THE COURTS.

UNITED STATES DISTRICT COURT.

The Henry Street Distillery Case.

Before Judge Blatchford.

The United States vs. Ten Barrels of Distilled Spirits.—This case was continued yesterday, and again occupied the court for a protracted session. Counsel for the defence, Mr. D. C. Birdsall, and Mr. Courtney, United States District Attorney, for the government, summed up the case on either side at great length, the latter counsel closing only at six o'clock, when the court adjourned, Judge Blatchford deferring his charge to the jury on the case till this morning.

COURT OF BANKRUPTCY.

The petition of Austin Briggs, of Greenbush, Westchester county, in this State, was yesterday filed in the Clerk's office.

UNITED STATES CIRCUIT COURT.

Arraignments.

Before Judge Shipman.

The parties mentioned in Monday's HERALD against whom the Grand Jury presented true bills were yesterday arraigned, and, having pleaded in each case, days of trial were fixed.

SUPREME COURT—GENERAL TERM.

The Transfer by the Legislature of the Licensing Power from the Municipal Boards to the Police Commissioners—Opinions of the Supreme Court—Judgment in the Test Case in Favor of the City.

Before Judges Leonard, Ingraham and Smith.

The People of the State of New York and John T. Hoffman, Mayor of the City of New York vs. Thomas C. Acton and others, Commissioners of Metropolitan Police, and the Board of Metropolitan Police.—The following opinions in this case, which was argued before this Court about two weeks since, were rendered yesterday. A case agreed upon without action has been submitted for the purpose of obtaining a decision as to the validity of a certain section incorporated into the Tax law at the last Legislature, which the plaintiffs claimed to be unconstitutional and void, and ask that the defendants be restrained from executing any of the powers, duties and privileges conferred thereby. The act is entitled, An act to enable the Board of Supervisors of the county of New York to raise money by tax for certain county purposes, to extend the powers of the Metropolitan Police, and to provide for the auditing and payment of unsettled claims against said county. The twelfth section of the act, which is the one of which the plaintiffs complain, provides as follows:—"The Board of Metropolitan Police is hereby invested with and shall exercise all the powers and perform all the duties now conferred by laws and ordinances upon the Mayor, the Common Council, the Mayor and Common Council, and all other boards and officers (except the Metropolitan Board of Health) of the city of New York, in respect to theatres and places of public amusement, keepers of boarding houses for emigrant passengers, junk shop keepers and junk boatmen, pawnbrokers, vendors, hawkers and pedlers, dealers in second hand articles, keepers of intelligence offices, auctioneers, hackney coaches and carriages and the owners and drivers thereof, carts and cartmen, cabs and cabmen, porters, handcartmen, omnibuses and omnibus drivers, cars and car drivers, to the same extent as though the said Board of Metropolitan Police was named in such laws and ordinances in the place and stead of the Mayor, Common Council, or Mayor and Common Council, and other boards and officers of said city of New York. Such investure of powers and duties shall exclude that of said Mayor, Common Council, and Mayor and Common Council, and other boards and officers." The section also contained those ordinances passed in relation to the matters therein referred to in full force and effect, and the Board of Metropolitan Police was authorized to alter, amend, modify or repeal the same.

David Dudley Field for plaintiffs; L. B. Woodruff for defendants.

