OFFICIAL CORRUPTION.

The People vs. Sydney H. Stuart, City Judge.

COURT OF OYER AND TERMINER.

Before Judge Roosevelt.

SECOND DAY'S PROCEEDINGS.

TUESDAY, Nov. 13, 1855.—The case of the people against Judge Stuart, charged with official corruption, was continued. As on yesterday the court was much crowded, the romantic nature of the incidents, as published in Tuesday's HERALD, giving to the case an unusual public interest. The proceedings commenced with the testimony on the part of the prosecution.

Wm. Davison examined by Mr. Cutting.

Q. What is your present position? A. I am a police justice.

Q. Since how long? A. Since the 1st of January, 1855.

Q. In 1853, what was your occupation? A. I was Clerk of Police.

Q. For how long had you been such? A. For about five years then.

Q. And continued to be so till you took your place as Judge? A. Yes, sir.

Q. In 1853 were you acquainted with Sydney H. Stuart? A. Yes, sir.

What position did he then occupy? A. He was then a Police Justice.

Q. Where was his station? A. At the Second district court.

Q. Were you clerk at that court? A. I was one of the clerks at that court.

Q. Do you remember the occasion of a complaint made against a person of the name of Wm. Cosgrove? A. There was such a complaint.

Q. Who was the magistrate before whom that complaint was made? A. I do not know that I could tell that definitely without seeing the papers.

Q. Look at these papers (handing documents to the witness) and state whether those are the papers on the complaint and examination of Cosgrove? A. Yes, sir, these are the papers.

Q. What are these papers?

Objected to by Mr. Brady, who made an argument as to the irrelevancy of the examination in reference to the original complaint.

Judge Roosevelt considered that the evidence was admissable if it went to lay a foundation to prove the motive operating on the accused in bribing excepted to.

Witness—This is a complaint against Wm. Cosgrove, for burglary and grand larceny, dated 6th April, 1855, taken before Justice Stuart.

Q. In whose handwriting is the body of the complaint? A. It is in my handwriting.

Q. What part, if any, of that paper is in the handwriting of Judge Stuart?

Objected to as irrelevant. Admitted, and exception taken.

Witness—No part of the body of the complaint is in the handwriting of Judge Stuart, except his signature as magistrate, attached to these affidavits to the jurat.

Q. It was sworn before Justice Stuart? A. Yes, sir.

Q. Is that signature in Judge Stuart's handwriting. A. Yes, sir.

Q. What other are these papers in your hands? A. The preliminary examination of the prisoner is attached to the complaint; that is in the handwriting of Mr. Murray, the other clerk associated with me at that time; that was taken before Justice Stuart. There are also affidavits of witnesses here; the affidavit of George N. Whitman, sworn before Justice Stuart.

Q. Is the name signed to the jurat in the handwriting of Stuart? A. Yes, sir.

Q. What is the next paper? A. Affidavit of Michael Kerr, sworn to before Justice Stuart.

Q. Is his name subscribed to the jurat in his handwriting? A. Yes sir.

Q. What are the other papers annexed to the complaint? A. Affidavit of Alexander Johnson, sworn to before Justice Stuart, the name subscribed to the jurat is in his handwriting; there is also the affidavit of John W. Tindale, sworn to before Justice Stuart; the name subscribed to the jurat is written by Justice Stuart.

Q. You stated that complaint to be in your handwriting? A. Yes, sir.

Q. And those examinations? A. Are mine, made at the time of taking the affidavits.

Q. In whose handwriting is that endorsement? A. It is all mine with the exception of the lead pencil and the memorandum of the filing of the court.

Q. Look at that paper (handing another document,) and tell us what it is? A. It is a recognizance to answer, or bail bond, in the case of Wm. Cosgrove.

Mr. Brady objected to the course of examination. Admitted.

Q. In whose handwriting is that paper? A. The face of the bond, with the exception of the signatures—the filling in—is in my handwriting.

Q. Before whom was it taken? A. Before Justice Stuart.

Q. Is any part of that paper in the handwriting of Justice Stuart? A. The latter part of the justification of the bond is in Justice Stuart's handwriting—so much as refers to the value of the property offered as security.

Q. And the signature is in Stuart's handwriting? A. Yes.

Mr. Cutting offered these papers in evidence.

Mr. Brady objected to each and every of those papers being put in evidence.

Judge Roosevelt considered there were but two matters to be given in evidence—the pendency of a certain complaint, and the proof of the accused being bribed in the matter—and it seemed to him it was a matter for the discretion of counsel as to which of these parts he should put first. Excepted to.

Mr. Cutting then proceeded to read to the jury the complaint against Wm. Cosgrove, for burglary in the New York Hotel, with several affidavits taken in the case, and the recognizance.

Q. Were you present at the time the amount of bail was fixed? A. I do not recollect whether I was or not.

Q. Were you present at the time the subject was discussed? A. I think not.

Q. Were you acquainted with an officer at that time named George Elder? A. Yes, sir.

Q. What was his business? A. I think he was at that time attached to the Second District Police Court, where Justice Stuart and Justice McGrath officiated.

