THE COURTS.

COURT OF APPEALS.

Adjournment of the Court of Appeals—Decisions Rendered.

Before Chief Judge Davies and associates.

This court assembled yesterday morning at the usual hour, and after hearing the argument in the case of Charles Cornell, respondent, against Matilda Wooley, executrix, appellant, rendered the following decisions:—

JUDGMENTS AFFIRMED WITH COSTS.

The People vs. Eliza Bryan; the same vs. Benjamin Brandreth; Petition of Clark vs. Chilian Ford; Samuel Colt vs. Lewiston Railroad Company; William B. Rehwick vs. New York Central Railroad Company; Myles Sheridan, &c., vs. Brooklyn City and Newtown Railroad Company; John A. Merritt vs. George A. Bartholic; Stephen Brush vs. William Lee, et al.; Artisan's Bank vs. Charles C. Backus; The People ex rel. McMullen vs. William S. Shepard, et al.; Cornelius Vanderzee et al. vs. John B. Vanderzee; Richard P. Bruff, executor, vs. Hippolite Mali; Thomas Clark vs. Eighth avenue Railroad Company; the People ex rel. Ernest Fielder vs. James Mead, jr., Supervisor, &c.; New York and New Haven Railroad Company vs. Ketchum & Bennett, survivors of Rodgers, impleaded, &c.; Charles Kelsey vs. Gamaliel King et al.; Henry W. Ward vs. Elisha Buckman; Michael Fay vs. George O'Neil; Samuel H. Hartshorn vs. Union Mutual Insurance Company; Mechanic's Bank, of the city of New York, vs. John Stratton et al.; Wm. M. Mallory vs. Tioga Railroad Company; Peter McLaren vs. Martin McMartin; Alex. L. Shaw vs. Wm. N. Smith; Eunice Parker vs. Porter McCluer; George R. Thompson vs. Moses Chamberlain; Laren L. Tompkins vs. Titus Ives; the People ex rel. Noell vs. Richard Kingsland; Phineas L. Ely vs. Board of Supervisors of Niagara county; Samuel J. Rockwell vs. Gurdon H. Brown; James F. Main vs. George W. Niles; same vs. same; Serena Ferris vs. Union Ferry Company of Brooklyn; Joseph Barton vs. city of Syracuse; Bank of Auburn vs. Lewis Putnam, &c.; Charles Wall et al. vs. Home Insurance Company; Joseph Stringham vs. St. Nicholas Insurance Company; Hannah Tobias vs. Ann E. Cohn et al.; Margaret B. Brum ex. &c., vs. William Vaughan; Joseph Sandford et al. vs. Noah Morris; Charles A. Gram et al. vs. Prussian, &c., Society et al. Judgments affirmed with costs.

JUDGMENTS AFFIRMED WITH FIVE PER CENT DAMAGES.

Laura P. Smith, &c., vs. Russell Martin, et al.; Mabel Reynolds vs. Schuyler Reynolds; Jerome Phillips vs. Isaac Cary; Samuel W. Wright vs. Jacob Saunders; Jas. H. Case vs. Hiram G. Hotchkiss.

JUDGMENTS AFFIRMED WITH COSTS AND TEN PER CENT DAMAGES.

Charles H. Van Deusen vs. Daniel Worrell; Harvey F. Aubery vs. Josiah M. Fisk.

MISCELLANEOUS DECISIONS.

Robert McKee vs. The People.—Judgment of Oyer and Terminer of Livingston county reversed and record remitted to the end that said court shall sentence the prisoner to suffer death for the crime whereof he stands convicted, and that he be confined at hard labor in the State Prison until such punishment of death shall be inflicted.

The People, &c., vs. Eliza Bryan.—Order granting new trial affirmed and record remitted.

Aaron M. Davis vs. The People.—Judgment affirmed and record remitted, with directions to execute the sentence.

The People, ex rel. Robertson vs. Benjamin Ferris, et al.—Order appealed from reversed without costs of this appeal to either party.

Sarah L. Cook, infant, &c., vs. Samuel M. Meeker et al.—Order of General Term affirmed and judgment absolute for plaintiff, and Supreme Court directed to ascertain amount due plaintiff and render judgment therefor with costs.

Alex. S. Diven vs. Alfred Lee et al.—Order appealed from affirmed with costs.

Ann Curran vs. Warren Chemical Manufacturing Company.—Order granting new trial affirmed, and judgment absolute for defendants with costs.

Jarvis N. Lake vs. Artisans' Bank.—Judgment reversed and new trial ordered; costs to abide the result.

Abraham & Parker vs. Benjamin F. Jervis.—Order granting new trial reversed, and judgment on verdict affirmed with costs.

Allen Comstock vs. Samuel Ames et al.—Order granting new trial affirmed, and judgment absolute for defendants with costs.

The People ex rel. Peter Casger vs. Thomas Doian et al., Assessors, &c.—Judgment reversed, and judgment for defendants with costs.

