THE COURTS.

THE CHARGES AGAINST MR. DAVENPORT.

AN APPLICATION TO ADD NEW SPECIFICATIONS REFUSED.

E. Ellery Anderson and George W. Wingate, counsel for the petitioners in the matter of the charges against John I. Davenport, yesterday made application in the United States Circuit Court before Judge Blatchford for leave to add two specifications to the third charge preferred against Mr. Davenport. The case before the referee was closed on behalf of the petitioners some days ago. During the proceedings counsel for Mr. Davenport required the opposing counsel to say what specifications they called their witnesses to support, and what portion of the testimony they intended to use against Mr. Davenport as Chief Supervisor of Elections. This they declined to do, but they stipulated that upon the closing of the case they would designate what evidence they would use against him as United States Commissioner, and what as Supervisor of Elections. Finally they declined to carry out this stipulation on the ground that all the testimony applied to both proceedings. Mr. Davenport then objected to all the testimony that had been taken, with the exception of fifteen pages, as not applicable to the charges against him as Chief Supervisor, and upon this the counsel for the petitioners agreed to designate what portions applied to the charges against him as Supervisor and against him as Commissioner. Before there was a hearing by the referee Mr. Davenport was served with a notice of the present application. George Bliss appeared for Mr. Davenport.

Upon the above statement of facts the Court declined to hear the application until the petitioners should have done as they stipulated they would do. Judge Blatchford stated that even if new specifications were added he would not direct that the evidence as taken should stand against Mr. Davenport so far as the new charges were concerned. Upon this counsel for the petitioners expressed a willingness to stipulate that none of the testimony already taken should be considered as applicable to the charges against Mr. Davenport as Supervisor of Elections if the latter would consent to the adding to the complaint of the two specifications. To this Mr. Davenport objected and insisted that the matter pending before the referee should be disposed of before further proceedings were had. The application of the petitioners was refused.

CIVIL NOTES.

In the suit of Thomas A. Avery, for an absolute divorce from Emma A. Avery, J. H. Bartlett was appointed referee yesterday in the Kings County Supreme Court. The parties to the action were married October 10, 1872, and have two children.

Judge Choate yesterday handed down a decision in the United States District Court in the suit brought by Joseph Willett and others against the steamboat Orient. The action was brought for the recovery of seamens' wages. The Orient had sunk a loaded canal boat, and an action had been brought for damages by the owners, who claimed that as the value of the steamer was not sufficient to pay in full the seamen and the claims for the damage that the hen of the persons injured had a preference over the lien of the seamen. Judge Choate held the contrary opinion, and ordered a decree for the libellants with costs.

CRIMINAL NOTES.

United States Commissioner Shields yesterday held George Williams, charged with passing counterfeit $20 bills on the National Broadway Bank, for the action of the Grand Jury. Bail was fixed at $5,000.

John Brake escaped from the penitentiary in 1876, and remained at large until a few weeks ago, when he was detected committing a burglary at a liquor store at No. 259 Third-ave. In the Court of General Sessions yesterday he was sentenced to State Prison for two years.

Herman Overbeck, arrested on Sunday for carrying on the business of a distiller without having given the bond required by law, was arraigned before United States Commissioner Dodd yesterday. On Sunday morning Special Revenue Agents Brooks, McLean, Stenson and Coleman entered the premises No. 96 and 98 Mott-st., and found a small but complete distillery in operation in the basement. Overbeck was arrested upstairs. Examination was appointed for to-morrow, the prisoner in the meantime being held in $1,000 bail.

UNITED STATES SUPREME COURT.

