NEW YORK'S LEGISLATURE.

VOTE OF CENSURE ON THE SENATORS DECLARED IN CONTEMPT.

Their Suspension Continued Until This Morning, When They Can Resume Their Seats—The Brooklyn Bridge Bill Introduced in the Senate—It Provides for a Crosstown Elevated Road in New York and Exempts the Bridge Structure and Approaches From Taxation—The Enumeration Bill Passed by the Assembly, 68 to 55, and Sent to the Governor.

ALBANY, Jan. 20.—Gov. Flower sent to the Senate to-day the nomination of Dr. Wm. T. Jenkins of New York to be Health Officer, in place of Dr. Wm. M. Smith, a Platt holdover, and Samuel A. Beardsley of Utica, to be Railroad Commissioner, in place of Wm. E. Rogers, Democrat, whose term has expired. Dr. Jenkins has been Coroner-Physician for several terms, and is the brother-in-law of Mr. Richard Croker. Mr. Beardsley was County Judge of Oneida county, and is Secretary of the Democratic State Committee. The nominations were sent to a committee as a matter of form. They will be confirmed on receipt of the committee's report. This disposes of several of the most important appointments—two members of the Court of Claims, a Chief Judge and Judge of the Court of Appeals, and Railroad Commissioner, in addition to several county Judges.

The contempt proceedings against the three Republican Senators who wouldn't vote when they were told to, and who were suspended for their badness, petered out this morning. The proceedings in the Senate were like the actions of a bad company that wanted to play "Hamlet" and didn't know how. Senator Coggeshal was *Hamlet*, Senator Zerubbabel Erwin was *Ophelia*, and Senator George Fatherland Roesch was *Gravedigger*.

Senator Roesch, as Chairman of the Judiciary Committee, presented the committee's report, in which, after reviewing the proceedings, they find:

> The offence in the instances under consideration was both deliberate and defiant, as shown by the acts and language of the Senators, and when committed by Senators of long service here and experience in public affairs, who took part in framing the very rule they violated, it cannot but be regarded as an affront to the dignity of the Senate which deserves and should receive deliberate censure. A breach of order recognized in the "Manual," if persisted in by a Senator, becomes a contempt beyond all question. Therefore, your committee submits the following resolution:
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> *Resolved*, That Mr. Senator Erwin, Mr. Senator Saxton, and Mr. Senator O'Connor, for refusal to vote on a pending question, after their respective requests to be excused therefrom had been denied by the Senate, and for which said refusal they were rightfully declared in contempt, be and each of them is hereby censured, and further, that the suspension heretofore ordered against the said Senators, and each of them, be continued until the opening of the session of the Senate on the morning of Thursday, the 21st inst.

Senator Mullin said that everything had been rushed so that he hardly had time to dissent, and he desired that the Senate give him until to-morrow morning at 11 o'clock to present a minority report. This was granted.

Senator Coggeshall made a long speech, in which he said that it was an unprecedented, unwarranted, arbitrary, and brutal use of power.

Senator McMahon, in explaining his vote, dissented from every proposition advanced by Senator Coggeshall, and held that the Senate had a right to punish its own members, and a refusal to obey the rules of the Senate was certainly revolutionary and worthy of punishment. He denied that the Senators accused acted courteously or in a dignified manner. The vote on the adoption of the report was 17 ayes and 0 noes.

To-morrow morning Senators Erwin, O'Connor, and Saxton may come back and participate in the actions of the Senate, with the assurance that if they are good in the future the past will be forgiven.

THE BROOKLYN BRIDGE BILL.

The biggest financial bill of the session was introduced this morning by Senator McCarren of Brooklyn. It is the Brooklyn Bridge bill in the shape that the people behind the bill want it. The names of the incorporators show the interests back of the bill. The incorporators are George Hoadly, Adolf Ladenburg, Isaac Lewis, George W. Wingate, and Frederick Uhlmann, Ex-Gov. Hoadly is head of the firm of Hoadly, Lauterback & Johnson, who represent the Brooklyn elevated roads and other important financial interests. Mr. Ladenburg is a prominent banker in New York, and is the representative of the foreign capital which is expected to buy the bridge bonds. Mr. Wingate is a prominent Brooklyn lawyer, with extensive political connections. Mr. Uhlmann is one of the owners of the Brooklyn elevated road. The incorporators have the power to associate other men with them. The capital stock is to be $25,000,000. Besides the stock the company may issue bonds. They may issue the stock for services, work, and labor as well as money. Provision is made for two bridges, both to end north of Grand street in New York city. The Brooklyn ends are to be on Broadway in Williamsburgh, and Fulton street, near the Brooklyn end of the present bridge. The incorporators may condemn property for their approaches and water front not to exceed 350 feet. They may also build over streets, but they are not to stand on the streets, or to come nearer than sixteen feet to the ground on the streets. The bridge is to be 120 feet high at the piers and 135 feet above high tide.