Cross-examined by Mr. Brady—Justice McGrath is since deceased; there were two clerks attached to the office; thinks Justice Stuart took no part in taking the depositions, except swearing the witnesses; the usual course was for the clerk to take the depositions, and let the Justice swear to it; do not know that that course was departed from on this occasion. (Mr. Brady read the examination of Cosgrove.) There was no warrant issued in this case; Cosgrove was brought in by officer Tisdale; supposed he was in custody till April, 1855, when the recognizance was entered into.

To Mr. Cutting—These affidavits are in my handwriting; cannot tell positively who was present at the time they were taken; the witnesses and myself certainly were; I do not know whether the evidence was taken in the private room or in the public office; it in the private office, Justice Stuart may not have been, and very likely was not, present; but if it was taken in the public office he must have been present; he was either in one office or the other, to have sworn the witnesses; but my memory does not serve me as to whether he was in the private office or in the public office.

To Mr. Brady—There was a large room with a desk for the magistrates and a side desk for the clerks; there was also a private room where depositions were taken, when the public office was crowded; that was the way in the majority of cases; the general mode was to bring the affidavits from the private office and have them sworn before the magistrate in the public office.

A. Oakey Hall, District Attorney, was the next witness put on the stand. Q. You are at present the District Attorney for this city and county? A. Yes, sir.

Q. You have been since the 1st of January last? A. Yes, sir.

Q. Were you, prior to that time, connected with the District Attorney's office, and how? A. I was the Deputy of Mr. Blunt, from the 1st of January, 1851, till about the third week in July, 1854.

Q. Are you acquainted with Sydney H. Stuart? A. I am, sir.

Q. When did that acquaintance commence? A. I think it commenced prior to or about the time of the election of Mr. Blunt in the autumn of 1850.

Q. And your official intercourse with him has continued how long? A. About five years.

Q. And during that time you have had official intercourse with him on various subjects? A. Yes, sir.

Q. What official position did Justice Stuart hold on the 1st of January, 1855? A. On the 1st of January he was sworn into office as City Judge of this city.

Q. He had been elected at the previous election in November? A. Yes, sir.

Q. You were also a candidate at that time, and was elected? A. Yes, sir, I was returned so at all events.

Q. And was sworn in on the 1st of January? A. Yes, sir.

Q. When was Mr. James M Smith sworn in as Recorder of the city? A. He commenced to act as Recorder on the first Monday of January, to my knowledge.

Q. Who held the January term of the Court of General Sessions of the Peace? A. Recorder Smith.

Q. Who held the February term of that court? A. City Judge Stuart.

Q. Were you at any time, and when, and under what circumstances, applied to by Judge Stuart in reference to moving a *nolle prosequi* in any case then pending. State what occurred.

Objected to as irrelevant. Mr. Brady argued that the first step necessary to fix guilt upon the accused is the proof of his having been corrupted, and till that proof was given, or if it should not be given at all, this collateral matter should not be admitted in evidence, as it would be injurious and wrongful.

Mr. Cutting insisted that the course of examination proposed by him was the correct one. He had to show that Justice Stuart, in his official capacity, committed a fraud upon the District Attorney and on the public; and it was afterwards for them to show the motive of the fraud.

Judge Roosevelt remarked that the mere payment of a sum of money to a Judge is not a criminal act, unless it is followed up by proof as to the action which he was to take in his official capacity; nor is the fact of a Judge inducing a District Attorney to file a *nolle prosequi* a criminal act, unless a corrupt motive be proved; but the order in which these parts are to be proved is in the discretion of the prosecuting counsel.

Q. Look at that paper, (handing witness a document,) and state whether it is the original indictment found against Cosgrove? A. Yes, sir, that is my filing up. It was acted on by Mr. Blunt as the indictment. The endorsement is in my handwriting; the bill was found on the 18th of April, 1853, according to the endorsement on it.

Mr. Cutting read the indictment. Objected to and exception taken.

Q. Was that case called on for trial? A. It was, in May, 1853; the 19th of May is the day of the forfeiture; there had been one postponement on the application of Mr. Smith, as I remember; I can not tell the date of the postponement; it was on the application of Mr. Smith.

Q. Cosgrove was called on that day and failed to make his appearance? A. Yes.

Q. Mr. Brady—I do not know whether I have the affidavit; it was the affidavit of Connolly or Cosgrove, as I might know him.

Q. And on that application the trial was postponed till the May term? A. Yes; and in May the trial was called, and judgment was entered on the 19th, against Cosgrove as principal and Frink as surety; this paper (handed to witness by Mr. Cutting) is the certified copy of the order of forfeiture which, annexed to the original bond, forms the judgment record; it was filed by myself on the 19th of May, at four o'clock, in the office of the clerk.

Mr. Cutting proceeded to read the certified copy of the minutes.