Charles B. Colburn vs. Horace Gaylor.—Order of General Term appealed from reversed without costs of appeal, either to General Term or to this court.

Richard M. Hoe and Another vs. Jesse K. Sanborn.—Judgment affirmed with costs, and motion to dismiss appeals from three orders granted with costs.

The N. W. Insurance Company vs. Marshal W. Forward et al.—Order granting new trial reversed and judgment of Special Term affirmed with costs.

Charles Kelsey vs. Robert M. Ward.—Judgment reversed and new trial ordered, costs to abide the result.

Abraham B. Van Benthuysen vs. Milton Sawyer et al.—Judgment reversed and new trial ordered, costs to abide the result.

The People vs. Alden Viles.—Same decision.

Wm. J. Blydenburgh vs. Horace Thayer.—Same decision.

Alexander M. Lawrence vs. Ralph Clark et al.—Order granting new trial reversed, and judgment on verdict affirmed with costs.

John B. Traver and another vs. John Wood et al.—Order granting new trial reversed, and judgment on report of referee affirmed with costs.

Darius Pruin vs. New York Central Railroad Company.—Judgment reversed, and new trial ordered, costs to abide the event.

Moses Chamberlin vs. Jane K. Dempsey.—Judgment reversed, and judgment of Special term affirmed with costs.

Frederick F. Thompson vs. Jane Litchfield et al.—Same decision.

Henry W. Rosebrook vs. William R. Dinsmore.—Order granting new trial reversed, and judgment on report of referee affirmed with cost.

James G. King vs. The Mayor, &c.—Writ of error dismissed with costs.

George H. Cisco vs. Marshal O. Roberts.—Judgment reversed, and judgment on verdict for plaintiff with costs.

The Commercial Bank of Clyde vs. Marine Bank.—Judgment reversed, and new trial ordered, costs to abide event.

Samuel H. Smith vs. Henry L. Babcock.—Same decision.

Calvin Day et al. vs. Thomas P. Sanders.—Judgment reversed, and new trial ordered on plaintiff's appeal, costs to abide the result. The defendant's appeal dismissed with costs.

John G. Richmeyer vs. Benton F. Morse et al.—Judgment reversed, and new trial ordered, costs to abide the event.

The court then adjourned *sine die.*

UNITED STATES DISTRICT COURT.

Important to Firemen Serving on Steamers.

Before Judge Betts.

Brooks and Walden vs. the Wrecking Steamer Rescue.—The plaintiffs sought to recover a month's pay from the owners of the propeller Rescue—the Columbian Coast Wrecking Company—under the following circumstances:—The plaintiffs shipped as firemen at the rate of $40 a month; on the 9th of January last they were discharged in consequence of their refusal to go on board of another vessel lying near the Rescue to recover anchors and chains which had been lost in a storm. The libellants testified that they were hired as firemen, performed duty as such, and refused to do the extra work without extra pay. The engineer of the Rescue and the superintendent of the company testified that the libellants had expressly agreed to lend a hand to any other work they might be called upon to perform when not actually doing duty as firemen. Counsel for the libellants contended that the plaintiffs were wrongfully discharged, and entitled to recover. Opposing counsel, on the contrary, contended that it was customary for all persons on board such vessels to make themselves generally useful when not engaged in the duty for which they were especially hired. Judge Betts, having heard counsel on both sides, reserved decision. For the libellants, J. Lanktree; for the owners, D. McCarthy.

SUPREME COURT.

Important Decision in a Real Estate Case.

Before Judge Mason.

Moses Taylor and others, Assignees of Morris Ketchum, vs. Wm. B. Isham, Simeon M. Gallup, Chas. H. Isham and others.—Judge Mason has rendered the following decision in this case, which was an action brought by the assignees of Morris Ketchum seeking to charge certain real estate in Thirty-eighth street, purchased by William B. Isham of said assignees at a public sale made by them of Morris Ketchum's property on the 8th of February, 1866, with the payment of the claims of Isham & Gallup and of S. & C. H. Isham against Ketchum, Son & Co.:—