INGRAHAM, J.—The powers and duties which by this act are taken from the municipal authorities, and are intrusted to the defendants, have been exercised by those authorities alone since there was any authority for the execution of them by any public body. The power to license in many of these cases was given to the Mayor by the twenty-fourth section of the Montgomery charter; and as to the others, similar powers have been confirmed or conferred by statute down to the passage of this act. It is most material for the purposes of this case to inquire particularly when or by what means these powers have been conferred. I state generally the fact that they were so intrusted to the municipal authorities merely for the purpose of showing that from the commencement of the city government these powers have always been treated as local matters, peculiarly belonging to the municipal authorities, to be controlled and exercised by them alone. But although these powers have always thus been conferred on municipal authorities, still they are not to be considered as franchises vesting in the Common Council any irrepealable title to their enjoyment and use. That question has been long since settled, and it must now be considered as settled law that these are mere political powers subject to the control of the Legislature, to be regulated by that body, and that they confer no vested rights. These principles have been so frequently declared by the courts that I do not deem it necessary to cite authorities therefor. In fact, I do not understand the counsel for the plaintiff as claiming any such right on behalf of the Mayor or Common Council; but it is claimed by the counsel for the plaintiffs that these offices and duties are local, applicable to the city authorities, and should be performed by local boards or officers. So far as the power of legislation is in question, I cannot agree to the proposition that the necessary legislation in regard to all such officers' duties is not appropriately within the power of the Legislature. These laws have always originated with the Legislature. They had the right, and have always exercised the right, of prescribing and controlling the powers and duties of all officers in the State, whether local or general, unless in cases where the constitution of the State restrained that power; but when the Legislature goes beyond that power and directs the appointment of local officers to be made by State authority, either directly by an act of the Legislature or indirectly by officers appointed by the Legislature or by the Executive authority, the tenth article, second section, of the State constitution conflicts with the exercise of such a power. The difficulty which occurs to me, however, on this branch of the case is, that no class of persons referred to in the twelfth section of this act can be said to belong to public offices. A license to a person to follow any particular trade or business is not an appointment to office, nor does it confer any of the powers or privileges of a public officer. It is a mere license to follow his calling, whatever it may be. The duties to be performed are not public duties, and the public have no interest in their performance or omission. The object of the license is for the purpose of controlling the business and preventing its being conducted in a manner injurious to the public welfare. Beyond that the public interest is not affected, and if the licensee neglects to act under his license, the public cannot complain. The only ground of objection that can be taken to these provisions under this article of the constitution is that officers to perform specific local city duties are appointed by the State authorities, instead of being appointed by the city authorities or elected by the people. Such has been the conclusion to which I have arrived in regard to other laws of a similar character passed by the Legislature within a few years past. Beginning with the case of the People vs. Draper, 15 N. Y., 539, down to the last case of the People vs. Pinckney, 32 N. Y., 377, it seems to have been conceded that city officers in existence at the time of the adoption of the constitution, or persons to discharge their duties, could not be appointed by the State or Legislature, but must be elected by the people or appointed by the county or municipal authorities. In the first case, People vs. Draper, Denio, C. J., says:—"If the provision of the statute had been limited territorially to the city of New York, it would have been in conflict with the section of the constitution referred to. If the public duties with which the act charges the Commissioners cannot be performed by them consistently with the constitution, their own appointment cannot be upheld." In the latter case of People vs. Pinckney, Brown, J., in a dissenting opinion relating to another point, remarks:—"It is the power which this act gives to intrust the execution of the duty of providing for the prevention of fires to officers not elected by the people or appointed by the local authorities, which I think conflicts with the constitution;" and Davis, J., in the prevailing opinion says:—"Conceding that a metropolitan fire district is created by the act, composed of the cities of New York and Brooklyn, it cannot be doubted but that the officers created under it are limited in their authority and functions to the city of New York alone. In my judgment their appointment by the Governor and Senate is not and cannot be justified on the grounds that enabled this Court to uphold the organization and appointments of the Metropolitan Police bill." In Clarke vs. City of Rochester, 28 N. Y., 605, 633, Denio, C. J., says, in referring to several cases cited by him:—"The principles settled in these cases are that the Legislature cannot commit the power of enacting laws to any other body than itself, not even to all the electors of the State." And again:—"While general statutes must be enacted by the Legislature, it is plain the power to make local regulations having the force of law in limited localities may be committed to other bodies representing the people in their local divisions, or to the people of those districts themselves. Our whole system of local government in cities, villages and towns depends on that distinction. It is recognized in the constitution itself, which prescribes to the Legislature the duty to provide for the organization of cities, incorporated villages, &c., and it contains an irresistible implication that the authority to lay local taxes may be constitutionally committed to local boards or councils within the cities and villages." If the principles settled in these decisions are correct, then the conclusion must follow that the Legislature cannot confer the power to discharge duties and make regulations, and pass laws relating thereto upon State officers, no matter how appointed, whether by the Governor and Senate or by the Legislature; and, although the Legislature might have the power to take the discharge of such duties from the Mayor or Common Council, they were required to place the performance of them with local officers or boards, and could not vest officers appointed under authority of the State with the performance of such duties. Another objection to the validity of this law is made by the plaintiff's counsel that it is a local law, and embraces more than one subject. In the case of The People ex. rel. Bradley vs. Stephens, 2 Abb. N. S., 348, this question was raised with others, and a doubt was expressed by me whether a tax bill was a local act within the meaning of the constitution. The decision of that question at that time was, however, unnecessary in disposing of that case, as the proceeding was for a mandamus, which was not a proper remedy when the title to an office was in dispute, and on the latter ground the application was denied. The Tax law which contains these clauses provides for extending the power of the Metropolitan Police, and this object is stated in the title, so far as there is any legislation in regard to this Board it is not local, and the union of these provisions with others relating to local matters would not necessarily render such legislation void. I do not think it by any means clear that such an act can properly be declared a local act. Even if it should be held to be local so far as relates to the Tax law, the other portions would not be, and it might be a serious question, which should be rejected—the portion claimed to be local or that which is conceded to belong to general legislation. Since the decision referred to above was made the case of The People vs. Hills, Court of Appeals, December Term, has been decided, in which Davies, C. J., described the meaning of the term local, as applied to an act of the Legislature in the constitution. He says "Burrill defines the word local relating to place, belonging or confined to a particular place, distinguished from general, personal or transitory." This act (then under consideration) is purely local in its application. It has no force beyond a particular city or county, and is therefore confined to a particular locality. It is not general, and has no application, except to the Common Council of a particular city. I assume that the act under consideration was local, within the meaning and intent of the constitutional inhibition. Applying this description or definition of a local act to the portion of the one under consideration, containing the Tax law, it would warrant the conclusion that it was local, and if so it might be improper to place in it any other subject than the one which it was the main object of the law to enact. It is not, however, necessary to place the decision of this case on this ground. There are two other propositions which are made as to the validity of this section, viz.: one that the Legislature could not delegate to the Board of Metropolitan Police the power of legislation; and, second, that the license fees being pledged to the sinking fund, the authority to repeal the laws granted to them is void, and cannot be enforced. These two objections may both be considered under the question whether the Legislature can thus delegate to the Police Board the power to legislate as to licenses and to amend and repeal corporation ordinances. The constitution provides that the Legislature may confer upon the boards of supervisors powers of local legislation. The granting of such a power to the Legislature naturally involves the supposition that they could not otherwise give such a power. If they could not give any such power to boards of supervisors without a constitutional provision I am at a loss to see any authority to bestow such a power on a board created by themselves and not a recognized body in the constitution. The powers given to them are to legislate in regard to local matters. In Barto vs. Himrod, 4 Selden, 483, it was held that laws could only be enacted by the legislative bodies to which the legislative power is committed by the constitution. I see no good reason why the Legislature should be allowed to commit to the Board of Police the power to legislate when they could not even submit to the people the question whether they would approve of a law. See also Clarke vs. City of Rochester, *supra*. It is said that municipal corporations possess such powers, delegated to them by the Legislature. The power of legislating is a necessary right to a municipal corporation, and authority to confer on them legislative powers for local purposes may be found in the ninth section of the eighth article of the constitution, which makes it the duty of the Legislature to provide for the organization of cities and incorporated villages, &c., &c. Bank of Rome vs. Village of Rome, 18 N. Y. Rep., pp. 38 and 41. As such they were in existence when the constitution was adopted, and were recognized and their charters continued. Such a recognition would confirm to New York all the chartered powers and authority possessed at that time. As to the right to repeal these laws, so far as they provided revenue which has been pledged to the sinking fund, there can be no doubt as to the want of authority even in the Legislature. The first act appropriating the revenues of the city to the payment of the public debt was the act of 1812, ch. 99. That act pledged all the revenues of the corporation to the payment of the interest and principal of the debt then created, and they were to continue so pledged until the final redemption of the stock. By the act of 1820, ch. 101, that pledge was applied to stock then to be raised, and so by the various acts passed it was continued. The act of 1838, ch. 127, authorizing the Croton water stock to be issued, applied all previous laws as to the pledge of the faith and revenues of the city to the payment of that stock. That debt is still in existence and unpaid. Neither the corporation nor the Legislature can withdraw from that pledge any of the revenues heretofore appropriated thereto without a violation of the public faith; and it ought not to be allowed. It is proper to add that by this section these revenues, when received, are reserved to the sinking fund. These objections only apply in part to the provisions of the twelfth section under consideration, viz., that portion which authorized the Board of Police to legislate on the subject; but in connection with the other objections stated show the impropriety of vesting in bodies not recognized by the constitution the power to legislate on such matters. I cannot better conclude my remarks on these questions than by quoting the expressive language of an extract made by Chief Justice Davies in The People vs. Hill, above referred to. "To maintain the constitution is our first duty; and if the Legislature has for any cause encroached upon that sacred instrument, or if an erroneous construction has been given to it, we are imperatively called upon to declare its meaning and to assert its supremacy. Nothing can be more dangerous to our free institutions or to the rights of the people than to encourage doubtful interpretations of the constitution contrary to its more plain and natural import as understood by the great body of its readers." I will only add to this that attempts to defeat clear constitutional provisions by resorting to technical evasions should be equally resisted and frustrated by the courts. Upon the ground first stated the plaintiffs are entitled to the relief asked for.

