quash and set aside an information filed against the defendant by the United States District-Attorney. In this case, three successive indictments were found by the Grand Jury, each of which, after a motion to quash, was abandoned and withdrawn. Afterward an information was filed upon the affidavit of Gen. Foster, Assistant United States District-Attorney, charging the defendant with the offence contained in the abandoned indictments. The affidavit stated that the indictments had been found and withdrawn. The defendant's motion to quash the information was based on the ground that where the unusual course was taken of filing an information instead of procuring an indictment before a grand jury the defendant should have an opportunity of examination before a United States Commissioner, to enable him to show that no probable cause of action existed. Judge Dittenhoeffer cited, in support of this view, a decision of Judge Withey, in the United States Court for the Eastern District of Michigan. It was further argued that the affidavit annexed to the information was insufficient, in mere statement that an indictment had been found and withdrawn not being evidence of probable cause. Judge Benedict reserved his decision.

BUSINESS EMBARRASSMENTS.

William P. Dixon, the referee on the affairs of Hoyt, Sprague & Co., has filed a further report that Franklin J. Hall's claim for $1,181 51 is valid.

An assignment for the benefit of creditors was filed yesterday with the County Clerk by James Winterbottom, James E. Winterbottom, and Austin Leake, undertakers, to Robert W. S. Bonsall.

Jared W. Bell, clothier, formerly of Union-square, has gone into voluntary bankruptcy. His liabilities amount to $86,000, and his estimated assets to $14,000. The principal creditors are A. G. Pattersony, $18,000; William Lambert, $11,250; Alvin Higgins, $5,000, and Stephen V. White, $1,575.

A voluntary petition in bankruptcy has been filed by Jacob M. Cohen, clothier, at No. 267 Canal-st. He has liabilities amounting to $10,000.

The schedule of W. P. C. Treichel, broker, of No. 67 Exchange-place, who has gone into voluntary bankruptcy, shows $15,000 liabilities, the largest creditors being A. H. Treichel, $29,000, C. P. Bayard, $12,917, and K. D. Treichel, $10,000.

PREPARATIONS FOR TWEED'S RECEPTION.

The expected arrival of the United States Steamer Franklin, with "Boss" Tweed as a passenger, created some excitement among reporters who were eager for an opportunity to have an interview with the distinguished personage from Vigo. An application to Commodore J. W. A. Nicholson, Commandant of the navy-yard, for permission to go on board of the vessel upon its arrival, was not successful. The Commodore was very courteous, but reasoned the reporter that his instructions from Washington were that no person should be allowed to board the vessel until after the delivery of Tweed to the sheriff. He stated that this would take place on the other side of Quarantine, as the vessel would not proceed above that point. The orders which he had received from Washington as to the Franklin's movements were strictly confidential, and he was not allowed to impart any information relative to them.

DEATH SENTENCE OF A NEW-JERSEY MURDERER.

John Henry Schwamb was taken from jail in Jersey City yesterday to the Circuit Court room and sentenced by Judge Knapp for the murder of William Belte, at Union, on Aug. 4. The prisoner when brought into court showed great agitation; when called upon to stand up he trembled excessively, and before the Judge had concluded the sentence he sank back into his seat apparently unconscious. Judge Knapp then read the sentence, which condemned Schwamb to be hung in the Jersey City jail-yard on Friday, the 8th of December. The condemned man was taken back to jail, sobbing hysterically. An application will be made to the Court of Pardons the last week in this month for a commutation of the sentence, and it is generally believed that the court will change the sentence to imprisonment for life.

ASSAULTED WHILE RETURNING FROM CHURCH.

On Sunday night Theodore Baumann, while returning from church on Jersey City Hights, was brutally assaulted on Beacon-ave. by an unknown man. He made his way to the Third Precinct Station-house, where he presented a horrible sight, having been beaten and kicked about the face and body. From the description which he gave of his assailant, the police recognized John Powell, a well-known English boxer and clog dancer at variety theaters, who has been in trouble quite often when intoxicated. He was arrested yesterday morning by officer Locke, and being unable to make any defense, was committed by Justice Pelouhet for trial. Baumann thinks he was assailed because he is a Republican.

A PUSHING TELEGRAPH COMPANY.

