THE FREE PRESS.

ITS TRIALS, DUTIES AND RESPONSIBILITIES

Anomalous Condition of the Law of Libel.

Slight Advance Over Antiquated Notions.

HISTORICAL REMINISCENCES.

REVIVAL OF LIBEL SUITS.

It is the boast of this country that in its fundamental laws—federal as well as State—the inviolability of the freedom of speech and of the liberty of the press is fully guaranteed. It is so by custom and Parliamentary enactment in England; but not even there, the freest country of Europe, is the liberty of the press made sacred by written constitutional provisions. It is conceded by all that no healthy political life can develop itself among a people where the first requisite for it is wanting—perfect freedom of discussion and criticism by word of mouth and by the pen, through the public press. Hence we see the demand for a free press increase in France with every passing year. It is for this reason that regenerated Germany, in the North German Parliament, at Berlin, as well as in the Diets at Munich, Stuttgardt, Karlsruhe and Vienna, measure upon measure has been introduced, discussed, and in some instances are emanating from the liberal members, and all tending to enlarge the freedom of the press and place it forever after upon solid, secure ground. These measures have of late succeeded most in Vienna, under the liberal guidance of Baron Beust, the present Chancellor of the Austro-Hungarian empire, and latterly there was introduced by Parliamentary enactment, sanctioned by the Emperor, trial by jury for all offences against the press law. In the other South German States this had obtained for years past, but in enlightened Prussia it is still denied, and a mere edict of some police official is enough to cause the seizure of a whole edition of a paper containing an offensive article, just as the same thing is done in France. The prince of the politico-satirical journals of Germany, the *Kladderadatsch*, of Berlin, has more than once been the victim of this supervision, and its principal editor has on several occasions paid for his journalistic temerity by several weeks imprisonment in the Molken Markt, a city prison in Berlin. In Bavaria they managed things in a more liberal way years ago, even. The editor of the *Volksbote*, at Munich, was sued for libel on the chief of staff of the Bavarian army during the memorable German war of 1866, and on the case being tried before the jury the editor was triumphantly acquitted amid the general applause of the people, it being considered a verdict of condemnation upon the manner in which the Bavarian army had been managed.

Of all such troubles, to which the continental press of Europe is even now to some extent subjected, the American people fortunately know but little. From the beginning the liberty of the press was considered one of the main pillars of the republican edifice, and its safety from encroachment was not left to legislative whim or caprice, but firmly placed as one of the bulwarks of free, constitutional life. Still, for many years, and even now, this boasted freedom of the press is exposed to insidious attacks. This is owing to the old traditionary maxims of the common law, which we inherited from England, and to the stiff-necked adhesion of our courts and judges to the authority of adjudicated cases, whether cited from the English or American bench, and whether recent and in consonance with the advanced spirit of the times or perhaps a generation or may be even a century old. This complaint refers especially to the system of libel suits against the publishers of newspapers, by means of which every censoriously criticised public officer or every exposed rogue seeks to re-establish himself in public esteem by attempting to bleed the publisher or editor and fill his own pockets at the latter's expense.

PRESENT CONDITION OF THE LAW OF LIBEL.

It is true, however, that we have made some progress over the antiquated ideas of the last century. The theory of libel has been far more liberalized than it was heretofore. The outrageous principle, ascribed by some to Sir Matthew Hale, and for a long time rigidly adhered to in England, that "the greater the truth the greater the libel," is now no longer recognized. In England they have encroached upon this rule by what is called "Judge made law," the courts inventing the distinction of privileged communications; and while our courts have followed this lead we have thrown a further protective shield over the liberty of the press by enacting in our constitutions that in actions for libel the truth of the alleged libel may be given in evidence by the defendant, and that the article was published from good motives and for justifiable ends. (See the constitution of New York of 1846, article 1, section 8.) This sweeping provision, apparently covering everything in the shape of an action or prosecution for libel, was, however, cropped down, and limited by the courts, in that they decided that in civil suits for damages, based upon the publication of an alleged libel, the truth cannot be given in evidence as a justification, except upon notice to the other party and by laying the foundation for it in a proper plea contained in the answer, and by further exacting of the defendants in such cases that such plea of justification must be as precise as a count in an indictment and as broad as the original charge, and the proof in support of it must be as positive as that required by the rules of criminal practice on the trial of an indictment. It was only under the imperative provision of the Code of Procedure (section 165) that the courts relaxed somewhat in their severity and allowed mitigating circumstances to be given in evidence if the truth could not be proved, in justification, as the rigor of the criminal code demanded, and this only in mitigation of damages.

WHAT IS A LIBEL?

How firmly our courts and judges adhere to the old definitions of what constitutes a libel is easily seen by looking into a few of the decisions of our highest courts, even of very recent date. The definition given of the nature of a libel by Alexander Hamilton reads as follows:—"A censorious or ridiculing writing, picture or sign, made with a mischievous and malicious intent towards government, magistrates or individuals." This declaration was made at a time when the federalist party was in power under John Adams, and the popular excitement provoked by the enforcement of the alien and sedition laws ran at its highest tide. It is as concise a statement of what these laws aimed at as ever given, and it must be taken as a political declaration in favor of the federalist legislation. And yet in a number of libel suits, decided by our former Court of Errors, and again by the present Court of Appeals, this definition is praised as the very acme of legal precision and discernment.

Again, in the well known literary libel case of J. Fennimore Cooper against the *Commercial Advertiser* for a somewhat severe and perhaps rather savage criticism of the former's "History of the United States Navy," referring especially to its account of the naval engagement on Lake Erie under the late Commodore Perry, the opinion of the Court, fully reported in the second volume of "Denio's Reports," on pages 293-303, goes still further back into antiquity than the time of Alexander Hamilton and quotes approvingly the definition of libel elaborated by the Lord Chief Justice Holt, of England, as follows:—"Anything written of another, which holds him up to scorn and ridicule, or might reasonably be considered as provoking him to a breach of the peace, is a libel." Under this definition, rigidly construed and enforced, as it was in Chief Justice Holt's day and under his rule, every police report and every report of a row or a personal debate in Congress or a State Legislature, or the description of the inkstand thrown about each others' head occasionally by our city fathers, would be adjudged a gross libel and subject the publisher of the journal to heavy damages. And a still older definition, probably dating back to the days of Sir Edward Coke and the Year Books, was decided by the Supreme Court of Massachusetts to be the true one, reading as follows:—"A malicious publication, expressed in printing or writing, or by sign and pictures, tending either to blacken the memory of one dead or the reputation of one who is alive, and expose him to public hatred, contempt and ridicule." (4 Mass. Rep., 168.) And as courts almost as often as not do rule that in such cases special proof of malice is not needed, as the law presumes its existence, this definition would also cover almost everything, and would render the publication of a daily journal such as the wants of the time demanded not only highly difficult, but almost utterly impossible.