WASHINGTON, Nov. 10.—The following business was transacted in the United States Supreme Court to-day:

On motion of Samuel Shellabarger, S. P. Hannum, of Washington, D. C., was admitted to practice, as were also Louis A. Brahan, of Washington, D. C., on motion of R. T. Merrick, and W. G. De Saussure, of Charleston, S. C., on motion of Leroy T. Youmans. No. 35.—The Union Consolidated Silver Mining Company, plaintiff in error, st. James D. Taylor. This was an action of ejectment brought to recover possession of an undivided interest equal to five feet of a mining claim—part of the Comstock Lode—in Storey County, Nevada.—Affirmed, no error appearing in the record; Justice Strong delivered the opinion; Justice Field did not sit in the case. No. 526.—George R. Fairfield, plaintiff in error, against the County of Gallatin. In error to the Circuit Court of the United States for the Southern District of Illinois. This was a suit on the coupons of certain series of bonds issued by the County of Gallatin, Illinois, in October, 1870, to the St. Louis and Southeastern Railroad Company, as a gift to assist in the construction of that road. The defence set up was, in substance, that in consequence of a provision of the new state Constitution, which went into effect July 4, 1870, the authority to issue and deliver the bonds had ceased to exist. It is an established rule of this Court that it will follow the decisions of the state courts in the construction of their own constitution and statutes when such decisions are brought to their notice (Green agt. Neals—Lessee, 6; Peters, 29). This Court, therefore, changes its own decision as rendered in Concord against Portsmouth savings banks, and adopts that construction of the Illinois constitution declared by the courts of that State (Gelpcke agt. Dubuque, 1 Wall. Rep. 175). The judgment of the Circuit Court is reversed, and the record remitted with instructions to give judgment for the plaintiff below on the findings made. Justice Strong delivered the opinion. No. 179.—The United States, plaintiff, agt. Herman Hirsch et al. On certificate of division from the Circuit Court of the United States for the Southern District of New-York. The defendants were prosecuted on an indictment containing four different counts, to all of which they pleaded the statute of limitations. This Court holds that the plea of the statute of limitations of three years is good in bar of the first two counts of the indictment, and is bad as to the third and fourth, no. It is ordered to be so certified to the Circuit Court. Mr. Justice Miller delivered the opinion. No. 5.—Original ex parte; Alvin Reed petitions for writs of habeas corpus and certiorari.—The petitioner was a paymaster's clerk in the United States ship Essex; on the 26th of June, 1878, he was tried by a Naval court-martial for malfeasance in office, found guilty and duly sentenced. The Admiral ordered to approve the judgment, and sent the proceedings back to the court that the sentence might be reviewed. The court thereupon imposed another severer sentence—two years' imprisonment, with loss of pay, except $10 monthly—$500; and dishonorable discharge. This court holds that the Naval court martial had jurisdiction over the person and the case; that the exercise of its discretion within authorized limits cannot be assailed for error, and made the subject of review even by an appellate court, and finally, that a writ of habeas corpus cannot be made to perform the functions of a writ of error. The petition is therefore denied. Justice Swayne delivered the opinion. No. 14.—Fire Insurance Co. of Wyoming, plaintiff in error, agt. the United States. From California. Affirmed. Justice Clifford delivered the opinion. No. 12.—Robert Tilson & Co., appellants, agt. the United States; appeal from the Court of Claims; the controversy in this case relates to the interest upon certain payments. Judgment affirmed; the Chief Justice delivered the opinion. No. 2.—Orlando North and S. P. Newman, assignees, etc., plaintiffs in error, agt. Wm. McDonald and H. Booth; in error to the Supreme Court of Wyoming.—Judgment affirmed with costs; the Chief Justice delivered the opinion. No. 44.—The Glendale Lactic Fire Company, appellant, agt. William Smith.—This court affirms the decree below without examining the merits of the case; the Chief Justice delivered the opinion. No. 45.—The Gilbert & Barker Manufacturing Company, appellant, agt. the Walworth Manufacturing Company; and No. 377.—The Gilbert & Barker Manufacturing Company, appellant, agt. the Climax Pneumatic Clock Works.—Decrees affirmed with costs. The decisions were announced by the Chief Justice. No. 52.—Henry Sawyer, appellant, agt. S. M. Bixby and G. Tucker; appeal from the Circuit Court of the United States for the Southern District of New-York.—Decree affirmed with costs. The decision was announced by the Chief Justice. No. 56.—M. J. & M. B. Dayton, appellants, agt. B. B. Galusha, administrator, etc.; appeal from the Circuit Court of the United States for the District of Minnesota.—Decree affirmed with costs. Open day and interest.—The decision was announced by the Chief Justice. No. 700.—John R. Weatherby, plaintiff in error, agt. Matilda Bowie, et al. No. 704.—O. H. and A. J. Rutherford, appellants, agt. Mary A. Smith, administratrix. No. 849.—J. Herring, appellant, agt. W. H. Page, receiver.—Motions to dismiss these cases postponed until they are reached for hearing on their merits. No. 62 (original ex parte.)—Lewis W. Phillips.—Petitions for mandamus. Motion for rule to show cause denied. No. 63.—J. H. Rechtenberg et al., appellants, agt. the bank Woodlawn.—Motions to dismiss denied. No. 301. Joseph G. Armour, appellant, agt. Dozier, Weyl & Co.—Motion to dismiss denied. No. 1,057.—William G. Gage et al., appellants, agt. James W. Herring et al.—Appeal from the Circuit Court of the United States for the Northern District of New-York.—On motion of Rodney Mason the case was docketed and dismissed with costs. No. 292.—The St. Louis National Bank, appellant, agt. the United States Insurance Company; et a.—Motion to dismiss submitted. No. 58.—Edward Clark, trustee, et al., appellants, agt. the Commissioners of the Freedmen's Savings and Trust Company—Arguments concluded by S. Shellabarger for appellants. No. 85.—I. D. Morris, plaintiff in error, agt. the United States; submitted by Assistant Attorney-General Smith for the United States. No. 61.—Henry Thomas, plaintiff in error, agt. the Union Pacific Railroad; submitted by S. S. Henkle and J. C. Hemingway for plaintiff in error, and S. Shellabarger and J. M. Wilson for defendant in error. No. 63.—I. da C. Hall, W. ow, etc., appellant, agt. Edwin Russell—Appeal from the Circuit Court of the United States for the District of Oregon.—Arguments commenced by W. N. Chapman for appellant, and continued by George H. Williams for appellee.