The plaintiffs in this case do not need to come to this court to be informed in a matter of law so plain as the one presented in this case, that W. B. Isham, as purchaser from the plaintiffs of the property in Thirty-eighth street, for $56,000, cannot be charged with the payment of the attachment liens of S. & C. H. Isham and William B. Isham & Co., or any part thereof. Nor is that property in the hands of W. B. Isham the primary fund in equity for the payment of those attachments, or the debts which they represent. (Stebbins vs. Hall, 29 Barb. R., 524.) In such a case, before any personal obligation can be sustained, it must appear that an obligation to pay the lien was intended to be imposed by the one party and knowingly assumed by the other, and the conveyance should be made subject to the payment of the existing lien. The plaintiffs, when they sold these premises to Isham at public sale, announced by their counsel that whilst they believed the property to be free from all incumbrances except the inchoate right of dower of Mrs. Ketchum, that they simply sold the right and title which Morris Ketchum had at the time of the making his assignment to the plaintiffs. It is true that William B. Isham & Co. gave notice of the attachments as they had on all the prior sales of property. This affords no reason for charging these attachment liens upon this specific item of property. It is most manifest that the plaintiffs did not regard the sale as made with such an incumbrance upon the property, for they so stated at the time of the sale; and besides they had before this made a specific deposit of $96,000, which by agreement was tied up for this very purpose. If there was any loss here in the sale of this Thirty-eighth street property to William B. Isham for $56,000 (of which this court is kept entirely in the dark so far as any evidence in the case is concerned), it was owing to the negligence, to say the least, of the plaintiff, to inform those present that $96,000 had been set apart to meet their attachment liens, which was more than enough to meet them. We are also left entirely in the dark as to whether these attachments were placed in the sheriff's hands before or after the assignment of Ketchum to the plaintiff was executed. The deed which the plaintiffs gave to William B. Isham does not purport to convey the Thirty-eighth street property to him, subject to any liens; and there is not any evidence before this court upon which we can say that there was ever any lien acquired by these attachment suits. The attachments were placed in the hands of the sheriff on the same day of the assignment by Morris Ketchum to the plaintiffs, but which was first in their order of time—the attachments or the assignment—we are not informed. In view of the whole case I do not conceive it to be the duty of this court to make any decree for the protection of these plaintiffs as the case is presented before us. There is and can be no doubt that Wm. B. Isham & Co., and S. & C. H. Isham are to share with the other creditors in the funds to be distributed by the plaintiffs. As to what the assignees have already done, no decree that will protect them beyond what the law will protect them should be made, without all the creditors who are interested in such a decree are brought before the court. I direct that the complaint in this action be dismissed, with costs to the defendants, to be taxed and to be paid out of the trust funds in the plaintiffs' hands.

Mr. Walter Phelps for plaintiffs; Thomas Nelson for Isham and Gallup and C. H. Isham.

COURT OF COMMON PLEAS—PART I.

A Gambling Debt Cannot be Recovered at Law.

Before Judge Cardozo.

James W. Jennett vs. Albert Myers.—The plaintiff in this case, which was heard yesterday, sued to recover the sum of $510, which he alleges he placed in defendant's hands for safe keeping, at his place of business, 15 Bowery, in this city, on the 11th January, 1867, and which sum defendant refuses to return now, alleging that it was bet upon games of ten pins and cards, which the plaintiff lost.

The defendant denied all the above allegations. Evidence was introduced showing that the plaintiff spent the time from eight P. M. until six A. M. the following morning on the date named, in the defendant's place of business, and was engaged in card playing and ten pin playing, and also that the money was given by plaintiff to defendant.

Judge Cardozo charged the jury that there was one point to which he wished to direct their attention. The plaintiff, on his direct examination, swore he had deposited the money for safe keeping with the defendant, but on his cross-examination he testified he had paid it on account of some games he had lost. If they found the money was deposited as sworn to by plaintiff on his direct examination they should find for the plaintiff; but if it was paid on account of games of chance they should find for the defendant. After a very short consultation the jury found a verdict for the plaintiff for the full amount.

Important to Wine Merchants.

Henry Kleinknecht vs. Charles F. Bender.—Plaintiff sought to recover $144 for ninety-six gallons of imported Rhine wine at $1 50 per gallon, delivered by him to the defendant on the 18th of June, 1866, and also to recover the value of three kegs, in which the wine was contained.

The defendant claimed that the wine delivered to him was not equal to the samples shown him by the plaintiff, on which he purchased the wine, and that, in consequence, he offered to return the wine to plaintiff, who declined to receive it. He also stated he only bought eighty gallons and that the defendant sent him ninety-six gallons.

The Judge charged that if the defendant kept the wine longer than a reasonable time, which was to be determined by the time of the year and the circumstances attending the case, to examine it, the verdict should be for the plaintiff, although the wine was not equal to the sample. The jury returned a verdict for the plaintiff.

Allegation of Forgery and False Personation.

Joseph Mason vs. Henry Kimmel.—This action was brought on a bond purporting to have been executed by the defendant on an appeal to the General Term of the Court of Common Pleas, from an order directing one Eliza Altenhain to pay a sum of money. The order was affirmed at General Term, and this suit was brought against the bondsman. The bond appears to have been sworn to and acknowledged by the defendant before a Commissioner of Deeds, on the 23d of July, 1866. The Commissioner who certified to the acknowledgment testified that the acknowledgment was taken at his office, in Broadway, and that the parties were introduced to him by one Bertrand, an attorney at law, upon the faith of whose representations he took the affidavit and gave the certificate of acknowledgment. The defendant showed that he had not executed the bond, although requested to do so; that his signature thereto was a forgery, and that one John Gleeson had falsely represented him before the Commissioner. The jury returned a verdict for the defendant. Samuel Brown for plaintiff; W. H. Newschafer for the defendant.

COURT OF GENERAL SESSIONS.

Before Recorder Hackett.

SENTENCES.