WHAT OUR LEGISLATURE HAS DONE.

The oppressive condition of the law of libel, owing to the persistency of courts to adhere to old, worn-out and blown-up traditions, at last influenced the Legislature to exert its power in order to provide a remedy for the evil and protect the public press in its efforts to gather the news of the day and spread it before the public with all possible speed. In the session of 1854 the following act was passed, intended to have this effect. It is chapter 130 of the session laws of that year, and the first section reads as follows:—

No reporter, editor or proprietor of any newspaper shall be liable to any action, civil or criminal, for a fair and true report in such newspaper of any judicial, legislative or other public official proceedings of any statement, speech, argument or debate in the course of the same, except upon actual proof of malice.

The second section of this act provides that this privilege shall not extend to libelous comments or remarks added to such reports by the publisher, editor or reporter. And still the courts would not loosen the chain. The first time that this act was invoked the court decided that the hanging of a man by the Sheriff in Greene county, under the sentence of death pronounced over him by a court of competent jurisdiction, and what was said and done while the doomed man was being brought from life to death, was not a public official proceeding nor a judicial proceeding. It is to be hoped that in the future the courts, whenever called upon to decide as to whether a publication is libellous, will take a more liberal view of the question; that they will look into the nature of the publication of a modern newspaper, and not apply to the modern lightning press principles of jurisprudence dug out from musty law reports of centuries ago.

A FEW HISTORIC REMINISCENCES OF THE TRIALS OF THE PRESS IN THE PAST.

One of the most remarkable evidences of the desire of the federal government to limit and restrain the freedom of the press and circumscribe its power and influence has already been referred to. Directly it could not be done, for there stood a constitutional provision prohibiting it in express terms; but indirectly it was attempted by pretending to restrain the excesses of the press and its so-called licentiousness. This it was sought to effect through the alien and sedition laws, where certain publications and criticisms of federal officers were declared offences against the United States and subjected to summary punishment. Many were the editors and printers thrown into prison during the last two years of John Adams' administration, until the result of the Presidential election of 1800 opened the doors of their cells and the first Congress thereafter repealed the law.

The liberty of the press, its right freely to criticise the official acts of all public officers, was again the subject of long and earnest discussion in Congress preparatory to and during the impeachment trial of Judge James H. Peck, United States District Judge for Missouri. It all came about a newspaper article and the course of the judge in regard to it. There was an action pending in his court brought by the widow and heirs-at-law of Antoine Soulard against the United States about some old Spanish land grant. In December, 1825, the Judge decided the case against the heirs and they appealed. In March, 1826, Judge Peck published in the *Missouri Republican* an elaborate opinion, to which Luke Edward Lawless, the attorney of the heirs, published a respectful reply over the signature of "Citizen," in the *Inquirer*. Judge Peck considered this reply an act of contempt of his court, and he and first the editor of the paper arrested, and then Mr. Lawless, who admitted having written the article. After various proceedings Lawless was sentenced to twenty-four hours of imprisonment and suspended from practice as an attorney for eighteen months. For this the Judge was impeached by the House of Representatives in May, 1830, and the trial commenced before the Senate in December. The leading counsel for the Judge and conducting his defence was that gifted son and orator of Virginia, William Wirt. The following sentences, quoted from his closing argument, contain all that has ever been said—and never better—on this side of the argument:—

It is said that in punishing this publication as a contempt the Judge has invaded the liberty of the press. What is the liberty of the press and in what does it consist? Does it consist in a right to vilify the tribunals of the country and to bring them into contempt by gross and wanton misrepresentations of their proceedings? Does it consist in a right to obstruct and corrupt the streams of justice by poisoning the public mind with regard to causes in these tribunals before they are heard? Is this a correct idea of the liberty of the press? If so, the defamer has a charter as free as the winds provided he resort to the press for the propagation of his slander, and, under the prostituted sanction of the liberty of the press, hoary age and virgin innocence lie at his mercy. This is not the idea of the liberty of the press which prevails in courts of justice or which exists in any sober or well regulated mind. The liberty of the press is among the greatest of blessings, civil and political, so long as it is directed to its proper object—that of disseminating correct and useful information among the people. But this greatest of blessings may become the greatest of curses if it shall be permitted to burst its proper barriers. The liberty of the press has always been the favorite watchword of those who live by its licentiousness. It has been from time immemorial, is still and ever will be the perpetual *decantatum* of all libellers. * * * To be useful the liberty of the press must be restrained. The principle of restraint was imposed upon every part of creation. By restraint the planets were kept in their orbits. The earth performed its regular evolutions by the restraint of the centrifugal force operating upon it. The vine would shoot into rank luxuriance if not under the restraint of the laws of nature, by which everything was preserved within its proper bounds. Was not everything on earth impressed with this principle? And was not the liberty of the press to be restrained to the performance of its rightful functions of propagating truth for just ends?

This argument proved successful at the time, and, as the result showed, not all the eloquence of McDuffie, of South Carolina, Storrs, of New York, and Buchanan, of Pennsylvania, arguing for the right of free and unrestrained criticism of all the acts of those in public office, could convince the Senate; for out of forty-three Senators voting, twenty-two pronounced Judge Peck not guilty of "high misdemeanor," as charged. Thus the liberty of the press was again sought to be hampered by restrictions in the house of its friends, in the Senate of the United States. The proceedings in this city a few years ago, when a Judge of our Supreme Court was seeking to punish the editor of a morning paper as for a contempt, on account of a law report published in that journal the day before, was undoubtedly patterned after the affair of Judge Peck in Missouri.

Much more numerous than these and similar encroachments upon the freedom of the press have been other attempts to compel its silence and diminish its usefulness. These were and are resorted to by individuals who claim to have been defamed and libelled, and brought into contempt and ridicule among all good citizens of the community by some publication of and concerning them, and for which defamation of character they generally are willing to receive, as a healing plaster and unfailing antidote, a judgment in their favor of some thousands of dollars. Looking over the records of prominent libel suits in this State one is unavoidably reminded of some very interesting occurrences of our early and later political history.

There is, for instance, the case of Genet vs. Mitchell, reported in 7 Johnson, 120. Monsieur Genet was the Minister of the new-born and rather turbulent French republic to this country under Washington's administration. Everybody knows the troubles that the enthusiastic French republican fell into when he attempted to violate our laws—wage war against England from our shores—and being peremptorily stopped by Washington, venturing to appeal from the government to the people. It was about this time that the defendant Mitchell charged Genet publicly with having betrayed his own government by communicating his private instructions to others. For this an action for libel was brought by the irate Frenchman, which was a little more sensible than calling for "coffee and pistols for two." But he got very little out of it.

Another somewhat historical libel suit was that commenced by Lieutenant Governor Root, in 1824, against King & Verplanck, publishers of the New York *American*, which paper had stated that some day in August, 1824, while presiding over the Senate, Lieutenant Governor Root was so drunk as to be unfit for his place and a disgrace to the station. The evidence for the defence was very voluminous and tended to prove that the editor acted on good and sufficient information; but under the ruling of the court as to what was necessary to make the proof of justification available and successful the plaintiff got a verdict of $1,400.