Adjourned until to-morrow at 12 o'clock.

COURT OF APPEALS.

ALBANY, N. Y., Nov. 10.—In Court of Appeals, Monday, November 10, 1879—Present, the Hon. Sanford E. Church, C. J., and associates.

No. 496.—George W. Jones, plaintiff in error, agt. the People, defendants in error; argued by J. P. Butler, for the plaintiff in error, and by N. C. Moak, for the defendants in error. No. 65.—David S. Adee and others, appellants, agt. Jacob Campbell and another, administrators, etc., respondents; argued by A. G. Vanderpoel, for appellants, and by S. B. Thayer for respondents. No. 83.—Samuel H. Hard, receiver, respondent, agt. Richard Kelly, appellant; argued by William A. Beach, for appellant, and by A. J. Vanderpoel, for respondent.

The Court of Appeals motion calendar for Tuesday November 11, 1879, is as follows: Nos. 247, 494, 476, 477, 483, 486, 487 and 491. The Court of Appeals day calendar for Tuesday, November 11, 1879, is as follows: Nos. 81, 82, 67, 85, 418, 440, 12 and 34.

DECISIONS—NOV. 10.

Supreme Court—Chambers—By Judge Potter.—Henry Stewart Manufacturing Company agt. Singer Manufacturing Company.—Motion to continue injunction denied and preliminary injunction vacated with $10 costs of motion; see memorandum. In the matter of Wilber.—Motion to confirm granted with $10 costs of motion; see memorandum as to costs and expense of reference; opinion. The People, etc., agt. Columbia Car Spring Company.—Motion to confirm report of referee granted with $10 costs, and exceptions overruled.