When the court was opened this morning the Recorder proceeded to sentence the prisoners, who were remanded.

James Wilson, who pleaded guilty to an attempt at grand larceny, was sent to the State Prison for two years and six months.

Mary Hyman, a genteel shoplifter, was sent to the State Prison for eighteen months.

James Davis and William Armstrong, guilty of an attempt at burglary in the third degree, were each sent to the State Prison for one year.

Eliza York, who pleaded guilty to an attempt at grand larceny, was sent to the penitentiary for three months.

James Davis, charged with stealing on the 30th of March $54 worth of knives, the property of Gales, Spies & Kissam, No. 16 Cortlandt street, pleaded guilty to an attempt at grand larceny.

ALLEGED RECEIVING STOLEN GOODS.

The only case disposed of by the jury was an indictment charging John Schroder with receiving and purchasing $136 worth of wearing apparel for $25, knowing it to have been stolen. A number of witnesses were examined on both sides, the testimony for the defence going to show that the accused was insensibly drunk when his wife purchased the property, and that his previous general character was good. The jury could not agree upon a verdict, and were discharged.

BROOKLYN COURTS.

UNITED STATES DISTRICT COURT, EASTERN DISTRICT.

Another Interesting Salvage Case—The Steamer Merrimac Again.

Before Judge Benedict.

Joseph Forbes et al. vs. the Steamer Merrimac.—This action is brought to recover for salvage services claimed to have been rendered to the steamer in 1865, on a voyage from New Orleans to New York. The libellants composed the Forty-third regiment United States colored infantry, and were being sent to New York under a contract with the government. The steamer had a cargo consisting of seventeen hundred bales of cotton. She left New Orleans on Thursday, November 9, 1865, and on Saturday, the 11th, at ten o'clock in the morning, the vessel sprung a leak. At three o'clock in the afternoon the pumps became choked, and the water gained so fast that the ship was put about and headed for the Southwest Pass of the Mississippi river, then two hundred and twenty miles distant. All sail was set, and some of the crew and part of the regiment commenced to bail at the engine room with buckets. The water, however, gained on them so rapidly that at midnight it was up to the fire room, and at two o'clock on Sunday morning the fires were extinguished and the engines stopped. Major Bumstead, who commanded the troops, had gradually relieved the crew with members of the regiment so that early on Sunday morning the bailing had passed entirely into the hands of the regiment. The hatches were opened, cotton broken out and thrown overboard and bailing commenced there with barrels and hogsheads arranged with ropes and whips. At this time there was six feet of water in the bilges; at six A. M. the water had increased to seven feet, and everything was brought into requisition to bail and whip water and to save the ship. By these means the water was kept at a stand till Tuesday night when the ship was anchored near Tunbolear light. The steamer Morgan was then discovered and hailed, and the next morning took the disabled vessel in tow to the bar where she was grounded. The troops were, during the whole time, working under military discipline and under the direct orders of their officers in relief of five companies, working two hours and resting two hours. No regular meals were served. The men laid down to sleep wherever they could find a place, and when the ship grounded were so exhausted by their excessive labor that they could not have held out another day. The libellants claim that these facts were extraordinary and unusual, and take the case out of the ordinary rule, that passengers are not entitled to salvage, and ask for one-third of the value of the vessel, which was stipulated to be $250,000.

The testimony has already been taken, and the case was argued yesterday afternoon by counsel for both parties. The Court reserved its decision.

For libellants, Wm. W. Goodrich and E. C. Benedict; for respondents, John C. Spencer and C. A. Rapallo.

COURT OF OYER AND TERMINER.

An Eastern District Homicide—Trial of Charles G. Kelly for Manslaughter—The Testimony—The Case Closed, &c., &c.

Before Judge Barnard and Justices Hoyt and Voorhees.

The trial of Charles G. Kelly, indicted by the Grand Jury for the killing of a negro named Charles Rodgers in the Eastern District on the night of the 25th of August last, was begun yesterday. The prisoner is a quiet looking young man apparently not over twenty-one or twenty-two years of age and was attended during the trial by his mother and brother who sat beside him. A great deal of interest was manifested in the proceedings, the court room being crowded by spectators, many of whom were acquaintances of the prisoner and residents of the Eastern District.