The case of Littlejohn against Greeley had its origin in the "Philosopher's" habit of growling and scolding at everybody who is not of his own mind, and hence calling one day Mr. Littlejohn one of the most corrupt members of the Legislature brought him a summons and complaint for libel and a small verdict on the result.

J. Fennimore Cooper took umbrage at the way and style in which the *Commercial Advertiser* and the *Tribune* criticised his naval history. He denounced it as defamatory, brought his actions and recovered small verdicts in both cases.

A rather humorous case was that of Mezzara, an Italian portrait painter in this city. He had finished the portrait of a gentleman, who afterwards refused to take and pay for it. Mezzara sued the refractory customer, obtained a judgment, and, under the execution, the Sheriff seized the picture, on which the painter had added to the head of the portrait a pair of asses' ears. This, on the complaint of the original of the picture, was held by the Criminal Court of the city to be a libel.

An interesting reminiscence is offered in the libel case of Jacob Gould against Thurlow Weed, which originated in the anti-Masonic excitement—the alleged kidnapping and murder of Morgan, who was afterwards said to have been "a good enough Morgan till after the election." Weed edited at that time—1827-28—the *Anti-Masonic Inquirer*, at Rochester, and charged Gould with being in the pay of the Masons, while pretending to act on an anti-Mason committee. Reading the mass of testimony offered on the trial and the sage and ponderous reasonings of the judges, now by the light of subsequent experience, evokes a hearty smile. But Gould got a verdict of $400.

As Gould was so successful in his libel suit against him, Thurlow Weed may have believed it the best means of healing his own offended honor, and in 1846, or thereabouts, he rushed into court himself and sued Foster & Stimson, of the *Day Book*, for libel, because they asserted that in 1840 he had received $5,000 for securing to some one the appointment of Pork Inspector in New York city, from Governor Seward. The result of this suit was not overgratifying, as the expenses outran the income.

Mr. Delavan, one of the wealthy temperance men of Albany, got himself into trouble with the brewers and maltsters on "the hill," by publishing in the paper that they used stagnant water in their establishments in the manufacture of beer. No less than three libel suits were commenced against him, two of which only were successful, the third failing on technical grounds.

Another interesting libel suit has just been decided at the General Term of the Supreme Court in the Second Judicial District, against the plaintiff, Elnathan L. Sanderson, of Brooklyn, who, on the trial in the Circuit, secured a verdict against Cauldwell and Whitney, of the *Sunday Mercury*, for $5,000. Mayor Hall was the attorney for the liberty of the press, and to his masterly presentation of the case on behalf of the defence, and his exhaustive points, legal, philosophical, humorous, historical and poetical, obtained a reversal of the verdict and the granting of a new trial. Thus the injured reputation of the plaintiff is not healed yet. In connection with this a little anecdote must be told. On the jury in the court below was a German, a friend of the defendants, and he eagerly voted in the jury room for the highest amount of damages suggested by the others. This becoming known and talked about, he was asked one day by an acquaintance why he had done so, to which he archly replied, with a peculiar twinkle in his eye, "You see, if the verdict had been for a small sum, they (Cauldwell and Whitney) would have been stuck to pay. The larger the sum came out from the jury, the less likely will they be to get a red penny." This seems to be shrewd, if not correct reasoning.

Still another suit is worth mentioning, which about fourteen years ago convulsed our whole German population from the Battery to Harlem Bridge. It was a suit brought by Gustave Neumann, the editor of the *Staats Zeitung*, against Karl Heinzen, editor of the *Pioneer*, then published in this city, now in Boston, for heavy damages on account of a libel which appeared "of and concerning him" in the latter journal. The result was a verdict for six and a half cents damages, which brought out the broad grins of many of our Teutons.

THE LATE REVIVAL OF LIBEL SUITS.

For some years there was quite a lull in these respects, and libel suits were rather few and far between. But lately they have been revived, and at a rate so tremendous that, in comparison with the demands made upon the press by offended honesty in former years, they were as but a moth upon the smokestack of a locomotive. The irresistible and irrepressible James Fisk, Jr., of Erie-Grand-Opera-railroad notoriety, first began to have recourse to this sort of rehabilitation of wounded honor, and he opened with a libel suit for $100,000 against Mr. Bowles, of the Springfield *Republican*, and he quickly followed it up by another against Mr. Greeley, of the *Tribune*, for a like sum; then against Mr. Norvell, of the *Times*, claiming another $100,000, and finally against Mr. Raymond for the snug amount of a round million. Not to be outdone by the railway impetuosity of Mr. Fisk, Mr. John Russell Young has commenced about ten suits in different parts of the country, and two or three of them in this city, and two in Philadelphia, each at the exact figure of $100,000; a trifle less would not satisfy him. The *Evening Mirror* at Indianapolis has lately been sued for $30,000 damages for libel by one Talcott; and a case is now pending at Pittsburg, by an ex-member of the Pennsylvania State Legislature, against the Pittsburg *Leader*, which journal had charged him with venality and corruption. Thus the revival of libel suits goes bravely on all over the country. There are now no less than 756 libel suits pending against editors or publishers in this country by personages who claim a plaster of greenbacks for their wounded reputation, and the total amount of damage alleged to be done to these 756 injured plaintiffs sums up $47,500,000. Who will deny hereafter the power of the press?

NEW YORK CITY.

THE COURTS.

UNITED STATES DISTRICT COURT.

The Quaker City Seizure—Claimant's Answer to the Libel.

Before Judge Blatchford.

The following is the claimant's answer in this case:—

To the Honorable SAMUEL BLATCHFORD, Judge of the District Court of the United States for the Southern district of New York:—

The answer of Albin M. Jephson, of London, England, owner and claimant of the steamship Columbia, her engines, tackle, furniture, &c., to the libel of information of Edwards Pierrepont, Attorney of the United States for the Southern District of New York, who prosecutes on behalf of the said United States against the said steamship Columbia, her engines, tackle, &c., in a cause of seizure and forfeiture, alleges as follows:—

First—Your claimant asserts that the said steamship Columbia is now and was at the time of her seizure by the marshal under and in pursuance of the monition issued herein lying in the port of New York, within the Southern district of New York and within jurisdiction of this honorable court, and that she was at the time of said seizure ready to proceed to sea.

Second—Your claimant denies each and every other allegation in the said libel of information contained, and avers that the same are wholly untrue. And he further denies that, by reason of the alleged premises in the said libel set forth, or by reason of any other matter or cause, the said steamship, her engines, tackle, &c., became or is forfeited or subject to forfeiture, wherefore your claimant prays that the said libel may be dismissed with costs, and that the said steamship, her engines, &c., may be restored to the possession of your claimant.