The close connection it has with the Brooklyn elevated road is shown by a provision giving the Brooklyn elevated road or any other corporation power to loan its credit to the bridge corporation and to endorse the bridge bonds. The New York elevated road might also come in as one of the guarantees. The bill also provides that at any time any municipal corporation may endorse or give financial aid to the bridge. This opens the way to a future request for gifts or loans from New York and Brooklyn.

The bill specifically provides for a cross-town elevated road in New York city and for other elevated roads, not to exceed 2½ miles in length. The proposed road is to run across town at Spring street to the Hudson River. The character of the road is left to the incorporators of the company, except that the road must be sixteen feet above the street and supported by poles. It may be that this is a part of a plan to run the trunk lines now centring in Jersey City across New York city through Brooklyn and Long Island by making connections with the Hudson River tunnel or one of the proposed Hudson River bridges. This railroad is to be built to carry freight as well as passengers. The methods of traction and motive power are to be controlled by the company. No provision is made for New York or Brooklyn to have any say in any way in the construction or management of the bridge.

Most novel of all the sections of the bill is the part which entirely exempts the bridge and all its approaches and structures appurtenant thereto from taxation for ten years after the bridge is opened. The bridge and approaches and structures appurtenant thereto are to be always exempt from taxation, except the land which the bridge company may own. This provision is so wide and far extending that an elevated road or other railroad built in connection with the bridge and as an approach thereto, such as the proposed cross-town elevated road in New York and the Brooklyn elevated roads, which will form approaches to the bridge in Brooklyn, would be wholly and forever exempt from taxation. After having once granted a charter exempting them from taxation it is doubtful if the State could tax them in the future.

THE THIRD ELEVATED TRACK ON THE WEST SIDE.

Mr. Dominick Mullaney of the Fifth New York district introduced a resolution in the Assembly asking by what authority the elevated road built a third track on the west side. Mr. Mullaney said that the elevated road was unable to build its track for some time, as the police would arrest the workmen as soon as they began work, but that when the contract for doing part of the work was given to a relative of a prominent police official the elevated road people were no longer molested. Objection was made to the reception and consideration of Mr. Mullaney's resolution. He says that he will bring it up again and that he will introduce a bill to prevent the elevated road from operating its third track and from using the Battery Park.

A bill was introduced by Mr. Gould to appropriate $500,000 to the State canals, to be used particularly to deepen Erie Canal.

The Assembly passed the bill to permit the acquiring of land for the approaches to the Macomb's Dam bridge over the Harlem at Seventh avenue, and concurred in the Senate $3,000,000 New York refuse bill.

Lieut.-Gov. Sheehan, who is a member of the National Democratic Committee for the State of New York, will stay in Albany to attend to the business of the Senate. He has given Chairman Edwin Murphy of the State Committee his proxy.

THE ASSEMBLY PASSES THE ENUMERATION BILL.

All the Democrats were in their seats in the Assembly this morning, and they passed the Enumeration bill by a party vote, with the exception of James L. Wells of the annexed district, who is a Republican and voted with the Democrats. He was elected by the Heintz people and did not answer to his name until the third roll call. The vote was 68 to 55. The bill now goes to the Governor and will be promptly signed. Secretary of State Rice will proceed to appoint the enumerators as soon as he can get the list of names from the various counties. The enumeration will be taken in February. It will be tabulated in March, and a reapportionment bill will be passed shortly thereafter.

General and Bald Eagle Husted made his first set political speech when he moved to strike out the enacting clause of the bill. He said that the Democratic party in both Houses of the Legislature was acting like a lot of children who had been cooped up in school for years, and who now wrench of doors and freed from even the parental restraint of Senator Hill, who is too far away to look after them, as he should for their own good. He said that the Democracy needed a guardian *de bonis non*, and that it would have been better for the party if Senator Hill had stayed in Albany to see that the Democrats did not carry on the way they have been doing for the past week.

Mr. Bush asked whether the Bald Eagle wanted his expression, *de bonis non*, to be taken to mean that he thought the Democrats were no good.

The Bald Eagle said that the full quotation was *de bonis non asportatis*, but that he had not quoted all the Latin, as he did not want to seem to be showing off to the Assembly how much he knew and how much of the training of his early college days he had retained.

The Enumeration bill passed both Houses in the same shape that the original substitute by Senator McClelland was offered in the Senate. The enumerators are to be appointed by election districts. They are to be paid $2 a day and one cent a name. The questions to be asked are sex, age, color, nationality, and citizenship or alienship. Duplicate returns are to be filed in the office of the County Clerk and with the Secretary of State. Returns are to be tabulated by the Secretary of State. In cities policemen are to go around with the enumerators and help them in their work.

Gov. Flower this afternoon signed the Enumeration bill, and it is now a law.

In the meeting of the Codes Committee of the Assembly this afternoon, Assemblyman Stein asked that his bill be reported allowing executions by electricity in this State to be witnessed by the representatives of six newspapers of the State. He said that a suggestion had been made that the bill be amended to include a representative of each press association. He had consulted good constitutional lawyers, and they said that such a course would be unconstitutional. The committee voted to report the bill favorably and without amendment.