JAMES C. SMITH, J.—The plaintiffs claim that the twelfth section of the act of 1867 (chapter 806), referred to in the case submitted to us, contravenes the provision of section two, article ten, of the constitution of this State, which declares that "all city, town and village officers, whose election or appointment is not provided for by the constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof as the Legislature shall designate for that purpose." The section of the act referred to commits to the Board of Metropolitan Police all the powers and duties conferred by law upon the Mayor, the Common Council, the Mayor and Common Council, and all other boards and officers of the city of New York (except the Metropolitan Board of Health), in respect to the various subjects specified in the section, and also authorizes such Board of Police to alter, amend, modify or repeal all ordinances in force at the time of the passage of the act, concerning the persons, occupations or matters in said section mentioned. It is unnecessary at present to refer particularly to the subjects which the section enumerates; it is sufficient to say that they all relate to the government of the city and on matters of police. The Board of Metropolitan Police is composed of the Commissioners of Metropolitan Police, who are officers of the Metropolitan Police District, and are appointed by the Governor, with the consent of the Senate. The district consists of the counties of New York, Kings, Westchester and Richmond, and certain towns in the county of Queens. (Laws 1857, c. 569; 1860, c. 259.) It is argued on the part of the plaintiffs that as the provisions of the section under consideration are limited territorially to the city of New York, and the duties which they devolve upon the Board of Metropolitan Police are city duties exclusively, the section violates the spirit of the constitutional restriction referred to. The constitutional provision invoked by the plaintiffs has been the subject of discussion and adjudication in the Court of Appeals. The case of the People vs. Draper (15 N. Y., 532) presented the question of the constitutionality of the act of 1857, which created the Metropolitan Police district, with its Board of Police, and vested in the latter certain powers and duties in respect to the police regulation of the whole district, which had been theretofore committed to officers elected by the several local constituencies within the district. It was objected in that case that the act of 1857 was obnoxious to the constitutional provision now under consideration; but the objection was overruled. The judgment of the court proceeded upon the ground that the officers provided for by the bill were not county or city officers, but they were officers of the district thus organized, and the functions committed to them were to be exercised throughout the district. That was the turning point of the case. Chief Judge Denio, delivering the opinion of the court, said:—"The superintendents of police, captains, sergeants and patrolmen mentioned in the bill are officials of the same character as those heretofore existing under somewhat different names; and if appointed for the city of New York, unconnected with the other territory annexed to it by the act, they should have been elected by the electors of the city, or of some division of it, or appointed by some authority of the city. The Police Commissioners, assuming that they were themselves constitutionally appointed, cannot be regarded as authorities of the city within the meaning of the constitution. Hence it follows that if the provisions of the statute had been limited territorially to the city of New York it would have been in conflict with the section of the constitution so often referred to." (P. 540.) It is apparent from the opinion that if the act of 1857 had limited the functions of the officers thereby created to the regulation of the police of the city of New York, it would have been declared unconstitutional. The views of the Court of Appeals upon this point were again distinctly presented in the case of The People vs. Pinckney. (32 N. Y., 377.) That case involved the constitutionality of the act of 1865, creating the Metropolitan Fire district. The bill united the cities of New York and Brooklyn into a district "to be known as the Metropolitan Fire District of the State of New York," and provided for the appointment by the Governor, with the consent of the Senate, of four citizens, residents of the district, as "Metropolitan Fire Commissioners," whose office was declared to be thereby created, but their functions and duties, as prescribed in the act, were in all respects territorially local, and confined to the city of New York. In the prevailing opinion, delivered by Davis, J., the decision in the case of Draper was referred to with approbation, and it was distinctly asserted, in respect to the question now in hand, that the officer to be appointed "must be an officer of the new district or division, and not merely local in the scope and performance of his duties and functions, and therein superseding some existing local officer. He must be a district officer in the sense of his functions and authority, and not merely in name, with no powers or duties beyond a previously organized locality." "It would not be competent, therefore," the learned judge proceeds to say, "for the legislature to create a new civil division of the State, and abrogate the local offices of the several counties that might compose it, and direct the appointment by the Governor and Senate of other officers limited to perform the same local functions only, although distinguished by new and more extended titles. If that was so, the central power could draw to itself the appointment of all local officers not expressly provided for by the Constitution." The conclusion of the Court upon the point thus presented was that the officers created by the Metropolitan Fire District act were not district officers in any just sense of the term, and that their appointment by the Governor and Senate could not be justified on the grounds that enabled the court to uphold the organization and appointments of the Metropolitan Police bill. It was justified, however, upon a different ground, to wit, that the functions committed to the officers created by the bill were not previously discharged by persons who were public officers when the constitution was adopted, within the meaning of that instrument. The bearing of that position upon the case at bar will be considered presently. The principle so clearly and firmly established by the case of Draper and that of Pinckney is fully applicable to the case in hand. The functions and duties transferred by the twelfth section are local and confined to the city of New York. It is true the officers to whom they are committed are not merely local officers, and their offices were not created by the bill itself. But their offices were created since the adoption of the constitution, and they were appointed by the State authorities, and as the functions conferred on them by the section under review are purely local, the case is the same, with reference to the present question, as if the Metropolitan Board of Police had been brought into existence by the act of 1867, with no other powers than those committed to them by the twelfth section. Thus viewed the case obviously falls within the principle referred to, and must be controlled by it, unless excepted from its operation by the considerations which prevailed in the case of Pinckney. To those more particular attention will now be directed. The functions which were committed to the new officers created by the act reviewed in that case were of two classes:—(1) Those which were heretofore vested in the department of the city of New York; and, (2) Those which were given to "The Mayor, Aldermen and Commonalty of the city in Common Council convened," and were part of their general corporate powers as an administrative and legislative body. In respect to the first class, it was held that neither the corporation called "The Fire Department of the City of New York," as it existed previously to and at the time of the act in question, nor the officers elected under the provisions of its charter, nor the firemen who were members of the department, were public or civil officers within the meaning of the constitution. That the corporation was not a municipal or political body, and neither it nor its officers occupied any greater official relation to the public than the officers or managers of the numerous religious and charitable corporations of the State." The second class of functions consisted of an authority in the corporation of the city, to appoint the firemen and their officers, and power to legislate generally for their regulation. These were held to be no part of the official duties of individual officers composing the Common Council, but to be vested in the corporation; and it was also held that the corporation of the city is not an officer within the meaning of the tenth article. It was said that "to diminish or restrict its general legislative or administrative power as a body corporate, is not to abrogate or change a public office in the sense of the constitutional restriction. I cannot adopt the conclusion that the legislation contained in the twelfth section can be justified upon either of the grounds above stated. Unquestionably the functions attempted to be transferred are those of public officers. They are not only the powers of the Mayor and Common Council acting together as the legislative body of the city, but all the powers and duties respecting the subjects specified, of the Mayor as the sole chief executive and administrative officer of the city, of the Common Council acting independently of the Mayor, and of all other boards and officers of the city, with a single exception. The subjects to which these functions relate are various and extensive. Some pertain to classes of persons engaged in particular occupations and callings; others affect the convenience and comfort of the citizens at large. The section transfers the control of every public conveyance by land, for the transportation of persons or property, and of every place of public amusement. And not only does it transfer all functions of an administrative or executive nature pertaining to the subjects enumerated, but also the power of altering or repealing all existing ordinances in relation to them. By the act establishing the Metropolitan Police district, it is made the duty of the Police Board to obey and enforce all ordinances of Common Councils and Boards of Supervisors, and town and village authorities within the district, which are applicable to police or health. (Section 5.) That provision is still in force, except that if section twelve of the act of 1867 is valid in the single locality of the city of New York, the legislative power of the Common Council is subordinated to that of the Board of Police. If these important powers can be taken from the city officers who have heretofore exercised them, and be centred in a new class of officers, not elected by the citizens nor appointed by the city authorities, and who, as to the functions thus conferred, are purely local officers, acting only within the city, the constitutional limitation referred to is no protection to the rights intended to be preserved by it; for, in like manner, every function of every local officer whatever may be transferred to new local officers created by the Legislature. It is unnecessary to examine the other questions discussed in the argument. Upon the grounds above stated I am of the opinion that the plaintiffs are entitled to judgment, declaring the provisions of said twelfth section unconstitutional and void, and restraining the defendants from exercising any of the powers conferred by it.