By Judge Barrett.—In the matter of Welsh and others.—The papers in this case should contain a statement signed by the respective counsel as to their status. In the Welsh case counsel claim that the order was consented, but of this I find no evidence. It may be for one side with the other not. I have a brief from Mr. Johnson in the Schoille case and he suggests that I have received a brief from the Corporation Counsel. But this is not so. In the cases of Walters, Bries, Eckhorn, Libbie, Chapman, Weidon and Pelit I have received a brief from the Corporation Counsel, but none from the petitioners. In the case of O'Malley agt. the Female Academy of the Sacred Heart there are no briefs on either side and in the Snowden case from the petitioner alone. There should be a memorandum showing in what case the orders are assented, in what cases there is a contest, with a brief on both sides in the latter class.

By Judge Lawrence.—Edey agt. Persch.—Referred to Chas. Price to ascertain and report. Morange agt. Hazer.—I will hear this motion on the merits without passing definitely on the preliminary objections; the same course will be pursued in the case of Catlin agt. Barnap. De la Raa agt. De Angrica.—I desire to hear counsel in regard to the proposed allowance. Slover agt. Spingsteen.—Injunction continued; see memorandum. O'Donohue agt. Simmons.—Default opened on payment of costs of motion and costs before notice of trial; judgment to stand as security and cause to be placed upon calendar and tried when reached. Clark agt. Clark.—The report in this case cannot be confirmed for three reasons; see memorandum. Hasslacher agt. Hasslacher.—The cases of Miller agt. Miller, 7 Hun, p. 208; House agt. House, 5 Weekly Digest, p. 460, and Lansing agt. Lansing, 4 Lansing, p. 377 are authorities against the granting of this motion and it is therefore denied with $10 costs. Patent Elastic Felt Company agt. Spencer.—The defendant's application must be denied. Sellner agt. Bennett.—The affidavit should set the facts as to the absence of the defendant from the State more specifically. Hull agt. McCaffil.—Motion granted. Gillen agt. the Mayor, etc.—Motion denied with $10 costs. Brinkerhoff agt. Perry.—Motion to stay proceedings granted without costs. McDonald agt. Davis.—The default will be opened on payment of costs of motion; the case to be restored to the calendar under his proper number and to be tried when reached. Canavan agt. Coyne.—The objection to the examination is well taken. Schwarzschild agt. Schwarzschild.—The pleadings notice of appearance and all the other papers in the action are required. Fay agt. Rogers.—Order granted. Miller agt. Willis; Miller agt. Willis; Boyle agt. Cassin et al.; Tutle, etc., agt. Davis.—Granted.

Special Term—By Judge Van Vorst.—Foot agt. Vibbard and another.—Interlocutory judgment settled and signed. Lewis agt. Duffy and others.—Complaint dismissed. Campbell, etc., agt. Beaumont.—Construction of will determined; opinion. Demsinger agt. Jaminski et al.—See memorandum.

By Judge Van Brunt.—Satterlee agt. the Mayor, etc.—The demurrer is sustained upon the ground that Police surgeons are not officers or employees of the Corporation, but are employees of the State. The People ex rel. Williams agt. the Board of Fire Commissioners.—The evidence made out a strong prima facie case and the determination of the commissioners cannot be disturbed. The People ex rel. Hannigan agt. the Board of Fire Commissioners.—Proceedings dismissed. Silvertor, etc., agt. Lockman and another, et. al.—The demurrer must be overruled. Webb agt. Williamson and others.—Findings and decree signed.

Circuit—Part I—By Judge Dotohue.—Smalley, etc., agt. the Mayor, etc.—Case settled.

Circuit—Part III—By Judge Van Brunt.—Sheriff et al. agt. Roberts and another.—I do not see but that the decision of the General Term covers this case; complaint dismissed.