Assistant District Attorney Mr. James T. Troy briefly opened the case for the prosecution shortly before eleven o'clock, saying that it would appear from the evidence that on the night in question, about ten o'clock, a number of young men were seen passing down North First street, near Union avenue, Eastern District, at the portion called Battle row, which is inhabited by colored people mostly, conducting themselves in a riotous manner, cursing, swearing and pushing each other about. Among them was a young man who was distinguished from the others by his height, he being a tall man, and from the fact that he wore a white coat. That person, it would be shown, was the prisoner at the bar. There were some witnesses who could recognize him by his features, and there were also others who could identify him. As they passed along the street, Mr. Troy continued, the prisoner was heard to make the remark that he would "knock a nigger in the head that night," and subsequently the party stopped for a moment near No. 2 Battle row. In about a minute this colored man Rodgers came out from that crowd and said he had been stabbed; in fact he had been stabbed by some person in the crowd, and the result of the injuries he received was death on the 27th of August, two days afterwards. The prisoner at the bar was heard to use the expression that "he would cut the guts out of the man that struck him," but whether this expression had been made use of before or after the colored man was stabbed, he (Mr. Troy) could not say. His impression, however, was that it had been made after the man had been stabbed and had left the crowd. There was nothing he knew of which justified him in the use of the knife. The prisoner was arrested after this and was searched but no weapons were found upon him; but before his arrest he had a knife in his possession which would be shown. He had had this knife in his hand, and had been accosted by one of the witnesses at that time, who, remarking that his hand hung by his side, said, "You have got a knife in your hand." The witness had seen something glisten as his hand hung by his side. The prisoner had answered in the affirmative and said that if he could find the man who struck him he would put up the knife. There were other witnesses who would also swear that he had a knife in his hand, and there was one witness who saw the man stabbed. Mr Troy then went on to say that by the evidence it seemed to have been entirely a wanton deed on the part of this man (the prisoner), and after alluding to the fact that for some reason he had been indicted for manslaughter, closed his remarks, and called Mary Carpenter as the first witness for the prosecution.

Mary Carpenter (colored) sworn.—I reside in North First street, No. 2 Battle row; I knew Charles H. Rodgers; he resided in Frost street; I saw five or six white men between nine and eleven o'clock on the night of the 25th of August last; they came from Powers street through Battle row; some swearing at each other; there was a tall one who said "let's go down through the row and knock a nigger in the head," he had a light coat on; when they got down between Nos. 1 and 2, right opposite my window, another of the party (a short one) said, "there is a nigger let's give it to him;" the tall one then said, "show me the black scoundrel, and I will cut his guts out;" I saw a knife glitter in his hand and saw Rodgers standing by the window talking; he did not say or do anything to the men; I heard a scuffle and he ran into our house; said he had got the knife and asked to be taken to the doctor's; I could not distinguish the faces of the men; I see the tall man here now; (identifies the prisoner); the whole of them started to go as far as No. 5, then returning to No. 1 and crossed the street; officer Hunt came along and they surrounded him; officer Lee also came along, when I pointed out the tall man with a light to him; the tall man then ran around the corner.

Cross-examined by Mr. J. D. Townsend—It was a bright moonlight night; I was in the front window looking out, and my husband was in the room with me; I was sworn before the Coroner and did say that I heard Kelly cry out, "Show me the black scoundrel and I will cut his guts out or shoot him;" after the deceased said he was stabbed he was taken by him to the doctor's; I don't know of any party being taken to the station house an hour after Kelly's arrest charged with the same offence; my room is on the third floor.

Re-direct—When the tall man with the white coat made the remark that he would cut the guts out of the man who struck him he was about three or four feet from Rodgers.

Robert H. Peterson (colored), of No. 5 Battle row, was next called to the stand, and testified that he saw Kelly and his party on the night in question, between nine and ten o'clock; he saw a scuffle near his house, in which the tall man with a white coat (the prisoner) was engaged; he also saw Rodgers pass afterwards; heard him say that he had been stabbed, and saw him bleeding from a wound in the side. On his cross-examination Peterson stated that he did not see the stabbing take place.

Richard Geer (colored), residing in Battle row, testified that on the night in question he saw six or seven white men under the influence of liquor passing along and acting in a disorderly manner; he did not see anything of them after they passed his door, but afterwards heard that Rodgers had been stabbed. The testimony of witness in relation to the side of the street on which the moonlight was shining was directly contrary to that of Mary Carpenter, who stated that the light was shining on the south side, while Peterson testified it was on the north.

Mary Jane Geer (colored), of No. 4 Battle row, testified to having seen the crowd in the night near her door, among whom was the prisoner, who had on a white coat and who asked her where the black scoundrel was that struck him; this was after Rodgers had been stabbed.

Emma Carpenter (colored) testified to having seen the prisoner order Rodgers off the sidewalk; heard the latter say he was stabbed, and saw blood; none of the others were near Rodgers when he was stabbed.

Thos. Fields (colored) testified to having seen a crowd of men shove Rodgers, who he afterwards found had been stabbed during his (witness') absence in the house.

Hezekiah Chester testified to having heard a scuffle near where Rodgers stood; deceased then came to him and said he was stabbed. On his cross-examination Chester stated that Rodgers followed the crowd after they passed him; he said he would cut or hit somebody, and after being absent about a minute returned and said he was stabbed; witness asked him why he did not strike the man who struck him, and he replied that he struck at him, but missed.

Dr. Joseph Creamer, who made the post-mortem examination, testified that death had been caused by hemorrhage from a wound in the stomach about three quarters of an inch in length.

Officer Lee, of the Forty-fifth precinct, testified to having arrested the prisoner after the stabbing.

Some other testimony was submitted for the prosecution, but no additional facts of any importance were elicited. The case for the prosecution was then closed.