Mr. Justice Leonard concurs in the judgment.

SUPREME COURT—CIRCUIT—PART I.

Interesting Case of Life Insurance—Payment of Premiums in Confederate Money.

Before Judge Peckham.

Wm. R. Robinson, Assignee, &c., vs. The International Life Assurance Society of London.—This is an action brought for the recovery of $10,000 on a policy of life insurance issued in 1845 to one Cunningham Wardrop MacMurdo, the assignor of the plaintiff, who died at Ashland, Virginia, in October, 1862. The premiums on the policy were regularly paid in United States currency from the date of the issuance of the policy until the outbreak of the war in 1861. The subsequent premiums were paid to the defendant's agent in Richmond in Confederate States notes.

The defence contended that the right of Cowardin to act as their agent in Richmond terminated on the outbreak of the civil war, and that the payments of premiums being made in an illegal and valueless currency was void. It was shown by the plaintiff that an individual named Willits had visited Richmond, and upon returning to this city informed the general agent here that the agent in Richmond was to receive premiums and hold the proceeds for his factor. With regard to the point of law the plaintiff contended that the defendant was a resident of a foreign country and created under its laws, and should be held equally responsible as though it was a war between countries in which they had been losers. The Court directed a verdict for the plaintiff for $13,373 26. Exceptions to be heard at the General Term. Cram & Robison for the plaintiff; James W. Gerard for the defendant.

SUPERIOR COURT—TRIAL TERM—PART 2.

The Effect of a Salute from the Yacht Rambler—Action to Recover $10,000 Damages.

Before Judge Jones.

Peter J. Haack vs. Henry S. Fearing.—The plaintiff, who is a man of about sixty years of age, sues for the recovery of $10,000 damages for personal injuries alleged to have occurred under the following circumstances:—On the 30th day of July, 1866, the plaintiff was a passenger on board the ferryboat Hoboken, and was proceeding to Hoboken, being seated in the ladies' cabin. When nearing the slip on the Jersey side the yacht Rambler, of which defendant was the proprietor, was returning from a cruise and passed the steamer on her way to the anchorage of the New York Yacht Club. While passing the ferryboat the yacht fired a customary salute on approaching the anchorage ground, from a small piece of ordnance on the deck, and the "wad" of the gun passed through the side of the Hoboken, tearing a hole six or seven inches in diameter, and injuring the plaintiff. Mr. Haack sustained a compound fracture of the right arm, it being broken in four or five places, and it is alleged permanently disabled.

One of the deck hands of the Hoboken testified that he picked up the wad on the opposite side of the cabin from the point of entrance; that it was about ten or twelve inches in length, and was composed of tarred rope and paper; that it passed intact through the side of the boat, none of the strands having attached themselves to the aperture, and that it smashed two or three chairs, knocking the fragments a distance of seven to ten feet.

The defence has not yet developed itself. Case still on trial. For the plaintiff, Chauncey Shaffer; for the defendant, Henry A. Cram.

COURT OF COMMON PLEAS—TRIAL TERM—PART 2.

Action to Recover Damages for Breach of Contract—A Disappointed Traveller.

Before Judge Brady.

Frederick Grimm vs. Roderick W. Cameron.—The plaintiff sues the defendant, a shipmaster, for the recovery of $250 damages for alleged breach of contract. The plaintiff alleges that on the 23d of November, 1865, the defendant agreed, in consideration of the sum of $100, to furnish the plaintiff a second cabin passage on board the packet ship Pactolus to Melbourne, Australia, which was to sail on or about the 10th of December. This contract, the plaintiff contends, the defendant refused and failed to carry out. The answer denies every allegation of the complaint. It appeared in evidence for the defence that on or about the 25th of December the plaintiff was notified that the vessel would haul into the stream on the morning of the 28th, and that he could if he chose embark then. The vessel sailed on the following day, and Grimm did not sail with her for the antipodean El Dorado, although one witness testified that he informed Grimm that by procuring a small boat at Whitehall slip he might overtake her.

The jury returned a verdict of $166 36 in favor of the plaintiff.

COURT OF GENERAL SESSIONS.

Before Recorder Hackett.

The Grand Jury brought in a number of indictments yesterday, and the prisoners were arraigned in the afternoon.

AN EX-POLICEMAN CONVICTED OF BURGLARY.

Yates Esmond was tried and convicted of burglary in the third degree. The testimony upon which the jury based their verdict of guilty was interesting. It appeared that on the night of the 4th of May the basement of Nicholas Bowen & Co., No. 68 Wall street, was entered by a false key, and silver coins of various kinds, valued at $230, stolen from the safe. Sergeant Slater arrested Esmond on the 9th, and in conversation the Sergeant asked him if he had any of the silver left (the proceeds of the Wall street burglary). He replied, "No, it is all put away, and 'Gus' (a supposed confederate) put his away too." A bundle of skeleton keys were found in his possession, and the officer tried the door of No. 68 Wall street with one of them, by which he succeeded in opening it. Mr. David S. Page testified that on the 5th of May he bought three silver coins from Esmond, and W. S. Willard also stated that he purchased twenty-one silver coins from him for $21 50, all of which Mr. Bowen identified. Emeline Berrian, the colored janitress of the building No. 68 Wall street, gave a narrative of what the prisoner said and did on the morning of the 2d of May, when he called at the basement. He examined the lock, and spoke of his being engaged in selling locks that could not be opened from the outside. He took the key from the door, examined it, and replaced it in the door. He told the witness that he was a policeman on that beat sixteen months ago. The Recorder, in passing sentence, said that Esmond was guilty of an extensive burglary, by which he obtained $23,000 in depreciated bank bills at a time when he was sworn to protect the property of our citizens. He was sent to the State Prison for five years.

CONVICTION FOR AN ALLEGED ATTEMPT AT SODOMY.

George T. Mason was tried and convicted of an attempt at sodomy, charged to have been perpetrated upon Ernest F. Moore, a boy thirteen years old, on the 18th of May. It appeared from the boy's statement (the details of which are unfit for publication) that the accused was in the habit of visiting the Fourth street Methodist Sunday school, of which he was a member; that he took him to the Central Park and other places, gave him money, and on the night in question attempted to perpetrate this horrible crime upon him. When Mason was arraigned for sentence, the Recorder stated that there were other similar charges against the prisoner. His Honor imposed the highest penalty which the statute provided for this crime, which was imprisonment in the State Prison for five years.