DAVENPORT, Iowa, Oct. 22.—A truce has been established in the contest for right of way between the rival telegraph companies, the Western Union and Atlantic and Pacific. It is claimed by the officers of the Western Union Company that the Atlantic and Pacific Company will be prevented from continuing its connection with the Far West, while the officers of the latter company are equally determined that the company will erect wires through the contested territory.

PITTSBURGH, Penn., Oct. 22.—The Merchants' National Telegraph Company, extending from Pittsburgh through the oil regions, and which was under lease to the Western Union, has fallen into the hands of the Atlantic and Pacific Telegraph Company. A new board of directors has been elected, with Gen. Thomas T. Eckert as President.

"See here, wife, you indulge that boy too much. He is a perfect mule." "O, husband, please don't accuse our boy of having an ass for a father." The old man was silent.

THE COURTS.

RIGHTS OF A BROKER.

Cumberland G. White sued Algernon S. Baxter on the following agreement: In 1867 Baxter procured White as his broker to sell at seller's option, 1,000 shares of Hudson River Railroad Company stock at 128. Very soon after a dividend on the stock was declared of an equal amount of the stock, on payment of $50 a share. The first effect was to lower the price of the watered stock, but it rapidly recovered until the stock again stood at $127 a share. Currie, Martin & Co., the vendors, gave notice to the plaintiff, who in turn gave notice to the defendant, that they proposed to take the stock dividend on the terms offered, and as the stock recovered, called under their agreement for margins until defendant had deposited $55,000. On a call for another deposit of $10,000 the plaintiff refused to put up a further margin, and being cited before the Arbitration Committee of the Stock Board, refused to appear, and was consequently suspended. He claims that his action was under an agreement with Baxter, by which Baxter promised that if he would take this course, he (Baxter) would pay him ten per cent more than his earnings in the previous year. White claimed that his earnings, as broker for the previous eight months, had been $13,000, and his earnings from speculation in those months as much more. The Court excluded all consideration of his speculative earnings, and the jury gave him a verdict for $6,601 55. The defendant appealed. The Superior Court, General Term, Judge Curtis giving the opinion, holds that the agreement not to go before the Arbitration Committee was a good consideration for the defendant's promise to make good the plaintiff's loss by such a course, and as the verdict of the jury is not excessive affirms the judgment.

THE PACIFIC MAIL COMPANY'S TAXES.

It has already been reported that the Pacific Mail Steamship Company contested the personal tax imposed on it for 1874, on the ground that the basis of that tax was in part its Pacific Ocean steamers and other property not within the control or protection of the State; that the Court of Appeals found against the company on that question; that the company obtained a writ of error to test the questions involved before the United States Supreme Court, and that the Receiver of Taxes, not regarding this as a stay of his proceedings, seized the steamship Colon. The Colon has been released by arrangement. Meanwhile a motion was made before Judge Barrett to stay the Tax Receiver's action until the United States Supreme Court passed on the question. On the argument Judge Barrett strongly intimated his view that the matter, by the decision of the Court of Appeals, having gone into the hands of the Receiver of Taxes, he had no further power in the matter. Yesterday he rendered his decision, giving the following reasons: "The proceedings sought to be stayed are not in enforcement of any judgment. As well might a plaintiff who had sought to restrain the foreclosure of a chattle mortgage after the dismissal of his bill ask a reinstatement of the injunction on appeal because he had stayed proceedings under the judgment of dismissal. The answer would be that the mortgage was not being foreclosed by force of the judgment. The proceedings under the tax warrant are not being enforced by the judgment of the Court of Appeals, but by the Receiver of Taxes, in the ordinary course of his official duties, and the Court of Appeals has no more power to stay the action of the Receiver of Taxes, in the ordinary course of his official duties, than has any other court. The motion is denied, without costs."

TWO WHISKY CASES.

Garret Dreyer, the occupant of the property used as a vegetable garden between Seventieth and Seventy-second-sts. and Eleventh and Twelfth-aves., upon which an illicit still was found last Friday, surrendered himself yesterday and was admitted to bail in $5,000. Francis Joseph, his employer, who was wanted as a witness, was bailed for $500.

In the argument before Judge Benedict in the United States Circuit Court yesterday morning the Judge reserved his decision on the motion of W. S. & C. N. Miller, under an indictment for whisky frauds, to be discharged upon their own recognizances, the United States Attorney having declined to bring the trial on at this term. T. Cleveland appeared for the motion and Assistant United States Attorney B. B. Foster for the prosecution.