Q. On the recognizance being forfeited a bench warrant was issued? A. Yes, sir; I believe it passed to the hands of officer Bowyer; officer Spicer also had it at one time; Cosgrove was never to my knowledge taken on that warrant; it was returned by Mr. Bowyer.

Witness (to Mr. Brady)—I find, on looking at a memorandum on the back of the indictment, that the trial was postponed from the first Friday of May until the third Thursday.

Q. State to the court and jury whether, during the February term of the Court of Sessions, of 1855, Judge Stuart called at your office and on what business? A. Judge Stuart called at my office on the 19th day of February of this year—the third Monday of term—about 2 o'clock in the afternoon, just as the Court of Sessions adjourned, or shortly before; I had not been in court that day; Mr. Sedgwick conducted the business; City Judge Stuart came into my private office, where I was alone, seated at the table writing; we commenced to talk about the case of Peverelly, for which I was preparing points to be argued on the following Thursday, in the General Term of the Supreme Court, and when it was argued; whether we spoke of other matters than the Peverelly case, I cannot remember; there may have been conversation about other incidental matters; Justice Stuart was sitting on the sofa; I had been writing as well as talking with him; he then said, as near as I can remember—my attention having been called to it a day or two afterwards—"Hall, I want you to enter a *nolle pros.* for a man who has been indicted two or three years ago;" I either asked him the reason and he said—or he answered without my asking—that it was a case where witnesses had all left the city or could not be found, and that the man had promised, or was determined, to lead an honest life. I asked him if he thought it was a fit case for a *nolle prosequi*? he said he did; I told him I would come into court and see about it; he said "I see you are very busy"—or words to that effect—"just give me a note to John, and it will do as well as your coming in."

Q. Who is John? A. By the word John, I understood Mr. Sparks, Deputy Clerk of the Sessions; Mr. Stuart and myself have been in the habit of calling him by his first name; he has been attached to the court for a long time. I then asked the City Judge the name of the man for whom he wanted the *nolle prosequi*; he gave me the name of Wm. Connolly; I did not recognise the name of Wm. Connolly; I never had heard it before.

Q. Did you ask him upon what it was? A. At that time; I took a piece of note paper and commenced to write; he had previously said, "two or three years ago;" I wrote the words, "*nolle prosequi* as to William Connolly;" I asked him what month the indictment was found in, so that the Clerk might find it, as they are filed by months; he said, "May, 1852;" he afterwards read it over, and said, "It may be May, 1853;" I added the words in the margin; he then left the room with the note; this was about 2 o'clock.

Q. Did you ever come into possession of that note again? A. I was shown it the next morning, and have repeatedly seen it since; that is the one. Witness read as follows:—

"*Nolle prosequi* as to William Connolly, indicted some time about May 1852, or May, 1853, by request of Judge Stuart. Let John Sparks enter it, and I will sign it.

A. O. H."

Mr. Cutting notified the court that the paper would be considered as read in evidence.

Q. When did you leave your office that day? A. I left shortly after that, went to my civil office, and did not return to my official office that afternoon; I have an impression that I went to the law library first.

Q. What occurred next morning? A. I was shown the indictment and the note next morning by Mr. Vandervoort, the clerk. I was shown the indictment against Mr. Cosgrove just as it is now, except that my signature was not then at the bottom of it. The note to Sparks was then, as now, pinned to the indictment.

Q. What occurred then? [Conversation objected to.]

Witness—I can state the acts which I did. After some time I signed my name to the indictment, having first gone into the Clerk's office and looked at the minutes.

Q. When this indictment against Mr. Cosgrove was produced to you by Mr. Vandervoort, did you recognize it as the indictment against Mr. Connolly? State the conversation. Question objected to and admitted. Exception taken.

Q. On the following morning this note was brought to your office by Mr. Vandervoort? A. It was.

Q. State what transpired between yourself and Mr. Vandervoort in reference to this note which you had delivered to Stuart, and the *nolle prosequi* referred to therein. [Objected to, admitted, and exception taken.] A. He brought this indictment folded as you have it, and said here is the indictment which Judge Stuart wanted *nol. pros.* it yesterday," and he laid it on the table; I told him he was mistaken, that that was not the indictment; he opened it and showed me the note pinned fast to it, as it is now; he detailed a conversation which had taken place between himself and Judge Stuart; a conversation passed between us about W. Cosgrove; the discrepancy of name was referred to in connection with the interview which he had had with the City Judge.

Q. What was his application to you? A. To comply with the terms of the note and sign the order for *nol. pros.* which had been written; I saw the minutes. (Minutes produced.)

Q. Are these the minutes which you saw on that occasion? A. Yes, sir; I recognize it from the conversation which took place in regard to the erasures.

Minutes offered in evidence and objected to as not being minutes of the court, but rather minutes of Mr. Vandervoort's. Mr. Brady argued against its admissibility.

Judge Roosevelt understood that one of the elements of the prosecution was the irregularity of the entry of the *nolle prosequi*.

Mr. Brady—Not at all, sir.

Judge Roosevelt—The offence is the corrupt intention or understanding, and it is no matter whether the action was regular or irregular.