THE DEFENCE

was opened by W. R. Hyslop, who appeared for the prisoner. He contended that Kelly was entirely innocent of the stabbing.

Frederick Fuller testified that he and Kelly were in company with Rankin and others going round the streets on the night in question; that Rankin was drunk and unwilling to go home; they encountered a party of colored men on the sidewalk in Battle row; after passing them one of them came up behind Kelly and struck him in the back of the neck several times; saw no knife in Kelly's hand at the time nor did he notice him do anything when struck.

Joseph Tully, another witness, testified to their having passed through Battle row, and to the negro having struck Kelly; he did not see Kelly do anything or have any knife in his hand; after Kelly was struck he heard one of the negroes say, "One of our men has been stabbed here to-night, and you boys had better go away."

Patrick Burke, the next witness, deposed to the fact as stated above; and also that while passing through Battle row the drunken man shoved Kelly against the negro, who was standing there, when the negro followed and struck Kelly; after the blow was struck, Kelly turned round to strike him, but did not do so; there was a tall man in the crowd who wore a white coat, who came up at the time of the difficulty; did not see him speak to Kelly.

Charles H. Brown, who resides in Battle row, testified that on the evening of the 25th of August he was standing talking with Richard Geer, when he saw a party of four or five white men coming along; witness afterwards saw one of the party run in the street, evidently for a stone, and started with Hezekiah Chester to see what the matter was; on their way they met Rodgers, who said he had been stabbed; witness asked the men which of them had stabbed Rodgers, and they all said that they had no weapons; at that time the tall man was trying to get the others away.

Terence McManus testified to having seen a tall man, with a light coat on, come out of the crowd at the time of the difficulty and run down Tenth street; this, however, was not the prisoner.

A large number of persons were called to show the previous good character of the prisoner, and at the conclusion of their testimony the defence rested and the case was closed. The court then adjourned until Monday morning.

POLICE INTELLIGENCE.

A COLORED SWINDLER.—A comical and exceedingly nervous Virginia negro, named John Merriday, was arrested yesterday afternoon on a charge of fraudulently obtaining money from Mr. Haight, of the Commonwealth Bank. The prisoner applied to Mr. Haight for a situation as waiter, at the same time producing what purported to be letters of recommendation from several of the first families. Merriday was duly engaged, immediately after which he asked for an advance of $5 to get some clothes out of pawn. Mr. Haight, believing the fellow to be telling the truth, advanced the money, with which the accused left, but failed to return again. In the same manner Merriday obtained $3 50 from Mr. Wellington A. Carter, 52 Cortlandt street. How many other gentlemen of too confiding dispositions have been swindled by Merriday, is unknown. Justice Hogan committed him to the Tombs for examination.

A BURGLAR PLEADS GUILTY.—George Bennett, a sail maker, thirty-eight years of age, was yesterday brought before Justice Hogan on the charge of breaking into the store of Mr. William H. Locke, 250 Fulton street, by wrenching the lock from the front door, and stealing a package of butter valued at $12. The accused confessed his guilt and the magistrate committed him to the Tombs for trial in default of $1,000 bail.

THEFT OF QUICKSILVER.—A Frenchman named Adolph Zellier, living at 59 Grand street, whose occupation is that of looking glass silverer, was arrested yesterday charged with stealing $35 worth of quicksilver from August Noel, of 24 Howard street. The accused acknowledged his guilt and Justice Hogan committed him to the Tombs for trial.

LONG ISLAND INTELLIGENCE.

QUEEN'S COUNTY AGRICULTURAL SOCIETY.—The board of managers of this society will meet at the Fair Grounds on Saturday, April 13, at 10 A. M., and appoint the time for their next annual fair.

ARRESTED ON SUSPICION.—Officer Vandewater, of Hempstead, on Saturday last arrested a young man by the name of Isaac Carman, on suspicion of being concerned in the robbery of the shoe store of Wm. Van Nostrand, of that village, which occurred a short time since. Justice Clowes sent him to the county jail, there to await further action. The prisoner denies every charge preferred against him.

THE LATE FIRE AT PEARSALL'S CORNER.—It is stated that an intoxicated laboring man, name unknown, perished in the outbuildings that belonged to Mr. Alexander Pearsall, which were destroyed last Sunday evening by fire at that place.

STATEN ISLAND INTELLIGENCE.

FATAL ACCIDENT.—John Hendrickson, a Russian sailor, belonging to the brig Josephine, was killed on Wednesday last by a spar falling on his head. His body was removed to the "Seaman's Retreat," an inquest held by Coroner Gaffney and a verdict rendered in accordance with the above facts.

CITY INTELLIGENCE.