Mauritz Mendelsohn pleaded guilty to an indictment charging him with stealing a pocketbook containing $23 on the 6th inst., the property of Heinrich Schlecher. He was remanded for sentence.

ACQUITTALS ON CHARGES OF GRAND LARCENY.

John Mullen was placed on trial charged with grand larceny. It was alleged that he stole a quantity of copper pipe, which was on board a tug that was partially burned at Riker's Island upon the night of the 13th of October. The property was owned by George W. Holman, and was valued at $100. Some copper was found in the possession of the accused, but as it was not legally traced and identified the Recorder instructed the jury to find a verdict of not guilty, which they did without deliberation, whereupon the defendant was discharged.

James McGovern, who was jointly indicted with Michael Callahan, was also acquitted upon a charge of grand larceny, preferred by William S. Stilwell, a brewer, at No. 157 Sullivan street. He testified that on the 9th of April he missed twenty half casks, estimated to be worth $100. The defendant's place was searched and some of the barrels which Mr. Stilwell claimed as his property were found upon the premises. As there was a legal flaw in the proof the Recorder instructed the jury to acquit the defendant. His counsel stated that if the trial had proceeded he could have shown by a number of witnesses that Mr. McGovern dealt in second hand barrels, and was a man of unblemished reputation.

COURT CALENDAR—THIS DAY.

SUPREME COURT—GENERAL TERM.—Nos. 286, 27, 40, 42, 43, 45, 46, 49, 50, 51, 53, 54, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 11, 53.

SUPREME COURT—CIRCUIT—Part 1—Nos. 775, 641, 247, 851, 852, 883, 891, 865, 3703, 1399, 1343, 1359, 1267, 249, 651, 1329, 1309, 381, 1367, 1353. Part 2—Nos. 610, 556, 302, 542, 543, 1268, 1454, 740, 992, 934, 1320, 1668, 618, 224, 1600, 884, 1648, 552, 990, 756.

SUPREME COURT—SPECIAL TERM—Demurrers.—Nos. 8, 24, 38. Issues of Law and Fact, Nos. 128, 203, 288, 165, 166, 154, 164, 168, 169, 173, 177, 180, 181, 182, 183, 184, 185, 189, 190, 191, 151, 157, 192, 193, 194, 195, 196.

SUPREME COURT—CHAMBERS.—Nos. 130, 138, 149, 157, 206, 217, 221, 249, 255, 258, 260, 261, 263, 264, 273, 281, 289, 303. Call commences at No. 314.

SUPERIOR COURT—TRIAL TERM.—Part 1—Nos. 3199, 2325, 3111, 3095, 2929, 3217, 2509, 1975, 825, 2399, 3089, 3131, 3067, 3069, 2725. Part 2—Nos. 2284, 2604, 3256, 3264, 2928, 3224, 3034, 1762, 3244, 3274, 3278, 3280, 3284, 3286, 3290.

COMMON PLEAS—TRIAL TERM.—Part 1—Adjourned for the term. Part 2—Adjourned to Friday.

SUPREME COURT, KINGS COUNTY—CIRCUIT.—Nos. 49, 50, 51, 52, 53, 54, 55, 59, 66, 61, 63, 64, 65, 67, 68, 69, 70, 71, 72, 9.

BROOKLYN COURTS.

UNITED STATES CIRCUIT COURT--EASTERN DISTRICT.

The Right of Way of Vessels—The Duties of Large and Small Craft—Important to Pilots.

Before Judges Nelson and Benedict.

Union Ferry Company vs. the Steamer Chesapeake.—This action was brought in the District Court to recover damages for injuries received by the ferryboat Manhasset in a collision with the steamer Chesapeake, through the alleged negligence of the pilot of the latter. Judgment was rendered in favor of libellants for $6,382 57. An appeal was taken from Judge Benedict's decision. The following is the opinion:—

The collision in this case occurred in the East river on the 2d of December, 1864, at about nine o'clock A. M. The ferryboat Manhasset came out of her slip at the foot Catharine street, on the New York side, on her way across the river to the slip at the foot of Main street, on the Brooklyn side. The propeller Chesapeake was coming down the middle of the river, laden with a company of soldiers going to Fort Lafayette. The propeller was some distance up the river when she saw the ferryboat about one-third of the way across from the New York shore, and instead of adopting measures to pass her stern and permit her to keep her course, as she was entitled to by the settled rule of navigation under such circumstances, undertook to dictate the course she must pursue, so as to enable the former to pass on her left, or across her bows. By the act of Congress, "if two ships under steam are crossing so as to involve risk of collision, the ship which has the other on her own starboard side, shall keep out of the way of the other." That is a simple and plain rule, and must be observed except under very special and urgent circumstances in order to avoid the result of fault in case of collision. The co-relative duty is also imposed on the other ship to keep her course. Special circumstances have been set up in this case, on the part of the propeller to excuse a departure from the rule, namely that two sailing vessels were in the way of a movement to pass the Manhasset under her stern. The proofs are that no such impediment existed, but even if there had, it would have been easy for the propeller to have slowed and stopped till the other vessel had passed, as the tide was hardly flood, which favored such movement. It is also insisted on the part of the propeller, that when she blew her two whistles, and the Manhasset slowed, if she had not again started on with speed, the collision would not have occurred, and that in this movement she was in fault; but the answer is that this movement was in the moment of danger, and the pilot was influenced to make it, seeing the collision inevitable in order to prevent a direct, and receive as his vessel did, a glancing blow, so as to lessen the injury. It is quite plain in the proofs that the collision in the present case occurred from ignorance on the part of the master of the propeller of the rule of navigation as proscribed by the act of Congress, or if possessed of this knowledge, from neglect to observe it under circumstances in which it had a direct application, and also even in the absence of any such rule in his mistaken movement and persistence in it to pass the Manhasset across her bow. The clear weight of the proofs is that if the propeller had kept her course down the river no collision would have happened. We prefer however to place the decision upon her departure from the safe and fixed rule as established by law, that a vessel in the position the propeller held in relation to the other vessel, it was the duty of the latter to hold her course and of the former to keep out of the way. It should be made known that this rule on all proper occasions will be steadily enforced, and in case of a departure, followed by a collision, the *onus* shall be on the offending vessel to show a clear and undoubted special case of excuse. No such excuse has been shown in the present instance, and for this reason the decree of the court below is affirmed.

COURT OF OYER AND TERMINER.

The Gold Street Tragedy—Arraignment of the Alleged Murderer, Skidmore.

Before Judge Barnard and Justices Hoyt and Voorhees.