Mr. Brady, in order to obviate difficulty, would ask Mr. Hall did he make a motion for *nolle prosequi* in the case of Wm. Cosgrove?

Mr. Cutting was opposed to this form of cross-examinations this time.

Judge Roosevelt decided that counsel had a right to ask the proposed question before the minutes were put in evidence.

Mr. Cutting admitted that no motion was made by the District Attorney for a *nolle prosequi* in open court; and the defence agreed to take that as an admission as far as it goes.

Judge Roosevelt would assume that the entry was not made in open court, and yet he would let the minute be read. Exception taken.

Mr. Brady asked to be permitted to question the District Attorney whether anything in relation to this entry took place in open court.

Mr. Cutting objected. Objection sustained and exception taken.

The defence presented its exception in form, which was, that they offered to show that no motion was made in court for leave to enter a *nolle prosequi* in the case of Wm. Cosgrove, and that the Court gave the District Attorney no right to enter a *nolle prosequi*. And the defence claimed to cross-examine the witness at this stage on that point.

Mr. Cutting proceeded to read the minutes, as published in yesterday's HERALD.

Q. What was the first that you ever heard or saw of that entry on the minutes? A. The following morning, on the 20th.

Q. And in the case of Wm. Cosgrove, on the 19th, had you made any motion to *nolle prosequi* in court or out of court? A. No, sir.

Q. Had you known on the 19th that such an entry had been made? A. No, sir.

To the Court—I knew nothing of that minute before the morning of the 20th.

Q. Was the endorsement over your signature on the indictment when you saw it? A. It was; it is in the handwriting of Mr. Sparks; Mr. Vandervoort asked me to sign it; I first refused to do so.

Evidence objected to and exception taken.

Q. Had you signed the endorsement before you had seen these minutes? A. No sir. Evidence also objected to.

Q. After you had seen those minutes did you or not sign the endorsement? A. I did.

Q. What did you do with the indictment and that note after you had signed it? A. Mr. Vandevoort took it into his possession again.

Q. When the indictment against Wm. Cosgrove was found did you or not recognize the name? A. I did; I recollect that individual very well.

Q. Did you know at the time that Jacob Stuart applied to you to enter the nolle prosequi for Wm. Connolly that Wm. Connolly and Wm. Cosgrove were one and the same person? A. I did not.

Q. Was Cosgrove a man known to the police?

Objected to.

Mr. Cutting offered to show that Wm. Cosgrove was an old offender, who was known by the name of Buffalo Bill. Not allowed.

Q. In your capacity as District Attorney and Deputy District Attorney, did you become familiar with the operations of the police of the city? A. I did to a great extent.

Q. In your official capacity did you become familiar with the names of old offenders? A. Yes, sir. I had frequently conversed with Judge Stuart about Wm. Cosgrove before that time.

To the Court. I had conversed with Judge Stuart about Wm. Cosgrove, by that name, about his case and about the bail. I remember the fact that we conversed about the man, but I could not detail the conversation. Judge Stuart was the magistrate who sent the papers to the office. I have only seen Cosgrove once in my life.

Q. What was the character of this Cosgrove? Objected to on the ground of immateriality and irrevelancy. Question withdrawn.

Q. I did you, at any time after this interview with Mr. Vandervoort, and after you had signed your name to the back of the indictment, have an interview with Judge Stuart, and if so, when? A. I had, shortly afterwards; the same day after; I am sure I met him at the door of my office; he was passing into the clerk's office and I into mine; we conversed about what had occurred between himself and myself in my office; I think I used the words "he had got Mr. Vandervoort and me into a scrape about Wm. Cosgrove;" I asked him why he had done as he did. He replied he had done it at the request of a friend of Wm. Cosgrove; I spoke about the name being different, and told him he had given me the name of Connolly and had not spoken about Cosgrove; our conversation was very casual; I think it stopped there; for my own reasons I did not speak with him much upon the subject. I think I asked him if he had given away the certificate of the order which the clerk had furnished to him; I have an impression that he promised to get it for me, but as I said, our interview was a very short one; he never brought it back to me, and I never had but one other conversation with him about it—I rather avoided the subject.

Q. Did he give an explanation about the difference of names? A. He did, but I do not remember; his manner was not very clear.

Q. Did you have any other conversation with Judge Stuart on this subject? A. Once in the Court of Sessions in the early part of this summer; he asked me it it was true that the Philadelphia witness had returned in the Connolly case, as he then called it; I was not aware till then that he knew there had been a second indictment.

Q. Did you cause any second bill of indictment to be found against Cosgrove?

Mr. Brady objected to any proof as to the second indictment being given, inasmuch as he claimed that the first indictment was still operative.

The Court allowed the evidence to be given and exception was taken.