ALBIN M. JEPHSON.

Subscribed and sworn to before me this 31st day of May, 1869.

JOSEPH GUTMAN, Jr., United States Commissioner.

UNITED STATES CIRCUIT COURT.

Post Office Embezzlement Case.

Before Judge Benedict.

The United States vs. George J. Delaney.—The defendant was this morning arraigned on a charge of embezzling a letter from the Post Office containing valuable enclosures. After a jury was ordered to be empaneled the defendant pleaded guilty. Sentence deferred.

UNITED STATES COMMISSIONERS' COURT.

Discharged.

Before Commissioner Shields.

The United States vs. Benjamin Symon.—The defendant was charged with attempting to pass counterfeit stamps of twenty-five cent currency upon a number of apple and peanut venders. After a full examination the Commissioner discharged the complaint, deeming the evidence insufficient to hold him for trial.

EXTRA OYER AND TERMINER.

Proclamation by the Governor—An Extraordinary Term of Oyer and Terminer to be Held by Judge Cardozo.

The following proclamation, directing the holding of an extra term of the Court of Oyer and Terminer by Judge Cardozo this month, will be of interest to a certain class of the community:—

STATE OF NEW YORK, EXECUTIVE DEPARTMENT, ALBANY, May 28, 1869.

I, JOHN T. HOFFMAN, Governor of the State of New York, by virtue of the power reposed in me by section twenty-third of the Code of Procedure of this State, and at the solicitation of Samuel B. Garvin, District Attorney of the city and county of New York, and in my judgment the public good requiring the same, do hereby appoint a special court of Oyer and Terminer, to be held in and for the city and county of New York, at the City Hall of the said city, to be commenced on Monday, the 28th day of June next, and to be continued and held as long as it may be necessary. And I hereby direct the said District Attorney of said city and county of New York to issue a precept according to the statute in such case made and provided, directed to the Sheriff of said city and county of New York, to do and perform all that may be required in and by said precept.

And I hereby designate and appoint Albert Cardozo one of the Justices of the Supreme Court, as the Justice who shall hold said extraordinary term of Oyer and Terminer.

In witness whereof I have hereunto set my hand and affixed the privy seal of the State, at the city of Albany, the 28th day of May, 1869. JOHN T. HOFFMAN.

By the Governor:
JOHN D. VAN BUREN, Private Secretary.

SUPREME COURT—CHAMBERS.

The Liability of Divorced Persons.

Before Judge Cardozo.

Charlotte F. Derby vs. Chauncey L. Derby.—The parties to this suit were divorced some four years ago, the decree in the suit being the usual one, releasing the plaintiff absolutely from the marriage, forbidding the efendant to remarry during the lifetime of the plaintiff, and granting her alimony at the rate of $1,200 per annum. Mrs. Derby subsequently married a Mr. Wheaton, of the United States Army. The defendant also remarried, and, as Mrs. Wheaton claims, has not paid alimony for the last fifteen months. The case now comes up on a motion to punish him for contempt in remarrying and for the non-payment of the alimony. The defendant claims that he was married in New Jersey, and therefore committed no offence against a New York court, and claimed that as she has remarried she is not entitled to alimony. The Court took the papers and reserved its decision.

SUPREME COURT—SPECIAL TERM.

The Time for the Fulfilment of Contracts—Important Opinion.

Before Judge Ingraham.

John E. Hubbell vs. Pauline Von Schoening and another.—This was an action for the specific performance of a contract for the sale of real estate. The facts sufficiently appear in the following opinion of Mr. Justice Ingraham:—

The contract for the sale of the lots for which this action is brought provides for the delivery of the deed and the payment of the money on the 24th of January, 1868, at a place named therein. On that day the venders waited at the place designated from half-past nine in the morning until six in the afternoon. They had the deed ready for delivery according to the agreement. The plaintiff did not appear at the place until four P. M., when he said he was not ready, and asked an extension. This was refused, and the defendants insisted that the contract should be closed, and tendered the deed. Subsequently the plaintiff offered to pay the money and demanded the deed, to which the defendants replied they would have nothing more to do with it. The only material question is whether the defendants were bound to accept the tender on a subsequent day to that fixed in the contract. The rule undoubtedly is that time is not essential to the contract, unless made so by the parties. This may be done in various ways. The common one is by inserting in the contract a provision that it shall be void if not performed on the day designated. If neither party appears at the time and place fixed to complete the contract, or if no time or place is named, then the time is not essential and the performance can be enforced afterwards. So when the party gives notice of the intent to require performance on the day and is ready and tenders performance on his part, he cannot be compelled afterwards to perform work, or be liable for damages for his refusal. If the vendors, as in this case, attended to perform, waited the whole day, and finally made a tender of the deed, which was refused by the vendee on the ground that he was not ready, I see no reason on which it can be held that he should be compelled afterwards to perform. It is clear that no damages can be recovered, because there has been no breach on his part, and equity should not compel a performance of a contract which the party offered to perform at the time designated. There are undoubtedly cases of hardship where a party has reserved the greater part of the purchase money and takes advantage of the non-completion of the contract on the day designated to forfeit the money paid. In such cases equity would relieve by compelling either performance of the contract or refunding the money paid. But no such reason applies where the sum paid was only a nominal amount to give validity to the contract. Mr. Justice Ingraham then quoted at some length from the cases of Dominick vs. Michael, 4 Sandf., 374; Benedict vs. Lynch, 1 John's Ch'y, 370, and Parker vs. Thorold, 11 Eng. Law and Eq. R., 275, in support of these views, and continues:—In fact, the very nature of the contract is such that performance by either must be a defence to a claim for damages, and, if so, an offer to perform is equally good. It is only when the parties by their actions show that they did not intend to insist on a strict compliance with those terms, that a court of equity will give relief. In the present case the venders were ready and waited all day to perform at the place appointed, and when an extension was asked for it was refused under such circumstances. I think the plaintiff has no grounds on which to ask now for a specific performance. The complaint should be dismissed.

SUPERIOR COURT—SPECIAL TERM.

Decisions.

Judge Barbour rendered judgment in the following cases:—

Townshend vs. Gould et al.—Findings settled. Papers with Special Term Clerk.

By Judge Monell.

Livingston et al. vs. Murray et al.—Judgment, &c., with Special Term Clerk.

By Judge McCunn.

Knapp vs. Steen et al.—Motion granted.

Moran vs. Igo et al.—Motion granted.

Phelps vs. Trim et al.—Motion granted and cause referred.

Salmons vs. Meyer.—Motion granted.

Reynolds vs. Reynolds.—Motion for alimony granted.

Cohn vs. Strauss.—Motion granted.

Krenzle vs. Hiller.—Motion granted.

Young vs. White et al.—Motion granted with ten dollars costs.

Blumenthal vs. Raphael.—Motion denied with ten dollars costs.