William T. Skidmore, who was indicted by the Grand Jury empanelled on Tuesday, upon the charge of having shot and killed Mr. Wm. Bishop Carr, with an air gun, in Gold street, on the night of the 17th of May, was arraigned in the Court of Oyer and Terminer yesterday morning. The circumstances of this terrible tragedy have already been detailed in the columns of the HERALD, and are, no doubt, familiar to its readers. The prisoner has retained all his apparent composure and air of boldness which characterized him after his arrest, and was observed yesterday to laugh with several of those about him, as if he were not at all exercised in mind over the fact that there is a most serious charge pending against him, a charge which, under circumstances similar to those attendant upon the present case, would seem likely to inspire any man against whom it is preferred with dreadful feelings. Skidmore, however, affected an air of nonchalance; but who could tell the real feelings of the man? Although the fact was known to but a very few that the alleged assassin would be arraigned that morning, the court room was densely crowded with spectators, all desirous of catching a glimpse of the man whose name has been upon every lip since the terrible tragedy and often caused alarm in the mind of the belated pedestrian, as he thought that it was at the midnight hour the unfortunate Carr met such an untimely death.

When arraigned before the court Skidmore pleaded "not guilty," whereupon, District Attorney Morris moved that the trial of his case be set down for Monday next. The prisoner, who was unattended by counsel, said that he had sent a friend over to New York for James T. Brady and Mr. Clinton, whom he desired to retain as counsel, and he expected to hear from them to-day.

After some little discussion his Honor said that he would give the prisoner until to-day to confer with counsel, after which Skidmore retired. The case will therefore, probably, be taken up on Monday next. District Attorney Morris offered to send any messages to New York or have subpœnaed any witnesses for the prisoner that he might indicate.

The Latest Eastern District Tragedy.

Morris Ephraim, indicted on the charge of having murdered John Fitzpatrick, in Ninth street, Eastern District, on the night of the 17th of March last, was also arraigned and pleaded not guilty. The District Attorney said that he proposed to call the case on for trial next week, or after that of Skidmore was concluded. Ex-Judge Moore, the prisoner's counsel, said that he would know to-day whether he would be ready for trial this term or not, and he would be ready if possible. He thought that it might be necessary to have witnesses from Boston, or send a commission there to take their evidence. The matter was thereupon postponed until Thursday. Skidmore and Ephraim were then removed to jail, the Grand Jury returned to their duties and the court adjourned.

THE NEW YORK COURT OF APPEALS.

O'Brien to be Hung for Murdering His Mistress.

ALBANY, June 11, 1867.

In the case of The People vs. Jeremiah O'Brien, who was convicted at the New York Oyer and Terminer, some months since, of having killed his mistress, Kate Smith, in a house of ill-fame in New York, and sentenced to be hung, the Court of Appeals have to-day affirmed the judgment, and the day for the execution having passed, the Supreme Court is directed to resentence him.

The following is the day calendar of the Court of Appeals for June 12:—Nos. 5, 9, 11, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 123, 124.

THE NINETEENTH STREET TRAGEDY.

Coroner's Inquest on the Bodies of Alfred R. King and Mattie Greenman—Evidence as to the Motive which Impelled to the Commission of the Murder and Suicide.

At half-past eleven o'clock yesterday morning, Coroner Wildey held an inquest on the bodies of the young man, Alfred R. King, and the young woman, Mattie Greenman, who were found shot on Monday evening, in their room, at No. 30 East Nineteenth street. Until the arrival of the Coroner the door of the room in which the tragedy occurred had been, from the moment of the finding of the remains, kept scrupulously closed, and when the door was opened to allow the jurors to view the bodies, the sight that presented itself to the horrified gaze of the beholders was one of the most sickening character. The room, a small one on the top floor, was neatly furnished, and the mantelpiece adorned with several articles of vertu. On a chair a short distance from the foot of the bed the clothes of the young man were lying just as he had apparently thrown them before retiring. On another chair were the young girl's garments. On the bed, which stood in one corner of the room lay the two bodies in the same position in which they were first discovered on Monday night. The young woman lay on her right side, with her face toward the wall and her right hand thrown carelessly over her left shoulder, in an attitude, in fact, which would have led the beholder to believe her quietly sleeping were the belief not rudely dispelled by the blood on the sheet and tick that had flowed from two small bullet holes in the left temple, and the accumulation of froth about the mouth. The young man lay on his left side, with his limbs hanging out of the side of the couch and his face buried in the pillow, which was covered with blood from a bullet wound in the right temple, his position indicating plainly that after having shot the woman while she was asleep, he had either stood by or sat down on the bed and shot himself. There was no evidence that went to show that the woman had been lulled to sleep by any narcotic. The bodies, owing to the length of time that had elapsed from the hour the murder and suicide were perpetrated to the hour of the sitting of the jury, were very much discolored and emitted an odor that was almost unbearable.

As will be seen by the testimony sworn to at the inquisition, the impelling motive which actuated the perpetration of the bloody deed was caused by that double misfortune which has been the source of so much murderous bloodshed in all times past—pecuniary troubles and a pretty woman. The suicide in the present instance had been brought up in a respectable family and had had many opportunities to do well in life, which other young men would have turned to good account; but he, as the evidence shows, in an evil hour, chose companions who encouraged "fast living" and dined often at his expense; and then he became infatuated with a pretty woman for whose sake business was neglected, expensive carriage rides were taken, money was squandered, until murder and suicide closed the career of both.

After the bodies of the deceased had been viewed by the jury the inquest was held in one of the parlors on the second floor of the building. The following is the testimony:—

TESTIMONY OF EDWARD MERRITT.

Edward Merritt sworn—I reside at No. 190 Washington avenue, Brooklyn; I am first cousin to Alfred R. King, deceased; of late he had had pecuniary troubles; I don't know whether they affected his mind or not; when I last saw him, early in April, they seemed to worry him a good deal; the troubles consisted of losses in business; I once heard him say that perhaps some time or another he would blow his brains out; he said this in a joking way; I do not know whether he was married or not; I know nothing concerning his death but what I saw in the newspapers this morning; he was some months ago in the gas fitting business in the firm of M. L. Curtis & Co.; I do not think he has been in any business since he left the firm.

TESTIMONY OF CHARLES H. MACY.

Charles H. Macy, sworn—I reside at the Sherman House, 413 Broome street; I am a cousin of the deceased, Alfred R. King; I saw him alive for the last time about half-past five on Sunday afternoon at the Sherman House; he seemed to be very much troubled in mind; he said to me, "On Saturday I put a pistol to my head twenty times and finally I could'nt get the courage to do it;" the cause of his trouble was loss of money; the money he lost ($11,000), with which he went into the firm of M. L. Curtis & Co., he spent in fast living; I loaned it to him about two years ago; he went into business when I loaned him the money, and continued in the gas fixture manufacturing business until a year ago last February, when he withdrew from the firm; since then he seemed to be living very fast—playing and betting on billiards, giving suppers and going to amusements of various kinds; I understood that he lived with a young woman at this house; I never saw her alive; I came up here yesterday evening as soon as I got the news of his death; when I saw him last Sunday he told me he had mailed me a letter bidding me good by and that he had thought better of it; this letter came to me yesterday morning; this is the letter itself:—

NEW YORK, June 8.