(Paper handed to witness.) This is the second indictment; it was found on the 10th of March, 1855; he was then indicted under the name of Wm. Connolly; for on inquiry I found that to be his real name; I enquired of Mr. Frink, his bail; that indictment was not made public by me; I never spoke to any person about this indictment except the clerk and one Judge of the Court I never spoke to Judge Stuart about it till that time; there was a bench warrant issued; I do not know to whom it was given; he was not taken to my knowledge on that second indictment.

Q. In reference to this transaction of the *nolle prosequi*, is there anything further on that branch of the case which you wish to state? A. I have no further statement to make.

Q. Was there a person of the name of Mrs. Connolly who called subsequently at your office? A. There was, sir.

Q. When did Mrs. Connolly call at your office? Objected to and not allowed.

Witness—There is one mistake; she came there as Mrs. Cosgrove, but when she named herself I knew her to be Mrs. Connolly; this was at my office in Broadway and Park place; not at my public office; it was shortly after the question of Mr. Justice Stuart in regard to the Philadelphia witness; I think on that occasion I turned the question off.

Cross-examined by Mr. Brady, (who mentioned that he wished to prove there never was a *nolle prosequi* entered on the original indictment.) Q. This memorandum as to the *nolle prosequi* was written on the 19th of February? A. Yes.

Q. And that entry in the minutes was made on the 19th of February? A. Yes; I do not know who pinned the note to the indictment. I was not in the court room on the 19th of February or on the 20th, to my knowledge; when I gave that paper to Judge Stuart it was to be brought into the court, as I understood it was open; I think, as a lawyer, I made the motion in court.

Q. Did you, in the Court of Sessions, when any judge was on the bench, move for leave to enter a *nolle prosequi*? A. I did not; when I moved that before Justice Stuart, he was standing; all I did on the 19th of February, was to sign my initials to that paper and deliver it to Judge Stuart.

Q. On the 20th of February, 1855, had you any conversation with Judge Stuart? A. I am unable to specify the date; it may have been that day or a day or two after.

Q. So then, you never, in any court where a Judge was presiding, did make a motion for leave to enter a *nolle prosequi* in this case? A. Not as you understand it.

Q. And are there any other minutes on the subject? A. Not that I know of; I never intended to have given consent to the entering of a *nolle prosequi* against Wm. Cosgrove; the whole of the February term was held in the room adjoining this; I have no personal knowledge that on the 19th of February or 20th of February there was any court business transacted in the Court of Sessions; I never had heard of a man named Connolly as being indicted; knew of no charge against such a man, and had seen no papers about it; I did not ask the names of the witnesses; I trusted implicitly to the Judge; I do not remember asking what crime he was charged with; but the impression was left on my mind that it was a light offence; I think his phrase was, "there's nothing in it;" I plead entirely guilty to negligence in the matter, the course of business, when Judge Stuart went with this note into the Clerk's office, would be for Mr. Vandervoort to find the indictment against Connolly; I have no personal knowledge of Mr. Vandervoort having called on me that day.

Q. Was there anything to prevent the Clerk striking out that minute from his book? A. Except that the certified copy had gone out.

Q. Could you not have moved to amend the minutes? A. I might have done so.

Q. Had you known of anything which would have prevented your having the minutes amended? A. I have no doubt that I could have had the minutes amended immediately; I am very certain I had not heard of the name of Connolly before; I had often heard of Cosgrove before, and had talked of the case; my knowledge of the man arose from reputation after his being indicted in this particular case. I never heard of him having another name up to that time; I had been quite familiar with the facts stated in the indictment; Alexander Johnson, the owner of the property stolen, answered when the case was called on; he lived in Philadelphia, I believe, and in the summer of 1853 went to Europe; I never knew that he was absent till shortly before finding the new indictment; I could not find out where he was; as to the other witnesses, the two policemen are here; the waiter is here; Mr. Monnet, I believe, is in the country; Geo. N. Whitman, I believe, is absent; from subsequent information I learned that he and Johnson were absent at the time of finding the second indictment; I first saw Cosgrove on the Wednesday afternoon before the indictment last was presented; I first saw him in the Court room; I understood he was arrested in Philadelphia and let go; a warrant had been issued on the second indictment; it was delivered to officer Bowyer some time ago; I understand Cosgrove is not here; he is in another State; he has been here once within a month; I had a conversation with him at my house; his wife was with him and a person of the name of Burtis, who went to another city after him; I sent him on; I do not know who mentioned him to me as a proper person to go on; it was either the Recorder or his officer, Mr. Wakeleigh; Burtis was selected to go for them, because he knew where they were; I had a conversation with Cosgrove, his wife and Frink while this case was pending before the Grand Jury; I intended to have made Mr. Connolly a witness before the Grand Jury, but I found he knew nothing about it; there was an appointment for that evening; Burtis is not a thief that I know of; he has been indicted once for receiving stolen goods under Mr. McKeon's administration; he was never tried on that indictment; I have been told that Cosgrove left for Boston next morning; I do not know that he is in the city now, I have not seen him since.

Q. Had Cosgrove in any form any protection against arrest? A. He had up to the time he came to my house; it was a memorandum stating that—

"For purposes of public justice I request any officer who may have process against Wm. Connolly alias Wm. Cosgrove, to not molest or arrest him.