CIVIL NOTES.

The application of Rufus W. Flint, the spiritual medium, to be released from arrest on the ground that the court could have no jurisdiction over him in the suit by his present wife because he has another wife living, has been denied by Judge Barrett, in Supreme Court, Chambers, with costs.

A habeas corpus was taken out yesterday in Supreme Court, Chambers, on behalf of Quimbo Appo, returnable to-day. It is a curious fact that this Chinaman is more often cited in criminal proceedings than perhaps any other criminal, his crimes having been twice before the Court of Appeals, each time involving grave questions as to practice in criminal cases which affect almost all criminal proceedings.

Letters of administration were given to Edward B. James by the Surrogate yesterday upon the estate of his brother, Charles B. James, deceased. The will was set aside by order of the Surrogate, Oct 20, on account of the insanity of the testator. By the will the sister of Mr. James was left the greater part of the property, which amounted to about $80,000. Under the division made by the administrator the heirs will share equally.

Judge Van Brunt, in Common Pleas, Trial Term, yesterday dismissed the suit of Brody against the city. The plaintiff was a laborer under the Dock Department at $10 a month and was paid at that rate, but he worked more than eight hours a day and sued for wages for his overtime, claiming that the eight hour law decided the hours for which he was paid. Judge Van Brunt dismissed the complaint on the ground that there was no agreement to pay him for his overwork.

The suit of Sarah B. Hunt against William H. Hunt, argued yesterday before the Supreme Court, General Term, presents some curious questions in divorce law. Both the plaintiff, who is a daughter of Jacob Barker, and defendant had been previously married. Their marriage took place in New-Orleans and was followed within about three years by a separation, the wife going to Europe. A curious statute in divorce was passed in Louisiana, the wife sues, and her husband's instance, which has since been repealed, under which he obtained a divorce on the ground that living with her would be morally perilous. He then married for the third time, and she brought this suit for divorce, claiming that his divorce was illegal and his present relations adulterous. Judge Davies decided against her and she appeals. The case involves her right to bring her suit in this State and the validity of the special statute of Louisiana. The court reserved its decision.

In the suit of Richard J. Morrison against Andrew H. Green, a motion was made yesterday before Judge Barrett, in Supreme Court, Chambers, for judgment against Mr. Green. The suit is for $325, money which, Mr. Morrison says, he spent in advancing Mr. Green's wishes with the Legislature in Albany, in 1874, and for $9 50 which, Mr. Morrison says, he paid for Mr. Green's board in Congress Hall, Fort Ontario, in the same period. The plaintiff's counsel has repeatedly stated in conversation that this is only a part of his client's claim, Mr. Green demurred, however, to this part of the claim that it was for lobby services and against public policy. The motion was on the ground that the demurrer admitted that the plaintiff had paid out moneys for defendant's benefit, and therefore admitted the whole claim in suit. The court reserved its decision. James A. Deering appeared for plaintiff; C. F. MacLean for defendant.

The suit of Anna Rose against the New-York Gas-Light Company has been on trial for three days before Judge Larremore, in the Supreme Court, Circuit. The plaintiff owns a tenement house at No. 404 East Twenty-first-st., adjoining the gas-house, and she sued for $3,000 damages for infiltration of refuse water under the walls of the tenement. Some of the plaintiff's witnesses described the substance oozing in as a thick, tarry matter, which, touched with a lighted paper, immediately took fire. Prof. C. S. Chandler, President of the Health Department, testified that he knew of no material used by the defendants which would produce a substance of the character described by these witnesses, and that a matter so largely composed of tar would not be so inflammable. Kerosene oil, of which it formed a component part, would produce the result described, but no such material was used to his knowledge by the defendants in the manufacture of gas. The jury disagreed yesterday, and were discharged.

CRIMINAL NOTES.

At the Yorkville Police Court yesterday John Haggerty, age 18, of No. 427 East Sixteenth-st., and Dennis Connors, age 19, of No. 402 East Twenty-first-st., charged with robbing and entering Mrs. Jane Brady at First-ave. and Seventeenth-st., last Sunday night, were committed in default of $3,000 bail.

The trial of Michael McGuin, charged with striking Patrick Hyde with a coupling pin at Tarlight and Hudson-sts., Sept. 3, from the effects of which he died, was begun yesterday before Judge Sutherland in the Court of General Sessions. The testimony given was in corroboration of that taken on Friday last. The case will probably occupy the whole time of the court to-day.