Gibbons vs. Gibbons.—Motion for alimony and counsel fee denied. Cause referred to a referee.

Rausch vs. Miller, Impleaded, &c.—Motion denied with ten dollars costs.

Isaacs vs. Koch et al.—Motion staying proceedings five days granted.

Brown vs. Patterson.—Motion granted.

Wigdon vs. Bass.—Motion granted.

Townshend vs. Gould et al.—Motion staying entry of judgment, with costs to abide event.

Chapman vs. Sixth Avenue Railroad Company.—Motion granted.

New York Belting and Packing Company vs. New York Laundry Manufacturing Company.—Motion granted.

Miller et al. vs. McKaine.—Motion granted.

Gray, Administratrix, vs. National Steamship Company.—Motion granted.

King vs. O'Brien, Sheriff, &c.—Motion granted.

Phelps vs. Trim et al.—I find on examining the papers with care that the referce was consented to.

Felman vs. Woodward & Brown.—Judgment for plaintiff with costs.

Colgate et al. vs. Corell.—Proceedings dismissed, with ten dollars costs.

Hefferman vs. E. P. Ross, President, &c.—Motion denied, with ten dollars costs.

COURT OF GENERAL SESSIONS.

Close of the May Term—Heavy Calendar Disposed of—Important Opinion of Judge Bedford—Remarks of District Attorney Garvin.

Before Judge Bedford.

At the opening of the court yesterday morning his Honor Judge Bedford delivered the following opinion:—

The People vs. George W. Swepson, Robert R. Swepson, E. Nye Hutchinson, Robert F. Hoke and Thomas J. Sumner.—On the 14th day of April, 1868, the Grand Jury of this county found an indictment against the above named parties for entering into an alleged conspirary in this city on or about the 1st day of January, 1866. The facts, as I understand the case, are simply these:—Mr. Thomas D. Carter, a resident of North Carolina, employed Robert F. Hoke, one of the indicted parties, as his agent and authorized him in that capacity to visit New York and negotiate for the sale of certain lands in North Carolina. It is also alleged that Hoke on arriving in New York had an interview with George W. Swepson, Robert R. Swepson, E. Nye Hutchinson and Thomas J. Sumner, in which interview they entered into a conspiracy to cheat and defraud Mr. Carter out of the real market value of his lands in North Carolina. It is further alleged that in pursuance of this design Hoke, the agent of Carter, with the consent, knowledge and approbation of the other indicted parties, wrote a letter while in New York to Mr. Carter, then in North Carolina, in which letter Mr. Carter was given to understand that his lands in North Carolina could not be sold in this city except at a comparatively nominal price, and that this letter was written with intent to deceive Mr. Carter as regards the real value of his lands. Upon these facts the indictment is drawn under the following section of the Revised Statutes:—"To cheat and defraud any person of any property by any means, which if executed, would amount to a cheat or to obtaining money or property by false pretences." (And I may here say that the only conspiracies punishable criminally by the laws of this State are those enumerated in the Revised Statutes, the common law conspiracies being ignored.) The defendants demur to the indictment principally and substantially upon the following grounds:—First, it was a mere opinion expressed on the part of the defendants relative to the value of the land and not a fraudulent representation. Second, that it was clearly a case where, had the complainant used ordinary care and prudence, he would have avoided any imposition in the matter. I do not think these points, together with others on defendants' brief, are well taken, and I am of opinion that the indictment is properly drawn. I am also of opinion that this case involves peculiarly and particularly questions for a jury to pass upon. And these questions are to my mind as follows:—First, whether from the evidence the defendants did conspire, as is alleged, to cheat and defraud Mr. Carter out of the real market value of his lands. Second, whether Hoke wrote the letter with the intent to defraud, &c., and whether the letter was written with the knowledge, consent and approbation of the other indicted parties. Third, whether the letter was written in furtherance of a common design on the part of the defendants to cheat and defraud, or, in other words, to influence Mr. Carter to sell his lands below the real market value. It is for the jury to find the affirmative or negative of these propositions, and as they find so stands the guilt or innocence of the parties indicted. The demurrer is overruled, without pronouncing judgment upon the defendants, but giving them permission to plead not guilty and to demand a trial.

Joseph H. Choate for the defendants; Joseph S. Winter for the people.

REMARKS OF DISTRICT ATTORNEY GARVIN.

District Attorney Garvin rose and said:—Your Honor—Not having been much in court myself during the present month, being otherwise engaged, I have had some curiosity to examine and see how well my assistants—those who draw indictments as well as those who try them—have performed their duty, and although I intend generally to know what is going on in court every day, I was not really aware of the vast amount of business which has been transacted during the present month. I see that there have been ninety cases presented to this court, in which there have been seventy convictions and twenty acquittals. I am also informed that the Grand Jury have found one hundred and forty-eight indictments, passing upon over one hundred and sixty cases during the month of May, which is an enormous business to be transacted by your Honor and by the Grand Jury. It will also be observed and your Honor will recollect that there have been some very important trials during the present term, in which the petty jury have not only discharged their duty well and manfully, but they have in several instances convicted in cases where the public interest seemed to demand most thorough and exemplary punishment. Your Honor will recall the case of the express robbery, the case of Armstrong, who was convicted of personal robbery, and the case of O'Connor, who was tried as a police officer, and against whom a bench warrant is now out for the purpose of bringing him in that he may receive the punishment due to his crime. There is another circumstance which has occurred during the present month, to which I have had my attention called, and which is an interesting thing in the history of jurisprudence. The law that has been passed by the Legislature, allowing prisoners to take the stand as witnesses, has gone into effect for the first time this month. Your Honor very well remembers when the law first went into effect allowing persons in civil cases to testify, what great doubts we had as to the propriety of a law of that description. But the Legislature has seen fit steadily to go on in regard to these old rules of evidence, both civil and criminal, until it has come down to the position that in all courts, civil as well as criminal, where men were brought in charged with crime, as well as those who were parties in action, they could take the stand and testify; the great principle being that if a man is brought into court and testifies before a court and jury, that they are to say, on seeing and hearing him testify, no matter how deep may be his interest in the result, whether, on the whole, they believe what he says, thus making it a matter of pure credibility to be passed upon by the court and jury. Now, this is a great innovation; and when I read the first case which transpired before his Honor, Judge Dowling, I was somewhat staggered as to how this thing was going to work. He said to the prisoner, "You can swear." He stood up and did swear, and the Judge pronounced judgment. The next case came up before your Honor, and this thing was put to the test. I am inclined to think, although it may retard somewhat the administration of justice, it may, in some peculiar cases, quicken it, and enable parties to go to trial because they know exactly what has transpired themselves, where witnesses may not know or where they may not be able to get them into court; so that, on the whole, I am inclined to think that this law, although new and untried criminally, is going to work well in our courts of justice. I am delighted to see that not only the police magistrates, but your Honor and all other persons who are engaged in the administration of criminal justice, are disposed to give prisoners the full benefit of this law. I am pleased with the manner in which the business has gone on during the present month by his Honor (who always discharges his duty well), but by my assistants, Messrs. Hutchings, Tweed, Blunt and Vanderpoel, and all connected with the office.