COURT OF APPEALS DECISIONS.

New York City Wins in Two Cases—The Western Union Must Pay Damages.

ALBANY, Jan. 20.—Among the batch of decisions in the Court of Appeals to-day were many interesting ones, among which not a few related to railroads. In one case the New York, Lake Erie and Western Railroad Company obtains a judgment in their favor for $2,351.25 and costs for damage to a locomotive and cars wrecked by running on lumber left on the plaintiff's track. The General Term reversed the judgment, but the Court of Appeals affirmed it with costs.

The Delaware, Lackawanna and Western Railroad Company are partial winners in the suit brought by Michael J. Fennell for damages received at Utica, and for which the General Term allowed him $9,003.54. The Court of Appeals reversed the judgment and ordered a new trial.

The New York, Chicago and St. Louis Railroad Company is a heavy winner and the State a heavy loser in a suit brought by the State for $46,075 back taxes, claimed to be owed by the railroad. The railroad appealed from the decisions of two lower courts affirming the debt, and the Court of Appeals decides that they need not pay it. A similar case against the Fitchburg Railroad Company for $18,003.25 is decided in the same way.

A case that will interest all employers and employees is that of George E. Bacon against the New Howe Sewing Machine Company. The action was brought to recover damages for the unlawful discharge of plaintiff before the expiration of the period for which plaintiff claims he was hired, the contract being a verbal one. Defendant denied the alleged breach, and denied that plaintiff was willing and ready to perform services for defendant. The Court decides that the employee must be paid.

There was one murder case also decided today, that of James E. Minall, who appealed from a sentence convicting him of the crime of murder in the first degree in shooting and killing one Edward Moran on Dec. 22, 1890, in the city of New York. The defence was that at the time of the shooting the defendant was insane. The court decides that the conviction was in accordance with the facts, and refuses to find that he was insane.

In two tax cases, one against the Brush Electric Illuminating Company for back taxes amounting to $10,752.50, and that against the American Coal Storage and Dredging Company for a still larger amount, the State wins both cases and the corporations will have to settle.

The city of New York is a winner in two cases, which, had they lost, would have mulcted them something over $64,000. One was that of Alice Holland for $15,000 damages for injuries received on the gangplank at 120th street, and the other was a reminiscence of Tweed's reign, being an action of William Nelson, Jr., to recover $54,550.90, an unpaid balance due upon furnishing Tweed and his Commissioners of Public Works petrified Conewango and sewer pipes. In both cases the city is relieved from paying.

In the Second Division an important case decided was the appeal of the Western Union Telegraph Company from a judgment in favor of James W. Goodsell, representing the National Associated Press, awarding damages amounting to prospective profits. The suit was brought to recover for breach of contract. The plaintiff entered into a contract with defendant to transmit a certain number of words per day to the members of the National Associated Press. The conditions of the contract were performed by defendant for a time, but a breach occurred, and this suit is brought to recover damages for such breach and also to recover moneys had and received. The Court of Appeals decides that the Western Union is liable for these damages.

OUR PUBLIC SCHOOLS.

1,281,039 Pupils in the State—The Cost of Maintenance for 1891 Was $17,174,835.

ALBANY, Jan. 20.—State Superintendent of Public Instruction Andrew S. Draper to-day sent his annual report to the Legislature. It shows that the total number of pupils in the schools, not including the blind, deaf mutes, or Indians, was 1,281,039, about 70 3-10 per cent. of the reported number of school children of school age. He believes the term in the rural districts could be increased to thirty-eight or forty weeks. The whole number of teachers in the schools during the year was 31,982, an increase over the last year of 279. The amount of money paid them was $11,012,983.43. The school teachers of other countries are all better paid than in this country. The average weekly wages of teachers in the towns is $8.27; in the cities $17.89. There are 12,072 schoolhouses in the State, 45 of logs, 10,126 of frame, 1,573 of brick, and 328 of stone. The average value of schoolhouses and sites was $1,249.92 in cities, $1,709.92 in towns, and $4,142.93 in the State at large. The entire maintenance cost of the schools for 1891 was $17,174,835.29, an increase over 1890 of $0,000,000.

The average cost of educating each child in the several cities was as follows: Albany, $22.45; Cohoes, $33.73; Binghamton, $23.43; Auburn, $27.55; Dunkirk, $27.37; Jamestown, $20.02; Elmira, $20.02; Hudson, $14.40; Poughkeepsie, $22.80; Buffalo, $30.93; Watertown, $30.32; Brooklyn, $33.26; Rochester, $14.22; New York, $22.75; Lockport, $54.26; Utica, $23; Rome, $21.01; Syracuse, $21.84; Newburgh, $30.32; Oswego, $18.43; Long Island City, $41.27; Troy, $24.76; Ogdensburg, $23.04; Schenectady, $30.07; Yonkers, $52.47. In the towns the cost was $20.71, and in the State at large $25.42. The cost to each individual in the State was $2.86. The full figures, including all department expenses, were $17,068,920.69.