COUSIN HOWARD—I am tired of life. I have wronged you, but forgive me. I stole your pistol and sold it and bought another one. Brandon knows where it was sold, but he thinks it was mine. He did not know I stole it. Give my love to father and mother, and God bless you all. Yours ever,

A. R. KING.

Bury us both together, Howard. It is the last request I make of you. Do, please.

A. R. KING.

TESTIMONY OF WM. C. BRANDON.

Wm. C. Brandon sworn—I reside at 146 West Twenty-fourth street; I have known Alfred R. King about six or seven months, although I knew of him before that period of time; I last saw him alive between nine and ten o'clock on Sunday night; I was then in his room; I did not notice anything unusual in his conduct, although I spent about an hour with him; I saw there the young woman who now lies dead up stairs; he spoke to me about a young man who was living in this city and who had gone to Troy to get $7,500 to go in business with him, and he said that if he didn't get that he did not know what he would do; he has frequently said to me within the past three weeks that he might as well kill himself as be living in the circumstances he was; he spoke very affectionately of the young woman, and never mentioned anything about shooting her; I understood from him that he had taken her from the Reveille, No. 627 Broadway, and was keeping her; she went by the name of Mattie Greenman; I heard that they had been living together about eight or nine months; he also told me that he liked her well enough to marry her, and would do so were he in other circumstances; he told me that he expended a good deal of money for her in the way of jewelry, carriage riding, dresses, &c.; I believe that the name Greenman was assumed by the girl, she having formerly lived with a man of that name; I also heard from Mr. King that she had a respectable mother and sister in Brooklyn, the former of whom Alfred had often sent money, as she was in needy circumstances.

TESTIMONY OF SARAH TAYLOR.

Sarah Taylor sworn—I am a servant in this house; I found the two deceased in their room at five o'clock last evening; we had noticed that they had not been around the house during the day, and on examination I found the keys in the door on the inside; I pushed them through with another key and unlocked the door, and found them lying in bed dead; I afterwards went after an officer.

TESTIMONY OF MRS. LAURA BLANCHARD.

Laura Blanchard sworn—I let out rooms in this house that I do not require; I do not keep a boarding house; the deceased came to live here about the 1st of March; they had resolved to leave here to-morrow; he had always paid his board regularly until within the last three or four weeks; he had not taken meals in the house himself for a week or two past; they were here talking and laughing together on Sunday as pleasant as ever; I did not know whether they were man or wife, more than that she told me she was Mrs. King, and that he was her husband; I was not in the house at the time the pistol is supposed to have been fired; a Mrs. Smith, being in the room under them, heard, she thinks, a report of a pistol about eight or nine o'clock Sunday morning; I know nothing further about the occurrence.

TESTIMONY OF OFFICER BEEKMAN.

Gerard E. Beekman sworn—I am a patrolman of the Twenty-ninth precinct; I was detailed down to the fair in Sixteenth street; the girl came there about ten in the evening, and told me there were two persons dead in her house; I came up here and went up to the room, and found Alfred R. King lying on the bed, and found a pistol in his hand with three chambers exploded; the girl was lying dead beside him; immediately notified the station house and remained at the house.

TESTIMONY OF DR. WOOSTER BEACH.

Dr. Wooster Beach sworn—I have made an examination of the bodies of Alfred R. King and Mattie Greenman, and find that the former came to his death by a pistol shot wound in the head, and that the death of the latter was caused by two pistol shots; the bullets in both cases lodged in the brain, and the wounds caused by them were, in my opinion, sufficient to cause death.

THE VERDICT.

The jury then, without much consultation, delivered the following verdict:—"That Mattie Greenman came to her death by a pistol shot wound at the hands of Alfred R. King, on the 10th day of June, 1867, at No. 30 East Nineteenth street; that Alfred R. King committed suicide by shooting himself in the head with a pistol, on the 10th day of June, 1867, at No. 30 East Nineteenth street.

THE END.

After the bodies had been placed under the care of an undertaker, soon after the rendering of the verdict of the jury, it was discovered that the young woman's right arm bore, in India ink, the representation of a hand holding a scroll with the three letters "J. R. G." imprinted upon it. These letters may, in all probability, afford some clue to the real name of the wearer. Preparations were actively made yesterday afternoon by the relatives of the suicide to have the unfortunate pair buried in the same grave in Greenwood Cemetery.

EMIGRATION STATISTICS.

From the monthly statistics of emigration furnished at Castle Garden, in this city, it will be seen that during the month of May the arrivals have been in very large numbers, and that a majority of the new comers have journeyed to the far West, to establish themselves where there are no crowded communities to hinder them in the working out of their fortunes.

The total number of emigrants arriving during the month was 36,119, as follows:—

ARRIVALS.

Ports.	*Vessels.*	*Passengers.*
Liverpool	29	17,103
London	6	1,716
Glasgow	4	1,854
Londonderry	1	220
Havre	4	1,623
Hamburg	7	4,252
Bremen	18	8,009
Antwerp	3	1,189
Melbourne	1	59
Total	73	36,119

DESTINATIONS.

The destinations of the emigrants were as follows:—Alabama 1, Australia 1, Canada 230, California 254, Connecticut 848, Delaware 36, District of Columbia 53, Florida 8, Georgia 5, Illinois 5,083, Iowa 987, Indiana 504, Kentucky 159, Kansas 72, Louisiana 13, Massachusetts 1,870, Maryland 127, Maine 72, Michigan 1,047, Minnesota 922, Missouri 747, Mexico 3, Mississippi 13, New Hampshire 31, Nova Scotia 9, New York 13,255, New Jersey 929, Nebraska 127, North Carolina 1, New Brunswick 12, Rhode Island 387, Ohio 1,698, Pennsylvania 3,579, South Carolina 12, South America 2, Texas 20, Tennessee 56, Vermont 45, Utah 12, Virginia 142, West Indies 1, Wisconsin 2,672, Colorado 9.

POLICE INTELLIGENCE.

A JERSEYMAN SWINDLED IN BROADWAY.—Yesterday afternoon Mr. James Post, a resident of Bergen county, New Jersey, was roped into a bogus jewelry establishment in the basement of premises No. —— Broadway, and while there was persuaded to join a man, who entered the place immediately after him, in making up a sum of money to invest in a game of chance, by which Post was led to hope or believe he would succeed in realizing about $200. The drawing proved a failure, and Post, losing his money, caused the arrest of William Gillen, who caused him to part with his money. Gillen was taken in charge by detective MacDougall, and arraigned before Justice Dowling. The magistrate, after hearing the case, remarked that if the police would devote more of their time in breaking up swinding shops in Broadway, and less to watching disreputable houses with dark lanterns, the public interests would be better subserved and a fewer number of persons defrauded of their money. Gillen was committed to the Tombs for examination.