A. OAKEY HALL.

District Attorney of the city and county of New York.

Oct. 2, 1855."

I never knew where he was till the 1st of October; I have never asked a requisition to have Cosgrove brought here; I co-operated with Mr. Frink often to bring him here; I told Mrs. Cosgrove to bring him to this city, and I would try him, and do my best to convict him; he never was arrested on the second indictment; there never has been any bail given on it; he has been admitted as State's evidence by me; I did not use him before the Grand Jury; he gave me certain information which I could not have procured otherwise; Mrs. Connolly was told that if she told the whole truth in reference to the matter of Judge Stuart, her husband would never be tried upon that indictment; the reason was that we knew he could not be tried on it; that was on Monday, October the 1st, the night before the interview with Cosgrove, when he came on from Boston; the indictment against Judge Stuart was found on the following Monday, October the 8th.

Q. On the occasion you spoke to Judge Stuart and told him you thought he had got you and Vanderpool into a scrape, did you say what the scrape was? A. No; I think Judge Stuart understood very well how it was; I asked him how he came to lead us into such a scrape; I am not stating the words, but the tenor of the question.

Q. Did he not tell you in that conversation that it was all the same—that Cosgrove's name was Connolly? A. He did; I have the impression that he said he thought I knew it; I think I must have told him that I did not know it; I did not specify any injury or wrong he had done us, for reasons of my own; I desired the interview to be very brief.

Q. Did you say in that conversation one word to Justice Stuart as to you and he having talked about Cosgrove before? A. I did not; I did not say one word about it.

Q. Did Stuart ask you whether you would try Cosgrove or Connolly? A. I do not remember; it was he who originated the inquiry about the Philadelphia witness; this was in the first of the summer; I do not think I made any answer; I turned the question off; he did not say anything about wanting to try him; he did not assign any reason for asking the question; I avoided the subject; James M. Smith was cognizant of the proceedings about finding this indictment a certain time before the indictment was found; I do not know who communicated it to him; he took no part in the matter of the new indictment; he took part in getting back Cosgrove because he had been his counsel, and knew all about him, and I did not.

Q. Was it not part of the process to get his client freed and Stuart indicted? A. Not so strong as that; if Stuart were to be tried Connolly was to get off.

Q. Was there any interview with any of those parties in the Recorder's office? A. There was; the day before the interview, in my house; the first Monday in October Mrs. Connolly and this Burtis were present at the interview; he had been employed to find her out; I had a great many persons looking for her, and he was one of them; the week before that the first step had been taken toward getting Stuart indicted; I had drawn up the papers the week before; I had first seen Mrs. Connolly in my office in Park place; I did not again see her till this time in the Recorder's office; we all talked together; Mrs. Connolly went away at quarter to 4 to get the Boston cars; I think Burtis left with her.

Q. The condition to be communicated to Connolly was, that if he gave this information, and if Stuart was tried, he, Cosgrove, should not be prosecuted? A. That was it, sir.

Q. Who was to communicate that to him? A. She was.

Q. Mr. Smith, the Recorder, is somewhat interested in this case, is he not? A. I suppose so, sir.

Q. Has Cosgrove ever been subpœnaed in this case? A. He has not been. I have made him States' evidence in regard to procuring testimony in this case, and in other cases also.

Direct examination resumed—This building was built for the use of the criminal courts. I have known the Court of Sessions to be held in my office. I have only an impression that Justice Stuart used the words "there's nothing in it," in reference to the indictment against Connolly.

Q. Why did you not move to have the minutes amended?

Objected to, and question not pressed.

Q. The certificate that has been read, dated 21 October, 1855, where was it written? A. I think I made mistake. I think all the conversation in the Recorder' office was on Tuesday, the 2d. It was in the Recorder' office that I wrote that paper. The Recorder and I concocted the paper, and I gave it to Mrs. Connolly. She assured me that her husband would not come on for fear of arrest. I do not know how long Connolly had that paper. Whether Mrs. Connelly gave it to me the next day, or subsequently, I cannot recollect.

To Mr. Brady—Connolly has no other paper of the kind. There was an understanding that he would not be prosecuted, but there was no written assurance given. It was during Mr. Blunt's administration that one term of Sessions was held in the District Attorney's office.

Henry Vandervoort—Examined by Mr. Cutting. I am Clerk of the Court of General Sessions; I have been clerk nearly fifteen years, and clerk and deputy clerk over twenty-five years; I know Judge Stuart personally; I have been intimately acquainted with him for over ten years; I first became acquainted with him when he was appointed Clerk of Police, in 1844, by the Common Council; am acquainted with his handwriting; (note handed to witness) I first saw this paper on 19th of February; I saw it first in the court room of the General Sessions; I am uncertain whether it was handed to me by Stuart, or whether Mr. Sparks showed it to me; I have an impression that Judge Stuart handed it to me across the bench, but I am uncertain about it; I am not very positive, but I think that it was in the court that I first saw it; it was nearly about the adjournment of the court; Judge Stuart held the court on that day; seeing Mr. Sparks' name in it, I handed it to him, and he left the court room with it for the purpose of getting the papers referred to; I next saw the note in the Clerk's office; when the court adjourned, the Judge and myself came to the office and found Mr Sparks there looking for this indictment; the Judge, the Deputy Clerk and myself were in the office together; I think it was towards 3 o'clock when the court adjourned.