The Telegraph Company Liable.

MONTREAL, Jan. 20.—The Court of Appeals yesterday gave its opinion on the contract which the telegraph companies have printed on the blanks they furnish. The case was that of Laurence agt. The Great Northwestern Company. While Mr. Lionel Laurence was in New York one of his employees sent him this despatch, "Writing you to-night." The sentence was made to read, "Waiting you to-night." Consequently Mr. Laurence made an unnecessary trip from New York to Montreal and sued the telegraph company for $200 damages.

The court in the first instance awarded $30, the actual cost of the trip from New York. The company appealed from the decision. The proof established the fact that the error was due to the negligence of the employees of the company, but the appellant set up the plea that despatches were sent under a contract, which declared that it would not be liable for damages resulting from errors unless the despatch was repeated, and then only to the amount of fifty times the price paid for the message. Such a contract the court declared to be contrary to public policy, and any contract by which a party sought to fix the punishment for his faults was illegal. The judgment was confirmed.

Sir Edwin Arnold is Better.

Sir Edwin Arnold, who has been confined to his room in the Everett House by the grip, had so far recovered as to be able to go out for half an hour yesterday.

FISTICUFFS IN THE COURT ROOM.

City Marshal McDermott Makes Work for Several Policemen.

There is a rivalry between the assistant marshals attached to the Third Judicial District Civil Court, on the second floor of the Jefferson Market building, and the officers attached to the police court on the ground floor. The latter have made many complaints against the marshals, charging that they fleece persons ignorant of court affairs by demanding fees for work the law requires them to do for nothing. On Jan. 8 a Mrs. Lizzie Armstrong called at the police court to get a summons and was approached by a man who took her up to the civil court, filled out a blank summons, and demanded $5. The woman hadn't the money, so he tore up the summons. Mrs. Armstrong told Justice Divver of her experience and he sent her into the lobby with a policeman to see if she could pick out the man.

She pointed out Assistant Marshal George McDermott, a brother of City Marshal Charles E. McDermott, to her companion, Officer James Bell. Justice Divver lectured him and let him go. The Justice then issued an order that no city marshals, lawyers, or hangers-on should be allowed to stand in the lobby, and notified the janitor to put up a placard directing strangers which way to go to the civil and which way to the police court. Since then the lobby has been clear of marshals, and has been constantly guarded by a policeman.

Yesterday City Marshal Charles E. McDermott entered the lobby drunk. Lawyer Henry Gibbons tried to induce him to leave the place, and McDermott hit the lawyer between the eyes. Then, spying Policeman Bell, he shouted, "You're the fellow that arrested my brother," and dealt the officer a blow in the face. Bell seized the marshal and the marshal seized Bell, and the two rolled over and over, striking and kicking each other. Bell is well advanced in years, and McDermott is young and powerful. Policeman Ennis of the West Thirty-seventh street station, who was coming out of the court, took a hand in the fight. Other officers then came to the rescue, and McDermott was led before Justice Grady.

A simple charge of being drunk and disorderly was preferred against him, but when the Justice heard the circumstances of the case he ordered that a charge of assault and battery be made. While the papers were being made out, McDermott sat down on a bench inside the railing. Nobody was watching him, and he made a sudden dash for liberty.

He didn't try to get out of the front gate, but made for the prison, knowing that if he could get that far he would be safe, as he is well acquainted with Warden Ledwith and the keepers. Sergeant Coombes saw him, and there was another fight, in which the marshal got some pretty rough treatment. He was once more arraigned before the Justice, and was held in $2,000 bail for examination.

Policeman Bell was about to lead the marshal into the prison when McDermott gave him a stinger between the eyes which knocked him off his feet. There was a commotion in the court room. Policemen sprang forward, but McDermott dashed them all aside. He reached the railing, but was again caught. Bell, who had lain stunned on the ground, recovered and helped his shoulder fill the marshal's face. Then began a new fight. McDermott was a good match for three men, but superior numbers told, and after a struggle, during which several women in the court room fainted, he was subdued, taken to the prison, and locked in a cell. The court officers' faces were cut and scratched, and Bell especially was badly damaged. It is thought that his nose was broken.

McDermott is the City Marshal who recently entered a stable and took out a dog named Tottie, which had been gathered in by agents of the Society for the Prevention of Cruelty to Animals. The dog is owned by George H. Heddin, a butcher, and the Society took him in for rat baiting. Heddin sued, and on a writ of replevin McDermott took possession of the dog. He was arrested and locked up. He now has a suit pending against President Haines and Superintendent Hankinson of the society and Police Captain Clinchy for false imprisonment.

CARDINAL MANNING AND THE JEWS.

The Rev. Dr. Callman's Tribute to the Memory of the Catholic Prelate.