THE WEATHER.—The following shows the result of four observations in this city of the range of the barometer and thermometer, the direction of the wind, and the state of the weather during the past twenty-four hours. The highest range of the thermometer was at 3 o'clock P. M., 60 degrees, and the lowest was at 3 A. M., 39 degrees. 6 A. M.—Barometer, 30.22; thermometer, 48; wind northwest. 12 M.—Barometer, 30.25; thermometer, 52; wind west. 6 P. M.—Barometer, 30.20; thermometer, 63; wind southeast. 6 P. M.—Barometer, 30.18; thermometer, 44; wind south. Friday morning, foggy, cloudy; pleasant; afternoon, cloudy, overcast, chilly; evening, very hazy. There will be rain or snow within two and three-quarters days from two o'clock this (Saturday) morning. The predictions are invariably given for a space of five miles around the New York City Hall, and yet will sometimes apply to a space of one hundred or one thousand miles.

POSTPONEMENT OF EXPERIMENTS IN LIFE SAVING INVENTIONS.—The United States commission from Washington at present in the city, appointed yesterday to be set apart for an examination into the merits of the various recently invented methods of disengaging and lowering boats. Collector Smythe notified the commission that the Hugh McCulloch revenue cutter, which he had placed at their disposal several days ago, would be needed yesterday for a visit to the Great Eastern and a trip down the harbor. The Collector however allowed the Kankakee to be substituted, but it was ascertained yesterday morning that this vessel had her machinery disarranged, and the experiments had necessarily to be postponed until probably the middle of next week. The commission in the meantime will inspect various inventions relating to hose coupling, water guages, &c.

HENRY CLAY FESTIVAL ASSOCIATION.—Yesterday being the anniversary of the birthday of Henry Clay, this association held its annual reunion at Knickerbocker Cottage in commemoration of the occasion. In former years the celebration has taken the form of a public banquet, but the ranks of the organization have been so depleted by removals and deaths as to render this impracticable. It is determined, however, to maintain the association so long as any members survive.

CROTON AQUEDUCT DEPARTMENT.—Yesterday morning at eleven o'clock proposals were to have been opened and contracts awarded by the Croton Aqueduct Department for the construction of stone block pavements and building of sewers in a very large number of streets in this city; but owing to the absence of Comptroller Connolly the matter was indefinitely postponed.

NEW STEAMSHIP.—The splendid new steamship Nevada, 3,000 tons, belonging to the North American Steamship Company, is now on the sectional dock for public inspection at the foot of Pike street, East River. The Nevada will run on the California line of the North American steamship Company, and will sail in a few days.

THE HENRY CLAY LITERARY ASSOCIATION.—A social hop and reunion was given by the above association last night, at Kind's Rooms, No. 69 Ludlow street, in honor of the birthday of the illustrious man whose name it bears. The persons present were all members of the society and their lady friends. In the course of the evening the President, Mr. T. Metzger, delivered a speech, in which he reviewed the life and doings of Henry Clay, and based upon them an appeal to the members of the association to improve all opportunities offered them of adding to their stock of knowledge. The association is composed of a number of young men, principally clerks and bookkeepers, who meet every Saturday night for the purpose of mental improvement, the means employed to that end being debates on popular subjects, lectures, orations, readings, &c. Last night, in addition to celebrating the birthday of Henry Clay, they also commemorated that of the society. The night was spent very pleasantly, all the more so on account of the comparatively private character of the reunion.

ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE AND ART.—A lecture was given last evening, at Cooper Union, by Israel S. Diehl, late United States Consul to Java, giving a sketch of his personal observations in a course of travel through the valleys of the Euphrates and Tigris. The remains of ancient grandeur and magnificence were dwelt upon at length, and relics and specimens were exhibited of coins, temple ornaments, &c. The lecturer regretted that no American traveller had ever given a respectable attention to the wonders of these valleys, and advocated a scientific expedition for discoveries and excavations. Mr. Diehl argued a most wonderful coincidental proof of the truth of Holy Writ in his researches, and if one half of the speaker's statements were true it is a region exceedingly rich in historical interest and as romantic as the tales of Aladdin.

PROBABLE FATAL ACCIDENT FROM THE EFFECTS OF INTEMPERANCE.—A man named W. Goggin was found by the police of the Sixth precinct yesterday morning in a dying condition on the sidewalk outside the lodging house No. 14 Mulberry street. He was badly bruised and completely insensible. From inquiries made it was ascertained that Goggin had been drinking with a blind man for two days past the good whiskey of the Fourth ward, and on Wednesday sold his coat to supply himself and partner with the means for further dissipation. It is supposed that he got into a drunken sleep, during which he must have fallen from the window of the above mentioned place and received the injuries which it is expected will prove fatal. He was removed to Bellevue Hospital, where up to a late hour last night he was receiving the necessary treatment.

SUDDEN DEATH.—A young German girl named Bertha Adler, aged 18, who resided with her parents at 407 Grand street, was found dead in her bed yesterday morning. She had retired the evening previous to all appearances in the full enjoyment of health. Cause of death, cerebral apoplexy.