Superior Court—Special Term—By Judge Sedgwick.—Satterwaite agt. Talbot.—Reference ordered. The Lancaster County National Bank agt. Egbert et al.—Order denying motion. Armour et al. agt. the Transatlantic Fire Insurance Company; Egan agt. Walsh et al.—Order signed. Cox et al. agt. Berwind et al.; Hart agt. Benedict.—Orders granted and undertakings approved. Henderson agt. Savage.—Order settled. Wallace agt. McCabe.—Order granting motion and attachment set aside. Esposito agt. Tanway.—Undertaking approved. Furness agt. the Mutual Life Insurance Company.—Undertaking on appeal approved. Lowenstein agt. Martine et al.—Order of substitution. Higgins agt. Barrowcliffe.—Order granting motion. The Mayor, etc., agt. Shapter et al.—Order of discontinuance. Wortman agt. Ohl.—Ordered on day calendar for Thursday, November 13. Dillon et al. agt. Reynolds.—Decree signed.

Common Pleas—General Term—By Presiding Judge Larremore and Judges J. F. Daly and Van Hoesen.—Lawrence agt. Baker.—Judgment reversed, new trial ordered, costs to abide the event; opinion by Van Brunt, J. Hynes agt. Mettenbrink.—Judgment affirmed with costs; opinion by Larremore, J., Van Brunt, J., concurring; Story agt. the New-York Elevated Railroad Company.—Judgment affirmed with costs; opinion by Beach, J., Van Brunt, J., concurring.

Marine Court—Chambers—By Judge Sinnott.—Allwood agt. Marks; Vernam agt. Johnson.—Options, Mudsell agt. Young.—Motion denied, stay vacated. Bellanger agt. Bellanger.—Motion denied. Hindmarsh agt. Mathews denied, no costs. Jaeger agt. the Union Paper Box Company; Gray agt. Fisher; Tourber agt. Drake; Hilten agt. Hogan; Barnegt. the Reynolds Card Manufacturing Company; Aiterns agt. Grundherr; Moore agt. Thoupkins.—Motions denied as per indorsement on papers. Condit agt. Thompson.—Motion as to costs, motion to punish denied. Miller agt. Miller agt. The Advocate.—Motion granted as per indorsement on papers. Kirkpatrick agt. Clarke; Coulter agt. Potter; Millar agt. Andophi; Thorne agt. Hallett; Ernstein agt. Kennedy; Mood agt. Yates.—Motions granted; see decisions on papers filed. Germania Schutzen Bund agt. Klatthaar.—Motion denied; discontinued to 22d. Barrowcliffe agt. Horgan.—Case as re-settled filed. Seighardt agt. Grimm.—The third party is allowed $10 to be paid to him or his attorney. Pierson agt. Richborne.—I would like to see counsel. O'Brien agt. Fitzchambacher.—Hold in complaint.

By Judge McAdam.—Pierce agt. Conner, etc.—Case settled and filed.

CALENDARS THIS DAY.

SUPREME COURT—CHAMBERS—Lawrence, J.—Court opens at 10:30 a. m. Calendar called at 11 a. m.—Nos. 12, 39, 42, 59, 60, 112, 125, 126, 131, 132, 177, 189, 190, 192, 193, 204, 206, 209, 210, 211, 212, 220, 221, 228, 236, 240, 241, 242, 243, 245.

GENERAL TERM—Davis, P., J., and Brady and Ingalls, JJ.—Adjourned until December 10.

SPECIAL TERM—Van Brunt, J.—Court opens at 10:30 a. m.—Law and Fact.—Nos. 262, 116, 242, 148, 230, 32, 301, 302, 264, 175, 155, 200, 218, 203, 49, 117, 165.

CIRCUIT—PART 1—Adjourned sine die.

PART II—Barrett, J.—Court opens at 10:30 a. m.—Nos. 269, 1068, 1012, 1175, 1327, 1548, 1549, 1550, 1551, 1027, 1421, 1276, 1505, 1518, 873, 1248, 1547, 1344, 1345, 1417, 1503, 1135, 1510, 1521.

PART III—Van Vorst, J.—Court opens at 10:30 a. m.—Nos. 1253, 1254, 1255, 1256, 1257, 935, 1383, 1464, 1465, 1382, 1384, 1385, 1386, 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1394, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423,