An interesting and significant utterance in relation to the death of the late Cardinal Manning distinguished the services at Temple Adereth Israel, East Eighty-second street, on the last Jewish Sabbath. This is the worshipping place of one of the most orthodox congregations in the city. After the reading of the Thorah and the usual sermon by the Rev. Dr. A. Callman, he addressed the congregation, which remained standing, as follows:

"Before proceeding to the usual benediction it becomes my duty, and I esteem it a privilege, to pay a deserved tribute to the departed dead. Two days ago a man—a man in the broadest, noblest sense of the word—departed this life; a man whose loss should be felt in every Jewish heart, and which should be sincerely mourned. In mourning for him our sorrow is not for one of our race or creed—a Catholic priest was he, but a priest of God—a Catholic priest true to Catholicism, and still a priest for humanity, Cardinal Manning, head of the Catholic Church in England, prince of the Church and prince of humanity. Aside from the fact that our faith and the Talmud teach us to honor, love, and respect all noble and righteous men, whatsoever their faith may be, where is the Jew or Jewess who does not honor and revere the name of our friend, the friend of our race and our people, Cardinal Manning? When the persecutions of our people in Russia were inaugurated by the ascent to the throne of that fiend who to-day represents all that is hateful and shameful in government, a delegation of our brethren in London waited on the immortal Cardinal Manning to enlist his sympathy and solicit his aid against Russian tyranny and in behalf of the suffering Jews. Reverence be to be forgotten are the words of this superb genius, the great wisdom and holy love of mankind displayed by this grand old man in his answer:

"'I am more than gratified. I am honored, by this living proof that my efforts are appreciated in behalf of suffering humanity. You ask my protection, my sympathy, my help. You have it. What can a poor priest do? Has not your God and my God protected His people from the time of deliverance from Egypt up to the present day and delivered them from evil? He will rescue them from the claws of Russian tyranny. As a priest of God I will contend for you. All my strength is enlisted in your behalf.

"'There are three things in this life,' he continued, 'which are indestructible. First, the nation and faith of Israel. Second, the Catholic faith, founded on the same. Third, the world, which has persecuted us both. Stand firm in the faith of your fathers, and the God to whom both you and I pray will again lighten the path of your unfortunate brethren.'

"This, my devout auditors, was said not by a Jew, but by a Catholic high priest, a man full of genius and love. Have we not then every cause to add to the name of Cardinal Manning, as every mention, the expression which we use after the death of any of our heroes: 'Remember his name as a blessing.' He truly followed the precepts of his Master: 'Even as you do it unto the least of these, my brethren, you do it unto Me.' He fulfilled the spirit of the prophecy, the righteous are a blessing and live forever, even after their death, in the example they have left us. Peace to his ashes and honor and love to his memory in the bosom of every true Jew. May he reap the reward of his good deeds in his everlasting home. Amen."

PRESERVING JACKSON'S HOME.

A Reception to Aid the Ladies' Hermitage Association of Tennessee.

For several years now there has been an organization among the women of Tennessee called the Ladies' Hermitage Association. Its sole objects are the preserving of the home of Andrew Jackson and the keeping of his tomb in repair. This association has its headquarters at Nashville, and from there it right earnestly and jealously guards the Hermitage and the tomb of its former tenant.

Those who are familiar with the private life of Andrew Jackson will remember how chivalrous the statesman and soldier was toward his wife and all women, and it seems peculiarly fitting that women should thus guard the visible marks of his life. A short time before last Jackson's Day these women sent out this request to the Governors and military commanders of the South:

"The Ladies' Hermitage Association, whose mission is to save from ruin and decay the home of Andrew Jackson and guard the tomb where sleeps the old hero, respectfully request the Governors of the States and military commands throughout the Union to honor the memory of Gen. Jackson by firing a salute on Jan. 8 in commemoration of his victory, the battle of New Orleans. Respectfully,

"MISS. MARY L. BAXTER, Regent.
"MRS. C. P. WRIGHT, Secretary."

It is hardly necessary to say that this request was complied with, and thus a new feature was added to the already imposing ceremonies which attend the anniversary of the battle of New Orleans. Now comes an invitation to a reception to be given on Feb. 4 at the Ponce de Leon in St. Augustine, for the benefit of the fund for furthering the objects of the Hermitage Association. This is called the Jackson Historic Costume Reception. From the arrangements already made, and from the list of eminent persons who intend going, the reception and ball will be both interesting and splendid. All present will be clad in the costumes of the early part of this century, which are graceful and becoming to men as well as to women.

DR. FOWLER'S TESTIMONY.

RECORDER SMYTH ADMITS HIS EVIDENCE IN THE HARRIS TRIAL.

The Physician Describes the Evidences of Morphine Poisoning in the Death of Helen Potts, and Tells of Carlyle Harris's Indifferent Demeanor at the Death Bed.