A PICKPOCKET ARRESTED.—Charles R. Schultz, a farmer residing at Passaic, Bergen county, N. J., came to this city last Saturday and went to see a young man of his acquaintance named Francis Gregory. On finding the latter Schultz determined to have a good time, and, in company with him, he went about town in a somewhat unsteady manner for several hours, so much so that his companion relieved him of his money and a gold watch and chain, no doubt under the impression that they would be certain to be lost anyhow. A few days afterwards Gregory pawned the watch and chain, and then coolly sent Schultz the pawn ticket. On the complaint of the latter orders were given at headquarters for the arrest of Gregory, and detective Philip Farley was detailed to find him. After a considerable search in the Bowery and elsewhere Farley succeeded yesterday in arresting his man, who was locked up at headquarters last evening to await the arrival of Schultz, who has been telegraphed to come on to this city.

SEIZURE OF GIN.—On the 30th of March last the ship Aristides, Captain Brumenhoff, arrived from Bremen with an assorted cargo, among which were twenty barrels of gin, which amounted in value to upwards of $400. When the Custom House officer went on board he says the captain addressed the mate in German, who immediately went below, and soon afterwards the officer heard a noise indicating to him that the heads of casks were being knocked in. On visiting the hold he found that gin was running out of eight or nine casks, the others—eleven in number—had, it was subsequently ascertained, been run ashore during a temporary absence of the officer, and the nine seen by him were not, it is said, upon the ship's manifest. The eleven casks which had been taken ashore have been seized near one of the Hoboken ferries. The vessel is liable to confiscation, and it is understood that the owners have bonded her to await the result of a suit.

THE SOUTHERN RELIEF MOVEMENT.—The Treasurer of the New York Ladies' Southern Relief Association acknowledges the receipt of $50,703, to be applied for the relief of the suffering at the South.

THE EXCISE LAW.—At the Essex Market Police Court yesterday George Haner, No. 73 Montgomery street, was committed by Justice Mansfield, to answer for an alleged violation of the Excise law.

A CHILD FATALLY SCALDED.—Coroner Schirmer yesterday held an inquest, at 121 Third street, on the body of George Eckstein, a child six months old, whose death was the result of scalds, received by accidentally upsetting a pot of boiling coffee upon him, scalding him about the chest and other parts of the body in a terrible manner. The accident occurred yesterday morning.

MUSICAL AND THEATRICAL INTELLIGENCE.

After a brief but severe illness Mr. Alfred Mellon died on March 27, at a quarter to twelve, at his residence in London. The indisposition that proved fatal was a relapse from a previous illness which had lasted through a great part of the autumn and early winter of 1866, and from which it was hoped he had entirely recovered. By the death of Mr. Mellon the musical profession has lost the most generally and justly esteemed of our English orchestral conductors. As a musician Mr. Mellon held a distinguished and well earned position. Under Herr Molique, at Stuttgardt, he made himself master of all the technical resources of his art, and many compositions from his pen, in the shape of quartets, &c., showed his ability to use them to excellent purpose. As a man he was universally esteemed, and as a friend his loss will be long and earnestly regretted. He died at the age of forty-six. It is hardly necessary to add that Mr. Mellon was the husband of one of the most popular and admirable actresses of our time.

A grand concert was given by the well known pianists, J. N. Pattison, Albert Weber, Wollenstein and Newell, at Providence, on the 9th inst. The most remarkable features were two eight hand overtures for four square pianos, Henry Mollenhauer's violoncello playing and Miss Nettie Sterling's beautiful contralto voice. The concert was very successful.

A temperance dramatic club gave Ten Nights in a Barroom this week in New Bedford. The frightful example was touchingly portrayed.

Giacometti is engaged to write a drama, entitled *Marie Antoinette*, for Madame Ristori, for which he will be paid 25,000 francs.

The Black Crook is in a Cincinnati court.

Gift concerts are the rage out West and down East at present.

Vestvali was at Indianapolis on Monday and played to a crowded house.

BROOKLYN INTELLIGENCE.

MORE DISTILLERIES SEIZED.—The distillery of Thomas Kennedy, in Atlantic avenue, near Classon, was seized yesterday morning, on the ground that false brands had been used in marking barrels of whiskey, and that he had removed whiskey from his establishment to a place other than a bonded warehouse, in violation of the revenue law. It is also charged that Kennedy did not keep his distillery open at all times for the inspection of the government officers. He was arrested and required by Commissioner Newton to give bail in the sum of $2,500 to await examination on the 20th inst. The distillery of Henry Gerkin, at Nos. 10 and 12 Bergen street, was seized yesterday on the ground of false entries upon the books of the establishment. A quantity of whiskey, amounting to nearly seven barrels, was also placed under seizure.

FELONIOUS ASSAULT.—On this charge a Dutch corner grocery man, named Frederick Buse, and his clerk, Henry Scharf, were arrested at an early hour yesterday morning and locked up at the Fiftieth precinct station house. The complainant, Owen Donovan, charges them with having beaten him severely on the night previous. The accused state that Owen came to their store, corner of Classon avenue and Butler street, about nine o'clock on Thursday night and helped himself to some sausages, refusing to pay therefor, that he w