Q. State what occurred in the Clerk's office in reference to the entry of a *nolle prosequi*. A. The indictment named in this note could not be found, and I so stated to Judge Stuart in the office; I think he said, "Wait a moment," or words to that import, and left the office; he returned within five minutes I should think—five or ten minutes; he then stated that it was the indictment against Wm. Cosgrove that was referred to in this note, as I understood it; we readily found this indictment; this paper is the indictment; I then said to the Judge that this was not the indictment referred to by Mr. Hall's note; I think he stated then that this was the indictment that he (the Judge) intended; I then stepped into Mr. Hall's office to get him to sign the *nolle prosequi*, as he stated in the note he would; Mr. Hall was not in his office; I then returned to the office, and on the assurance of Judge Stuart that it was all correct, I commenced writing the entry in the minutes and the memorandum of *nolle prosequi* on the back of the indictment for Mr. Hall to sign; the Judge asked for a certified copy of the order from the minutes, and he seemed to be somewhat in a hurry. [Evidence as to manner objected to, and exception taken.] I directed Mr. Sparks, while I was entering it in the minutes for Mr. Sparks, to make out the certified copy.

Q. And Judge Stuart asked you for a certified copy before you completed the order? A. Yes, sir, and I told Mr. Sparks to go on and copy it, altering the form of the wording, as I had first made a mistake in discharging, not the indictment but the recognizance; Judge Stuart took the copy and left the office; it might have been fifteen to twenty-five minutes between the finding of the indictment and Judge Stuart's leaving the office.

Q. Did Stuart manifest any anxiety to get this certified copy of the order?

Objected to, as leading and incompetent. Question withdrawn on the first ground.

Q. What next occurred in this transaction? A. The day following I saw Mr. Hall in his office; I took with me the indictment and the note written by Hall to Sparks; I had pinned it fast to the indictment the afternoon that I got it.

Q. For what purpose did you take them?

Objected to, and question withdrawn.

Q. What occurred with Mr. Hall, in relation to the *nolle prosequi* referred to in his note?

Objected to, and admitted. Exception taken.

A. I presented this indictment with the note annexed, for Mr. Hall's signature to the endorsement on the indictment; Mr. Hall hesitated about signing it.

Q. Did you repeat to Mr. Hall what Judge Stuart had said, namely, that the indictment against Cosgrove was the indictment intended?

Objected to. Admitted, and exception taken.

A. I did substantially as I have stated.

Q. Was the entering in the minutes referred to by yourself and Mr. Hall?

Objected to and withdrawn.

Q. In what form was the second indictment—the one against Connolly—sent up by the Grand Jury?

Objected to as irrelevant, and withdrawn.

Q. Had you any conversation with Judge Stuart afterwards in reference to this new indictment against Cosgrove? A. Yes, sir; sometime after the indictment was found; I cannot fix the time; it was warm weather; I met him in the park; he spoke to me of this second indictment as being a fact. I do not know how the subject was introduced; he spoke of the young man wanting to return to the city and follow his trade or profession; it was a casual conversation and made no impression on my mind.

Q. In that summer were the papers in the Cosgrove and Connolly case taken off the files in the office, and if so, by whom?

Objected to; admitted, and exception taken.

A. The indictment was never out of the office; the affidavits were from the 26th of June to the 6th of September, 1855; Judge Stuart took them from the office, and he returned them to the office himself.

Q. What took place on the occasion when Judge Stuart got those papers? A. On the 26th of June, when I came to the office that morning, a story which was told me brought Judge Stuart to the office; this person (not named) called on him; the Judge asked to see the papers against Jack Hatfield, and also against Connolly; he asked me if there was any objection to his taking them; of course, I said not; as he was Judge, I could not object; he left with the papers.

Q. Before Judge Stuart came, had you seen any person who had led you to believe that Stuart would come? A. I had; these papers against Hatfield were returned in July; those against Cosgrove on the 6th of September; I had called at his office for them, and I think he said he had forgotten them.

The direct examination of Mr. Vandevoort closed here, and the Court at 5½ o'clock P. M. adjourned to Wednesday morning, at 10 o'clock.

MARITIME INTELLIGENCE.

ALMANAC FOR NEW YORK—THIS DAY.

SUN RISES	6 45	MOON SETS	eve 8 54
SUN SETS	4 44	HIGH WATER	eve 11 51

Port of New York, November 13, 1855.

CLEARED.