Men and women hung about the door of Part III. of the Court of General Sessions all day yesterday for a chance to get within to hear the evidence in the trial of Carlyle W. Harris. A very small part of the crowd got past the doorkeeper, however. There were only two women in the court room other than those who were witnesses or were friends of the Harris or Potts families. One of these, who stood up all through the afternoon, was a young woman with a big Gainesborough hat, and not an incident of the trial escaped her attention.

Mr. John A. Taylor for the defence made a sharp fight to carry the legal point he had raised on Tuesday for the exclusion of Dr. Fowler's testimony.

"The responsibility," said Mr. Taylor, "of the law which does not allow a physician to testify concerning the condition of his patient rests with the Legislature and not with the District Attorney. The Court of Appeals says that this law could not be invoked to protect a criminal, but it is not invoked for a criminal. There is no criminal here. It is invoked in behalf of his dead wife. Who will say what may not be disclosed to blast the character of this young girl? But if there is any danger of justice being thwarted by this law, it was the duty of the Legislature to make a provision applicable to this case in the special act. The Legislature had an opportunity in 1891 to say that this statute does not apply in criminal cases, but they were dumb."

Assistant District Attorney Simms cited a decision of Judge Earl of the Court of Appeals, who said that the provision of the code was never intended to protect a murderer by shutting out evidence against him. In most cases of poison it would be impossible to convict the murderer under such a construction.

Recorder Smyth overruled Mr. Taylor's objection and admitted Dr. Fowler's testimony.

Dr. Fowler, who had been sitting in the witness chair while the argument had been going on, threw aside the newspaper he had been reading and began the story of Helen Potts's last hours. He had been called at midnight to attend the girl by Miss Day.

LAWYER TAYLOR ARGUING ON AN OBJECTION.

"In what state did you find her?" asked Assistant District Attorney Wellman.

"I found her in a state of coma," said the physician, "and the surface of her skin was pale and blue. Her respirations were labored and occurred only twice in a minute. The pupils of the girl's eyes were contracted to a point where they were almost imperceptible. There was an entire absence of any voluntary motion."

Dr. Fowler looked at the pill box which the District Attorney showed him, and recognized it as the one which had been found that night in Miss Potts's room. The moment that Dr. Fowler found how alarming was the condition of Miss Potts he ordered strong black coffee, and sent for his associate, Dr. Baner, whom he asked to bring all the remedies for a case of morphine poisoning. After giving the girl one or two pints of the coffee he began efforts at artificial respiration, and continued them up without cessation all the rest of the night.

The coffee was used as an antidote for opium and to maintain and increase the girl's vitality. Atropine, digitalis, and whiskey were also administered hypodermically. They were direct antagonists of morphine and served to increase the heart's action. Dr. Fowler said that the remedies produced no effect.

"What did this show?" asked Mr. Wellman.

"That too great a quantity of morphine had been absorbed for the remedies to have any effect."

Dr. Fowler did not use a stomach pump because it would have killed the girl in her condition.

At 3 o'clock in the morning Miss Potts had a perceptible rally, when for half an hour her respirations were as frequent as nine or ten in a minute. Dr. Fowler went home to his house for a few minutes, and then the patient had relapsed into her former state. About daylight Dr. Fowler sent for young Harris and questioned him about the pill box found.

"I said to him," continued the physician, "that we had a frightful case here, and there must have been some great mistake. I asked him what the capsules had contained, and he told me he had given them for malaria, headache, and insomnia. He had ordered twenty-five grains of opium and one grain of morphine to be mixed and made into six pills. I told him that even one grain of morphine if it were all in one pill could not have produced the results I had noticed.

DR. EDWARD P. FOWLER.

"It was my impression that the quantities might have been reversed, and I asked Harris to go to the drug store at once. He came back soon with the word that the medicine had been put up in accordance with the prescription."

"What was the next thing you can remember?" asked Mr. Wellman.

"Harris asked me at various times whether he could be considered responsible or whether he was responsible. I told him that I was not occupied with that, but was trying to save the girl's life."

"How many times did he ask you if he was responsible?" was Mr. Wellman's next query.

"At least eight or ten times," said Dr. Fowler.

The only assistance that Harris gave to the physicians as they labored over Miss Potts, Dr. Fowler said, was to hold one of the poles of the electric battery.

"He stood around the room most of the time," Dr. Fowler went on, "although he did suggest that we try tracheotomy, which he said his preceptor advised."

"What would have been the effect," asked Mr. Wellman.

"It would have killed the girl," replied Dr. Fowler, decisively.

By 7 o'clock in the morning the eyes of the dying girl had become very much dilated, and before death came they had dilated so that the iris was hardly visible. This, Dr. Fowler, explained, was a symptom of entire nervous prostration which precedes death.