THEFT OF A HORSE AND WAGON.—Lewis A. Sayre, M. D., residing at No. 285 Fifth avenue, on the afternoon of the 10th inst. left his residence for the purpose of paying a professional visit at a house in Fourteenth street. Arriving there he tied his horse to a post and went into the house. Stopping inside a few moments, he came out and discovered that his horse and wagon were nowhere to be seen. Nothing further was heard of the property until about ten o'clock at night, when colored boy named Jones called on the Doctor and gave such information as led to the discovery of the property and the apprehension of the alleged thieves. Yesterday three young men were brought before Justice Dodge on a charge made against them by Dr. Sayre of having stolen a horse, wagon and blankets, valued at $1,200. On being examined they gave their names as William Rielly, John Fuller and James Gordon. Gordon, however, was subsequently discharged from any complicity in the act, and the other two were committed for trial in default of $3,000 bail.

ANOTHER HORSE AND WAGON CASE.—A day or two since a gentleman drove up to one of the parks in the upper part of the city, and after alighting from his wagon gave it in charge of one of the attendants of the establishment. A short time after, it is alleged, a man named Edward Donohoe went deliberately to where the horse and carriage were, took them out, and endeavored to escape with them. He was closely followed by the attaché of the establishment and an officer of the Thirty-first precinct. When arrested, instead of going quietly to the station house, the officer charges he assaulted him. Yesterday he was brought before Justice Connolly, charged with grand larceny by Henry Stepelman and assault and battery by the officer. He was held for further examination.

ALLEGED LARCENY FROM THE PERSON.—John Marsh, of 350 Third street, states that yesterday, in company with a friend, he went into a house, No. 45 Essex street, and that after a while another man, named Edward Thomas, also came in and took a seat convenient to him. That, feeling tired, John thought he would take a nap, and, while sleeping, he was aroused by the withdrawal of Thomas' hand from his pocket. After this he was pushed out of the place by the same man. When on the sidewalk Marsh put his hand in his pocket and discovered that his money, amounting to $85, had been abstracted therefrom. He then accused Thomas of the theft, who, after striking him, ran away. He was subsequently arrested and brought before Justice Shandley, who committed the accused for trial.

POSTPONEMENT OF THE STUYVESANT LIBEL CASE.—The examination in the case of Mrs. Catharine L. Stuyvesant vs. the New York News Company for libel, which was to have been continued before Justice Hogan, at the Tombs, yesterday morning, owing to the absence of witnesses, was further adjourned till four o'clock next Monday afternoon.

A COLORED TRANSACTION.—THE TWO POWELLS.—Susan Powell, a colored lady of the Quaker persuasion, appeared before Justice Dodge, at the Jefferson Market Police Court, yesterday, and made a complaint against Julia Powell, who is also a "colored pusson," and charged her with committing an assault and using threatening language towards her. The facts of the case show that family troubles are at the bottom of the present transaction. It seems that the husband of the complainant was at one period of his life the husband of the defendant, but for some cause or causes he, it is alleged, left his wife and took unto himself his present companion, with whom he has been living for some time. The defendant states she has four children by the husband who has left her, that she is a hard working woman, and produced certificates of character which she had received from various people more or less known to the public. A number of witnesses were examined on both sides, and from the testimony adduced the magistrate imposed a fine of $50 on the accused and cautioned her against any further such exhibitions of her temper.

THE CUSTOM HOUSE.

Exemption of Personal Baggage from Duty—Letter from Collector Smythe.

The following letter from the Collector to the Surveyor of the Port of New York, sets forth the real extent to which the baggage of passengers is taxed after undergoing the scrutiny of the Custom House officials:—

CUSTOM HOUSE, NEW YORK,
COLLECTOR'S OFFICE, June 11, 1867.

SIR—In view of a now authorized publication—inaccurate in some particulars—which has recently appeared, relating to the baggage of passengers arriving in the United States, and the liability to duty of the same, I deem it proper to issue the following instructions on the subject:—

Wearing apparel in actual use, and other personal effects (not merchandise), professional books, implements, instruments, and tools of trade, occupation or employment, of persons arriving in the United States, are exempt from duty—the exemption not including machinery or other articles imported for use in any manufacturing establishment or for sale.

Household effects of persons or families from foreign countries, if used abroad by them for one year and not intended for any other person or for sale, are likewise exempt from duty.

Paintings and statuary, the production of American artists residing abroad, provided the fact be certified by the artist or by a Consul of the United States, are entitled to free entry.

The Department has always been entirely opposed to the enforcement of any rules or regulations in regard to the baggage of passengers arriving in this country which are oppressive. The term "wearing apparel in actual use" will extend to the appropriate wardrobes of persons arriving in the United States, whether new or old, provided the articles of wearing apparel are not obviously excessive in quantity and quality, but are befitting the apparent condition and station in life of the owner.

Care will be taken to select for the duty of examining baggage officers of superior intelligence and judgment, and passengers will not be subjected to any unnecessary annoyance. HENRY A. SMYTHE, Collector.

ABRAM WAKEMAN, Esq., Surveyor of the Port.

INTERNAL REVENUE.

Removal of Whiskey—Important Order Expected from Washington.

A large number of the frauds perpetrated on the internal revenue in this city have been chiefly occasioned by the removal of whiskey, on very poor and insufficien bonds, from one part of the city to another, and in some instances to far off places in the State, by means of which the article was eventually disposed of as free whiskey. In consequence of this the Chief Commissioner has been in consultation with the several collectors of this city for the last few weeks, relative to a proposition made by one of them on the subject. The result has been that deeming the suggestions thrown out very useful and likely to check this species of swindling, the government has agreed, it is said, to the propositions made and in consequence an order is daily expected from Washington prohibiting the transfer of bonded whiskey beyond the district in which it may be stowed at the time. This order will not, of course, apply to liquors required to be removed for purposes of exportation.

Collections in the Eighth District.

The books at the Assessor's office in the Eighth district have been completed for the year ending January, 1867, and the income returns up to that period having been also finished, they have been turned over to Collector Smith, and the collections have already begun. This is the first district in the city ready this year.

OBITUARY.

Brevet Major John A. Tardy, Jr., U. S. A.

By a circular from Brigadier General A. A. Humphreys, Engineer Department, at Washington, we learn of the death of Brevet Major Tardy, of the Engineer Corps, at his residence in Georgetown, D. C., on the 3d inst. The deceased was a native of New York, and graduated at West Point in 1860. He entered the service as a brevet second lieutenant, and served during a part of 1861 at Fort Pickens. He also aided in the Hilton Head Expedition, and subsequently served in the West until the close of the war. The skill and gallantry of the deceased were conspicuous, and earned for him several promotions, the last being to the rank of brevet major. By an order of General Humphreys, the officers of the Engineer corps will wear the usual badge of mourning for thirty days, as a testimonial of respect for the deceased.

James Gore King.

This well known banker and ex-Judge of New York died at his residence yesterday morning, in the forty-eighth year of his age. Mr. King was, some years ago, one of the Judges of the Supreme Court of this city, but at the time of his death was engaged in the banking business. He was a gentleman of marked integrity and uprightness, and distinguished for his charity and benevolence. The deceased was a son of Hon. J. G. King, member of Congress from New Jersey.

The Widow of Dr. Hawes.

Mrs. Louisa, widow of Rev. Dr. Hawes, died yesterday afternoon at Hartford, Conn., at the age of seventy six years.