After a few prisoners were discharged the court adjourned for the term.

COURT CALENDARS—THIS DAY.

SUPREME COURT—CHAMBERS.—Nos. 58, 85, 105, 109, 151, 173, 180, 192, 195, 206, 216, 218, 222, 229, 235, 236, 237, 240, 242, 243, 244, 249, 253, 255, 260, 261, 263, 274, 278, 279, 284. Call 300.

MARINE COURT—TRIAL TERM.—Nos. 2979, 3034, 3035, 3038, 3039, 3040, 3041, 3042, 3043.

CITY INTELLIGENCE.

THE WEATHER.—The following record will show the changes in the temperature for the past twenty-four hours, in comparison with the corresponding day last year, as indicated by the thermometer at Hudnut's pharmacy, HERALD building, Broadway, corner of Ann street:—

	1868.	1869.		1868.	1869.
3 A. M.	62	64	3 P. M.	73	82
6 A. M.	65	61	6 P. M.	70	80
9 A. M.	66	70	9 P. M.	64	76
12 M.	71	74	12 P. M.	62	75

Average temperature yesterday........72¾
Average temperature for corresponding day last year........66⅝
Average temperature Sunday........67¾
Average temperature for corresponding day last year........65¼
Average temperature for the week........68 1-7
Average temperature for corresponding week last year........64 1-7
Average temperature for the month........60
Average temperature for corresponding month last year........58

SALTED DOWN.—While loading a truck at pier 23 East river yesterday Bernard Cassidy was knocked down and severely injured by a sack of salt falling upon him. He was taken to Bellevue Hospital.

SUDDEN DEATH.—Sarah Moffat, a woman fifty years of age, who has been ill for several months past, died suddenly yesterday afternoon at 37 Oliver street. Coroner Schirmer was notified to hold an inquest on the body.

FELONIOUS ASSAULT.—At an early hour yesterday morning John Conroy, of No. 537 West Thirty-seventh street, was seriously injured by being struck on the head with a stone in the hand of an unknown man. Taken to Bellevue Hospital.

TAX RECEIVER'S OFFICE.—The Tax Receiver reports that he has collected the following taxes from May 24 to May 31, inclusive:—May 24, $11,143 57; May 25, $4,230 85; May 26, $3,266 12; May 27, $2,577 25; May 28, $3,053 33; May 29, $3,136 99; May 31, $3,351 80. Total, $30,719 91.

FATAL FERRY CASUALTY.—At two o'clock yesterday morning Miss Ellen Fitzpatrick died at her residence, No. 187 Seventh street, from the effects of injuries received last Thursday evening. Being then at Hunter's Point, she had one of her legs crushed between the ferryboat and bridge, thus receiving fatal injuries. Coroner Flynn was notified to hold an inquest over her remains.

FALL OF A BUILDING.—Yesterday morning the roof of the carpenter shop of George Freeman, No. 4 Seventh avenue, fell in, injuring three workmen—Jacob Coon, of 224 West Sixteenth street, who was cut on the head; Timothy Codin, of Thirtieth street, in the eye, and James Forum, of Mott street, hurt badly internally. The latter was sent to Bellevue Hospital, and his fellow sufferers to their homes, their injuries being slight.

FOUND DROWNED.—Coroner Rollins yesterday held an inquest on the body of Lawrence Olvany, fifty-five years of age and a native of Ireland, whose body was found floating in the dock foot of pier 34 East river. On the 3d of March deceased was seen about James slip, partially intoxicated, and having been seen no more alive, is thought to have been accidentally drowned. The remains were identified by the widow, who lives at No. 3 Pelham street. Deceased has left four children.

COMMISSIONERS OF THE SINKING FUND.—The Commissioners of the Sinking Fund met yesterday. The most important business transacted was the adoption of a resolution that the Commissioners would attend in a body the auction sale of the francnise to run a railroad through Twenty-third street, which sale takes place in a few days in the Governor's Room, in the City Hall, and that said sale be conducted upon behalf of the Commissioners by Mayor Hall.

OCCULTATIONS OF PRAESEPE.—Our satellite will pass over a number of the stars of this beautiful cluster, the "Bee Hive," or nebula of Cancer, during the coming three years. On September 3, following the great solar eclipse of August 7, the moon, shortly before the period of new moon, will occult Delta Cancri, at forty minutes after three o'clock in the morning. At other portions of the globe, between the parallels of seventy-two degress south and seventy-three degrees north of the equator, many more stars will be occulted.

POLICE INTELLIGENCE.

CAUGHT IN THE ACT.—Early yesterday morning a man was discovered trying to get into the liquor store No. 45 Beaver street by means of a false key. On being arrested he gave his name as John Kean, and pretended to have mistaken the place for his residence. He was taken before Judge Hogan, at the Tombs, and committed in default of $1,000 bail to answer a charge of attempted burglary.

ATTEMPT AT BURGLARY.—A young man named John McCarty was arraigned yesterday before Justice Mansfield, at Essex Market Police Court, charged with attempting to enter the premises of Mr. William Jarvis, at No. 193 Delancey street. John endeavored to break open a basement window, but was caught and interrupted by Mr. Jarvis. He ran away, but was captured by officer Post, of the Thirteenth precinct. He was held for examination in default of $1,000 bail.

ALLEGED FELONIOUS ASSAULT.—Benjamin Price was yesterday morning taken before Justice Hogan, at the Tombs, on a charge of striking Michael O'Conner, of No. 6 Cherry street, over the head with an iron bar. He was fully committed to answer the charge. The facts showed a sort of family fight, in which John Thomas got mixed up, and was also arrested on a charge of striking and kicking Mrs. O'Connor. The man Thomas was ordered to be tried at the Court of Special Sessions.

POLICE TRIALS.

An Insulted Female Throws a Dog in a Policeman's Face—The Robbery at the Treasurer's Office.

Commissioner Brennan yesterday presided at the hearing of evidence in some thirty charges against officers. But two cases of interest were heard.

William Hawkins, of the Forty-second (Brooklyn) precinct, was charged with grossly improper conduct. The complainant is Mrs. Ann Harden, living on the corner of Clinton place and Hamilton avenue, who charged that on the 22d May this officer, in company with an undertaker named Andrew Leonhardt, brought an empty coffin to the residence of Mrs. Sullivan, where she was visiting, and insisted upon taking it in the house. As there was no corpse on the prem'ses Mrs. Sullivan ordered them away, when Hawkins became very abusive, and told her she ought to have been in a coffin thirty years ago as she was past that time of life when heirs promised to arrive at her domicile. Mrs. Harden's indignation knew no bounds. She took the part of her friend, when the policeman told her to mind her own business, and wound up calling her a disgusting epithet. Mrs. Harden boiled over with rage at the reflection upon her character and appearance, and seizing a small dog hurled it into the face of the officer, who seized her and dragged her to the station house, where she was discharged. The undertaker and Mrs. Sullivan sustained the complainant throughout. The officer admitted all the statements made except the unmentionable noun. Mr. Brennan informed him that he did not consider him fit for a place in the department for a minute, and he would refer his case to the Board, as his action was as outrageous as any that had come under his notice.