"We kept up the artificial respiration," continued the Doctor, "for a few minutes after the heart's action had stopped. Then I said: 'It's no use; she's gone.' This was about 11 o'clock. 'Is she dead, Doctor?' Harris asked me. I said 'Yes,' and then he said, 'My God, what will become of me?' Through the night he had said that he was somewhat interested in the girl, and might become engaged to her after he had finished his medical studies. We all retired to the other end of the room to leave Harris alone with the dead girl, and shortly after Miss Day came in. His only words to her were: 'I am so sorry for you.' He showed no marks of affection toward the girl, and I went myself and closed her eyes and arranged her hair."

Dr. Fowler said he observed a very marked lack of interest on Harris's part, and was surprised at it. The witness and Drs. Baner and Kerr left the house together, and Harris accompanied them.

"On the street," said Dr. Fowler, "Harris again asked me whether he could be held in blame for this terrible case. I told him that I only knew that it was a frightful case of morphine poisoning, and some one was at fault. I said to him that I presumed the druggist must have made the error.'

"What was the cause of Helen Potts's death?" asked Mr. Wellman, being on a new tack.

"It was an overdose of morphine or an opiate," said the physician.

"And on what circumstances do you base your opinion?"

"I base it," said Dr. Fowler, slowly, "on the entire group of symptoms; the conditions of the skin, of the respiration, the condition of the eyes, their contraction, and final dilation. The whole condition of the girl from beginning to end was a picture of morphine poisoning and nothing else. I know nothing that could have produced the sequence of symptoms but morphine poisoning."

"Was there anything to indicate that Miss Potts had heart trouble?"

"Not the slightest."

This brought the direct examination to an end, and Lawyer Jerome braced himself against the rail to tackle Dr. Fowler on the cross-examination. Mr. Jerome expressed his surprise when the physician told him that he only approximated the girl's temperature, and did not use a thermometer. He certainly wouldn't bother about the temperature of a patient, he said, who was dying.

"How frequent was her pulse?" Mr. Jerome asked.

"It stood at 80 or 90 at first, and would bound up at every inspiration. The heart responded unusually to the act of respiration."

Dr. Fowler did not make any muscle tests, because, as he said, there was not the slightest voluntary movement by the girl, and she had absolutely no muscular action.

TREATISES ON POISON FOR DR. FOWLER'S BENEFIT.

"It wouldn't have taken long to have used your thermometer," insinuated Mr. Jerome.

"When you can do more to save life in another way," said the Doctor, sharply, "I think a man is a criminal who loses time."

The witness said he had not made an examination of the blood, as he couldn't spend two or three days in any work of the kind. A deadly dose of morphine, Dr. Fowler informed Mr. Jerome, was from two and a half grains up in the case of an adult. Mr. Jerome took up a medical journal from his desk which Dr. Fowner acknowledged was reputable, and read a case where a death occurred from one-fourth of a grain of morphine, but the witness was inclined to doubt the accuracy of the observations. There was a lively spat right here between Travers Jerome and Assistant District Attorney Wellman. The latter made a remark, and Mr. Jerome retorted:

"I think Mr. Wellman knows something about courts of justice, and he should be aware that if he has any exceptions to make to the testimony he must make them in the form of objections."

"Mr. Jerome ought to learn some manners," said Mr. Wellman.

"I can't learn manners from you, as you haven't got any," came from Mr. Jerome.

The Recorder sternly declared that the discussion must stop.

Dr. Fowler said that he had read hundreds of cases where persons were reported as having been killed by a very small quantity of morphine, and Mr. Jerome asked if all these hundred cases were faulty.

"I suppose there are hundreds of faulty observations in law as well as in medicine," was the physician's rejoinder.

"Suppose we keep to this case," mildly suggested the Recorder.

Mr. Jerome wanted to know if Dr. Fowler agreed with Dr. Horatio C. Wood of Philadelphia, who said that a positive diagnosis of morphine poisoning is impossible.

"It is contrary to all my knowledge and experience," said the witness.

The lawyer presented several big medical works to Dr. Fowler's attention, whose authority the physician said was excellent. Mr. Jerome cited several diseases, as uræmia and epilepsy, whose symptoms were similar to those of morphine poisoning. But Dr. Fowler declared that his opinion regarding the cause of Miss Potts's death was not changed.

At 4 o'clock Dr. Fowler stepped from the stand and the direct examination of Mrs. Cynthia S. Potts, the mother of the dead girl, was resumed.

She took up the conversation again which she had in Lawyer Davison's office with Carlyle Harris. Carl, she said, made her no promise, he said, to stop drinking. He must handle liquor in his profession. "So you would poison," said Mrs. Potts to him, "and would you use that?"

"Carl told me," continued Mrs. Potts with an effort, "that his position in society would not be injured by the scandals at Asbury Park in which he was involved, and he had received many letters of condolence. Some people, he said, thought it was rather getting ahead of the Asbury Park people."

THE PRISONER'S MOTHER.

"What else did he say?" was Mr. Wellman's question.