Peter Beard, a negro servant in the officers' mess at West Point, was brought before United States Commissioner Osborn yesterday, charged with the theft of $20 from a fellow servant named Boker. Last Friday afternoon Boker went before a justice of the peace at the Highlands and made the complaint against Beard, and a constable was sent to the Point to make the arrest, but the commandant refused to allow the removal of the man. During the day the money was refunded to Boker by Beard, and the former then refused to prosecute the charge already made. The justice, however, refused to let the matter drop, and an affidavit was made Saturday morning before Commissioner Osborn, to the same effect as the previous complaint. A warrant was placed in the hands of Deputy United States Marshal Newcome, who arrested Beard on Saturday evening and brought him to this city. Before Commissioner Osborn, yesterday, the complainant still refusing to prosecute, the man was discharged upon his own recognizance.

DECISIONS—OCT. 23.

Supreme Court—Chambers—By Judge Barrett.—Pacific Mail Steamship Company agt. Commissioners of Taxes, &c.—The proceedings sought to be stayed are not in enforcement of the judgment. As well might a plaintiff who had sought to restrain the foreclosure of a chattel mortgage, after the dismissal of his bill, ask a reinstatement of the injunction on appeal because he had stayed proceedings under the judgment of dismissal. The answer would be that the mortgage was not being foreclosed by force of the judgment. The motion must be dismissed with costs. Platt agt. Dayton.—After full consideration, I have concluded that perhaps the plaintiff should not by an unconditional dissolution of the temporary injunction be deprived of the opportunity of sustaining this bill upon the trial at the same time. My mind is unchanged as to the suggestion thrown out upon the argument. But by continuing the injunction *pendente lite*, Mr. Degraw, if an honest holder of this judgment, cannot be seriously injured, for the statute as to security amply protects him (2 Watts's S., 2-90-92). The injunction may therefore be continued upon the plaintiff's depositing the full amount of the judgment and executing a bond for damages and costs; or instead, executing a bond with two good sureties to pay the judgment damages and costs. If the deposit be not made or the bond given within ten days the injunction must be dissolved, with $10 costs; order to be settled on two days' notice. Washington Life Insurance Company agt. Fleschhauer.—It is quite clear that if the fourth mortgagee had filed an independent bill and obtained a receiver in such suit, he would thereby have secured the results which a prior mortgagee had procured, a similar appointment (10 Paige, 43); there is no good reason why he should be deprived of the fruits of his superior diligence because he proceeded as a defendant on this action; it would be inequitable at this late day to question the justice of the order, and it would be contrary to settled principles; the motion must therefore be denied. Williams agt. O'Donnell.—Allowance of $100 to plaintiff's attorney and $250 to Mr. Bryce. Demerest agt. Baldren.—Motion granted, but without costs, as the defendant has not been diligent in moving. In the matter of the National Butchers' and Drovers' Bank.—Motion denied without costs and without prejudice to any application which the petitioners may be advised to make on a bill filed. Hamersley agt. Booker.—It is not customary to put this class of actions on the Special Circuit calendar at the rearrangement; the motion is denied without costs. In the matter of regulating, grading, and improving Eighth-ave.—I presume, as nothing has been heard from the petitioners' counsel that they are satisfied that this proceeding cannot be sustained; it so seems to me after going over the papers; the application is therefore denied with $10 costs. Cruser agt. Tompkins.—The claim was not unreasonably resisted, and the application for costs other than disbursements and extra allowance must be denied. Plummer agt. Belden.—Default opened on payment within two days of term fee, trial fee, disbursements of inquest, &c., of judgment, and $10 costs of opposing motion, and stipulating within such two days to try the action on the 26th inst., judgments and proceedings thereunder to stand a security; if such costs are not paid and such stipulation given within such time the motion to be denied with $10 costs. Taylor agt. Mabie.—Motion denied, without costs. (See Lossky agt. Meyer, 3 Lond Ch. 69.) Gaylor agt. Gaylor.—The plaintiff must not invoke the aid of the Court to enable her to live away from her husband without just cause; her position on the record is entirely untenable, and in preventing her temporary alimony and the means of prosecuting an unnecessary suit, I am satisfied that I shall best conserve her trust interests by advising her to accept the good counsel contained in the affidavit of the affiant Klersted; the motion is denied. Showler agt. 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