Officers Ashton and Finch, of the Broadway squad, were charged by Sergeant Davis with failing to detect a robbery at the Treasurer's office, which they had been specially detailed to guard. The evidence showed that the former went on duty on the night of the 24th ult. at six o'clock, and was relieved by the latter at fifteen minutes before nine P. M.; that at that time Finch was slightly under the influence of liquor. Finch remained on until twenty-five minutes past six A. M., on the 25th. He admitted upsetting the inkstand and mucilage, but denied all knowledge of the robbery of one of the drawers of about eighty cents and some postage stamps. He denied that he was under the influence of liquor, and stated that he had taken but one glass of lager beer. The matter was referred to the Board for its action.

ALLEGED ATTEMPT AT MURDER.

Throwing His Wife From a Window.

Officer Finn, of the Fourth precinct, yesterday morning reported to the Coroners' office that Mrs. Margaret Barnes was lying in Bellevue Hospital in a dangerous condition, from the effects of injuries received at the hands of her husband, Michael Barnes, who, she alleges, threw her from the second story window of their residence, 81 Roosevelt street, to the pavement. Mrs. Barnes alleges that at about two o'clock on Sunday morning her husband came home intoxicated and commenced to abuse and beat her in a brutal manner. According to her statement, made to officer Finn, while she was lying in bed Barnes kicked her and stamped upon her breast and abdomen, inflicting terrible injuries. She jumped up, when, it is alleged, he seized and threw her from the window, where she was found soon afterwards almost insensible and removed to the hospital. Warden Brennan fearing she might not recover notified Coroner Rollins to take her ante-mortem statement. Barnes is in the Tombs. The statements of Mrs. Barnes were somewhat contradictory as she denied to one of her acquaintances that the prisoner had thrown her from the window.

A PLEASURE PARTY DROWNED.—In the township of Woodland, Barry county, Mich., on May 19, three young ladies, attended by three young men, went out in a small boat on Jordan lake for a pleasure ride. After getting into deep water one of the young ladies fell overboard, and in the effort to save her the boat was capsized, precipitating the whole party into the water. One of the young men and all of the young ladies were drowned.

MARRIAGES AND DEATHS.

Married.

BRAISTED—SANDFORD.—On June 2, 1844, by the Rev. Dr. Dewey, Mr. PETER D. BRAISTED, Jr., to Miss ELIZA, daughter of Abner Sandford, all of this city. No cards.

GOLDMANN—WOODS.—In Brooklyn, E. D., on Wednesday evening, May 26, by Rev. A. H. Partridge, D. D., LOUIS CHARLES HERMAN GOLDMANN, of New York, to MARY ANGELINE, daughter of H. M. Woods, Esq.

Boston papers please copy.

PIERSON—SMITH.—On Thursday, May 27, by the Rev. William Reid, NEWTON PIERSON to BARBARA SMITH, all of this city.

California papers please copy.

RICHINGS—CAMMANN.—At the Episcopal church, in Rockford, on Tuesday evening, May 25, by the Rev. J. E. Walton, Dr. HENRY RICHINGS to MARIA, daughter of Francis D. Cammann.

TELFER—CLARK.—In Rochester, on Thursday, May 27, by the Rev. Dr. Campbell, Mr. JOHN H. TELFER, of New York, to Miss SARAH H. CLARK, of Rochester.

Died.

BOWMAN.—At Westfield, N. J., on Monday morning, May 31, JOHN BOWMAN, an old citizen of New York city, in the 88th year of his age.

The relatives and friends of the family are respectfully invited to attend the funeral, on Wednesday afternoon, at two o'clock. Trains leave foot of Liberty street per New Jersey Central Railroad at twelve o'clock M.

BRETT.—At Somers, on Sunday, May 30, SARAH BRETT, daughter of James and Helen A. Brett, in the 37th year of her age.

Funeral from the residence of Samuel White, on Wednesday afternoon, at one o'clock. Conveyances will be in waiting at Purdy's station, Harlem Railroad, on arrival of the ten A. M. train from Twenty-sixth street, New York. The relatives and friends are invited to attend the funeral, without further notice.

BUCKELEW.—At Jamesburg, N. J., on Sunday, May 30, JAMES BUCKELEW, aged 68 years.

Funeral services at his late residence, on Wednesday morning, at eleven o'clock.

BERGEN.—Suddenly, on Monday, May 31, FRANK S., son of Michael J. and Mary Bergen, aged 11 years and 11 months.

The relatives and friends of the family are respectfully invited to attend the funeral, from the residence of his father, Forty-ninth street, South Brooklyn, on Thursday afternoon, at three o'clock.

BURNS.—On Saturday, May 29, after a long and painful illness, ANN BURNS, of the county Louth, Ireland, in the 60th year of her age.

Relatives and friends of the family are respectfully invited to attend the funeral, this (Tuesday) afternoon, at one o'clock, from her late residence, 353 West Tweny-fifth street.

COONAN.—On Monday morning, May 31, at nine o'clock, after a long illness, ANNA MARIA COONAN, eldest daughter of James J. and Bridget Coonan, aged 10 years, 11 months and 25 days.

The relatives and friends of the family are invited to attend the funeral, from the residence of her parents, 20 Tenth avenue, corner Twelfth street, on Wednesday afternoon, at half-past twelve o'clock.

CROFTS.—On Monday, May 31, MARGARET MIDDLETON, daughter of Thomas and Margaret Crofts, aged 2 years and 6 months.

Funeral from the residence of her parents, No. 72 Lafayette avenue, Brooklyn, on Wednesday afternoon at three o'clock. Friends are respectfully invited.

CALLOW.—On Sunday, May 30, CORDELIA, wife of William Callow, aged 26 years, 5 months and 23 days.

The funeral will take place from Grace church, Jamaica, L. I., this (Tuesday) afternoon, at two o'clock.

EMMENS.—At Hastings on Hudson, on Monday morning, May 31, at twenty-five minutes of two o'clock, of laryngitis, EMILY AUGUSTA, youngest daughter of Charles and Frances Emmens, aged 16 years and 17 days.

The relatives and friends of the family are invited to attend the funeral, this (Tuesday) afternoon, at half-past twelve o'clock, from the residence of her parents, at Hastings. The remains will be taken to Greenwood Cemetery. Carriages in waiting at the Hudson River Railroad depot, Twenty-ninth street, at ten minutes past two P. M.