"He promised to have a ministerial marriage at any time in the future that I should say. After I got the affidavit and the copy of the secret marriage from him his whole manner changed, and he seemed his old self again. As we went down to the ferry together he proposed that I send Helen to the Comstock school. He said she was too impulsive, and she could be trained there to take the position in society to which he hoped to attain. I agreed to this, and then he wanted me to write to Dr. Treverton at Scranton, and tell him that I was satisfied with the marriage. He was afraid that Dr. Treverton would write to the college and make trouble for him. I said I would do what he asked for his sake. At the ferry we met Helen, and she was very happy when I told her that I was satisfied with the marriage."

On the trip across the ferry Harris sat apart with his wife, and Mrs. Potts said sadly that she had never seen Helen so happy as on that day.

"Did you see a letter that Harris wrote to his wife in January?" asked Mr. Wellman.

"Yes," replied Mrs. Potts.

"What became of the letter?"

"McCready Harris asked me for it," the witness replied, and I gave him half of it and burned the other."

Mr. Wellman insisted that the defence produce this letter at once, but Mr. Jerome said he could not find it. He promised to produce all letters that passed between Mr. and Mrs. Harris at the proper time.

"State what was in the part of the letter you burned?" Mr. Wellman said to Mrs. Potts.

"The letter was written a few days before my daughter's death and in it Carl said he would like to ask her that everything should remain as it was and no engagement be announced at that time."

Mrs. Potts said Helen left the letter at home when she returned to school after the Christmas holidays, and that she (Mrs. Potts) picked it up. She sat down at once and wrote a letter in reply to Harris in answer to it.

The trial will go on to-day.

FLORA CHESTER THIS TIME.

Co-respondent Now and to Be Made Defendant in Suits for Divorce.

A reminder of the sensational runaway match of the late Richard Newcombe's daughter, Florine, and Theatrical Manager George W. Lederer, appears in the domestic troubles of George H. Pierce, known on the stage as George H. Murphy, or "Dutch" Murphy.

He is a leading actor in Donnelly and Girard's "Natural Gas" Company. Suit for divorce has been brought against him in the Supreme Court by a woman who calls herself Della Pierce. The co-respondent named by her is Flora Chester, whose sister Clara was chief witness for the prosecution in the criminal complaint against Lederer. Clara Chester alleged that she was Lederer's wife, and caused his arrest for bigamy, after he had married Miss Newcombe. She disappeared during the investigation before Police Justice Hogan, and the proceedings were thereupon abandoned. Subsequently Mr. Newcombe disinherited his daughter for returning to her husband, and the will is now being contested.

Murphy denies that he is the legal husband of Della Pierce, although he admits that he married her. He alleges that he learned after the marriage that her former husband was living, and that, although a legal separation was obtained by her, she was not divorced. In the gossip about the case it is said that as soon as the present suit is decided, Murphy will apply for a divorce from Flora Chester, whom he married while they were both employed by a road company. Murphy says he has proof of Flora's infidelity, and names John Rusk of Denver as co-respondent. Flora Chester and Della Pierce met some time ago at night in an up-town concert garden and, it is said, pulled each other's hair.

COULD LIFE HAVE BEEN SAVED?

Mr. Webb's Testimony Concerning the Stabbing of Stable Boy Roberts.

Coroner Parslow has begun an investigation of the death of Andrew Roberts, the Guttenburg stable boy, who was stabbed by John Baylis, another stable boy. George Webb, a horse owner at the Guttenburg track, told the story of the quarrel and the stabbing as it has already been told in THE SUN. Webb then continued:

"I ran to the office of Dr. Burns, but the Doctor refused to have anything to do with the case unless he got $25 down. I told him who I was and offered to be responsible, but the Doctor insisted on immediate payment. I returned to the drug store to which Roberts had been carried and gave the druggist my gold watch as security for $25. All this time the wounded man was unconscious and bleeding. I returned to Dr. Burns's house, and when I gave him the $25 he consented to go and attend Roberts. He ordered the removal of the patient to St. Mary's Hospital in Hoboken."

It is said by the surgeons in St. Mary's Hospital that prompt attention and the stopping of the flow of blood might have saved Roberts's life. Dr. Burns will be a witness at the next session of the inquest. He positively denies Webb's statement, and threatens to have him arrested for perjury. The inquest will be resumed next Wednesday.

A Switch Tower Burned.

The switch and signal tower on the Culver road near the Kensington, L. I., station was burned to the ground yesterday. The fire occurred while Switchman John Stahn was outside clearing the snow from the switch, and is supposed to have started from an overheated stove. The tower is the one in which a man was murdered about two years ago. It stood at the junction where the Thirty-sixth and Twentieth street trains run on the main track.

Y. M. C. A. PREPARATIONS.

The Various Branches Arranging to Celebrate Their Anniversaries.

The various branches of the Young Men's Christian Association of New York are preparing to celebrate their anniversaries. The East Eighty-sixth street branch will hold theirs on Jan. 18. On the following night the Young Men's Institute will celebrate, and of course the gymnasts and athletes will not be allowed to go unnoticed. The Institute boys, by the way, are training hard in the "