Steamship Baltic, Comstock, Liverpool—E K Collins.
Ship S Larrabee, Gray, London—Dole & Co.
Ship Germania, Wood, Havre—Wm Whitlock, Jr, & Co.
Ship New Hampshire, Sheldon, Glasgow—Zerega & Co.
Ship W B Travis, Munson, Galveston—J H Brower & Co.
Ship Dictator, Shaw, New Orleans—C E Greene.
Bark J Wells, Jr, Douglas, Isle de Aux—Master.
Bark W O Alden, Bates, Belize—F Alexander.
Bark Pearl (Br), Hutchings, Bermuda—Middleton & Co.
Brig Irene (Br), Joice, Arichat—J W Braine.
Brig Stanwood (Br), Allen, Windsor—D R Dewolf.
Brig Wave (Br), Stephens St John, NB—J S Whitney & Co.
Brig Balance, Murray, Jacksonville—Tucker & Lichtbourne.
Brig Osceola, Frazier, Beaufort—R P Buck & Co.
Schr John Hart, Smith, Bahamas—S Duncan.
Schr Transit, Clespee, New Orleans—Van Brunt & Slaght.
Schr Ashland, Wilson, Alexandria—Mott Bedell.
Schr Anita Darrow, Fuller, Philadelphia—Jas Hand.
Schr Plymouth Rock, Lacy, Boston—Dayton & Sprague.
Sloop America, Burton, Providence—Master.
Sloop Oak Orlando, Providence—Master.
Propeller Locust Point, French, Baltimore—Cromwell's Line.
Steamer Black Diamond, Loper, Philadelphia—W H Thompson.

ARRIVED.

Steamship Empire City, Windle, Aspinwall, Nov 3, with passengers and specie, to M O Roberts. Nov 11, Cape Hatteras NNW about 150 miles, signalized Br bark Commodore, standing S and E.

Steamship Granada, McGowan, New Orleans, Nov 5, and Havana 8th, with mdse and passengers, to M O Roberts. Nov 8 3 miles North of Havana passed ship John S Harris, bound in; 10th, lat 30 40, lon 79 10, passed a schr, supposed the revenue cutter Insane, from NOrleans for Norfolk. Coming out of Havana, passed steamship Crescent City, Gray, bound in. The steamship Ocean Bird, Graham, hence, arr night of 9th. The G has experienced very heavy weather the whole passage.

Steamship Florida, Woodhull, Savannah, Nov 10, with mdse and passengers, to S L Mitchell. 11th inst, 3 A M, exchanged signals with steamship Marion, hence for Charleston. The F experienced strong head winds the entire passage.

Steamship Philadelphia, Garry, Charleston, 50 hours, with mdse and passengers, to Spofford, Tileston & Co. Monday, 7 AM, passed steamship Alabama, hence for Savannah. The N has had heavy head winds the entire passage.

Bark Sarah (of Boston), Coman, Malaga, Oct 12, with fruit, &c, to Howes & Co. Oct 21, lat 38 10, lon 7 30, spoke brig Bineda, from Malaga for Philadelphia; 29th, lat 38 30, lon 28 30, spoke bark Theodore Curtis, Bagley, from Boston for Constantinople. The S sailed in company with bark Mary (of Boston), Weldon, for Boston.

Brig Frederick Eugene, Spear, Thomaston, with lime, to master.

Brig Judge Whitman, Russell, Rondout for Bangor.

Schr Deboraire (Br), Noe on, Windsor, 10 days, with plaster, to D R Dewolf.

Schr D J Sawyer, Foster, Machias.

Schr Cyrus Chamberlain, Hallett, Boston for Albany.

Schr Chas S Stevens, Cobb, Providence.

Schr Benjamin Franklin, ——, Wareham.

Schr Alfred Hall, Andrews, Portland, Ct.

Schr John Wright, Dickinson, Portland, Ct.

Schr G Gillum, Cooper, Portland, Ct.

Schr Celestial, Russell, Portland, Ct.

Schr Paumanok, Bourne, Albany for New Bedford.

Schr Tivall, Perry, Albany for Nantucket.

Schr Gertrude Horton, Pendleton, Rondout for Boston.

Sloop Mina, Smith, Providence.

Propeller Caledonia, Baker, Portland, 40 hours.

Propeller Petrel, Kenney, Providence.

Ship Orient, Hill, which arrived on Sunday from Liverpool, was but 28 days on the voyage not 48, as inadvertently stated.

BELOW.

Ship Benjamin Adams, Drummond, from Liverpool, Oct 14.
Ship Driver, Holberton, from Liverpool, Oct 17.

SAILED.

U S sloop-of-war Levant, ——; ships Ocean Express, San Francisco; Recort, Liverpool; City of New York, do; Oder (Ger), Hamburg; Far West, New Orleans.

The U S sloop-of-war Saratoga sailed from the SW Spit this morning.

Wind at sunrise, NE; meridian, N; sunset NW.

Telegraphic Marine Report.

NEW ORLEANS, Nov 12—Arr steamship Ocean Bird, New York via Havana 8th inst.
CHARLESTON, Nov 13—Arr steamship Marion, NYork.
SA