FINK.—On Monday, May 31, GEORGE AUGUSTUS FINK, aged 68 years, son of the late Alexander Fink.

The relatives and friends of the family are requested to attend the funeral, on Wednesday afternoon, at two o'clock, from his late residence, No. 11 South Third street, Brooklyn, E. D.

FITZPATRICK.—On Monday, May 31, S. HELLON FITZPATRICK, born in county Limerick, Ireland.

The friends and relatives of the family are respectfully invited to attend the funeral, from her late residence, 187 Seventh street, this (Tuesday) afternoon, at two o'clock.

HAYES.—On Saturday, May 29, WILLIAM HAYES, in the 30th year of his age.

The relatives and friends are invited to attend the funeral, from his late residence, No. 433 East Ninth street, this (Tuesday) afternoon, at one o'clock.

Kilkenny (Ireland) papers please copy.

HADLEY.—On Sunday, May 30, Mrs. SARAH HADLEY, widow of Daniel Hadley, in the 71st year of her age, at the residence of her nephew, Benjamin A. Van Tassell, 124th street, between Third and Fourth avenues.

Services to be held on Wednesday morning, at eleven o'clock; also services at the Baptist Church, Tarrytown, on Wednesday afternoon, at half-past two o'clock. Train leaves foot of Thirtieth street at twelve o'clock M. The friends and relatives are respectfully invited to attend.

HANLON.—At Buffalo, on Sunday, May 30, Miss MARY H. HANLON, aged 17 years.

The funeral will take place in this city from the Thirteenth street Presbyterian church, near Sixth avenue, this (Tuesday) afternoon, at one o'clock. Friends of the family, also the members of New York Lodge, No. 330, F. and A. M., are respectfully invited to attend.

HUTCHEON.—On Sunday morning, May 30, WILLIAM HUTCHEON, Jr., in the 43d year of his age.

Relatives and friends of the family, also members of Nassau Lodge No. 536, F. and A. M., and members of the Brooklyn and New York Caledonian Clubs are respectfully invited to attend the funeral, on Wednesday afternoon, at half-past two o'clock, from his late residence, 180 Atlantic street, Brooklyn.

HAWN.—In Jersey City, on Sunday morning, May 30, of consumption, JAMES W. HAWN, in the 33d year of his age.

Funeral service will be held at Grace (Episcopal) church, corner of South Seventh and Erie streets, this (Tuesday) afternoon, at half-past one o'clock. Relatives and friends are respectfully invited to attend, without further notice.

KERNOCHAN.—On Sunday, May 30, CHARLOTTE WALTON, wife of John A. Kernochan, and daughter of the late Jonathan Ogden.

The relatives and friends of the family are respectfully invited to attend the funeral, from St. Mark's church, on Wednesday morning, at eleven o'clock.

LAWRENCE.—On Monday morning, May 31, HENRY LAWRENCE, a native of Rassahane, parish of Rathdrum, county Wicklow, Ireland, aged 71 years.

The funeral will take place from his late residence, 33 Crosby street, this (Tuesday) afternoon, at two o'clock.

Wicklow papers please copy.

MINNELLI.—On Monday, May 31, at his residence, 109 East Twenty-eighth street, A. JOSEPH, son of Professor D. Minnelli, aged 9 years.

MCBRIDE.—On Sunday, May 30, JAMES JOSEPH MCBRIDE, only child of John and Bridget McBride, aged 1 year.

The funeral will take place from 1,070 First avenue, near Fifty-eighth street, the residence of his parents, this (Tuesday) afternoon, at two o'clock.

OLVANY.—On Monday, May 31, LAWRENCE OLVANY, in the 55th year of his age.

The relatives and friends of the family are respectfully invited to attend the funeral, from No. 3 Pelham street, this (Tuesday) morning, at ten o'clock. Interment at Calvary Cemetery.

RUSSELL.—In Brooklyn, on Sunday, May 30, EDMUND R. RUSSELL, formerly of New Bedford, Mass., in the 50th year of his age.

The friends and relatives of the family, also the members of Nassau Lodge F. and A. M., of Brooklyn, are requested to attend the funeral services, at his late residence, 20 Fourth place, on Wednesday morning, at ten o'clock.

SHEPPARD.—At Callao, Peru, on Friday, April 30, of yellow fever, EDMUND SHEPPARD, third officer of the ship Nor Wester, son of C. W. and Eliza Sheppard, of Greenpoint, L. I., aged 21 years and 9 months.

STEINFELDT.—In Brooklyn, on Sunday morning, May 30, SARAH, daughter of Charles and Elizabeth Steinfeldt, aged 3 years, 3 months and 20 days.

Wrap the cold white sheet around her,
Lay her hands upon her breast,
Lay her gently in her coffin,
Little Sarah is gone to rest.

Friends of the family and acquaintances are respectfully requested to attend the funeral, from the residence of her parents, 65 Flushing avenue, Brooklyn, this (Tuesday) afternoon, at two o'clock.

SHERRY.—In this city, on Monday, May 31, after a short illness, JAMES SHERRY, a native of the parish of Tullacorbet, county Monaghan, Ireland, aged 63 years.

The remains will be taken from his late residence, 241 Monroe street, to St. Mary's church, corner of Grand and Ridge streets, on Thursday morning, at nine o'clock, where a solemn mass of requiem will be offerred up for the repose of his soul, and from thence to Calvary Cemetery for interment. His friends and relatives are respectfully invited to attend.

SCHUTTE.—On Monday, May 31, PHILIPPINE SCHUTTE, daughter of John and Caroline Schutte, aged 4 years and 9 months.

The relatives and friends are invited to attend the funeral, from 242½ Water street, Brooklyn, at half past two o'clock this (Tuesday) afternoon.

VIRTUE.—On Sunday, May 30, NETTIE, youngest child of Peter and Emma Virtue, aged 2 years, 2 months and 21 days.

The funeral will take place from the residence of her parents, No. 39 Vandam street, this (Tuesday) afternoon, at one o'clock.

WINE.—At Flushing, L. I., on Monday, May 31, very suddenly, JOHN WINE, in the 79th year of his age.

The friends and relatives are respectfully invited to attend the funeral, from the Friends' meeting house, Flushing, on Wednesday afternoon, at two o'clock.

WHITEHOUSE.—In Brooklyn, on Sunday, May 30, after a lingering illness, JOSEPH T. WHITEHOUSE, in the 43d year of his age.

Notice of the funeral will be given hereafter.

New Hampshire and Boston papers will please copy.

WEAVER.—In Brooklyn, on Friday, May 28, JAMES E. WEAVER, of the firm of Weaver & Sterry, New York.

His friends and the relatives and friends of the family and those of his father-in-law, Martin Kalbfleisch, are invited to attend the funeral services, this (Tuesday) afternoon, at half-past four o'clock, at the residence of his father, James Weaver, 122 Remsen street, Brooklyn.