THE COURTS.

Collision at Sea—A Bankruptcy Case—The Seven-Thirty Counterfeit Bond Case Again—Charge of Smuggling Laces and Silks—More Erie Railway Litigation—Decisions—Sentences and General Business in the Court of General Sessions.

UNITED STATES SUPREME COURT.

Local Statutes of Limitation—The State of Louisiana During the Rebellion.

WASHINGTON, Feb. 7, 1871.

No. 81. *A. T. Stewart & Co. vs. Bloom, Kohn & Co.—Error to the Supreme Court of Louisiana.*—This was a suit on a promissory note of the defendants in error, former customers of the plaintiffs in error, which fell due and was protested for non-payment on the 13th of March, 1861. Service of protest was not made in the case until after the expiration of five years from the date at which the note was made, and the Court below ruled that the Louisiana statutes of prescription barred the rights of recovery, and the judgment was for the debtors. The question presented here is whether the act of June, 1864, touching limitation, was intended to apply only to the federal jurisdiction, or whether it controlled the State tribunal as well. That act provides that when the ordinary course of judicial proceedings (in any of the States) should be interrupted by the war, so as to prevent the service of process in favor of persons to whom a right of civil action has accrued, the time during which the person of the debtor shall be beyond the reach of such process shall not be deemed or taken as a part of the time limited by law for the commencement of such action; and the plaintiff insists that this law was general, and applied to all the States where "the ordinary course of judicial proceedings" was so interrupted. It is also maintained that the State of Louisiana was out of the Union, and that her statutes, up to the date of the reorganization of the federal courts in New Orleans, were, to all legal intents and purposes, the laws of an alien enemy, and of no effect. This view is sustained by the cited fact of the readmission of the State into the Union after the close of the war. On the part of the defendants here it is urged that Congress has no constitutional power to prescribe rules of practice for the courts of the States, and that, as affecting the right of the parties to this proceeding, the act of Congress cited was void. Congress cannot create State courts, cannot establish the ordinary rules of property obligations and contracts, nor, in general, denounce penalties for crime in the States, and it cannot, therefore, prescribe rules to govern the proceedings of those courts. On the other hand there is no constitutional inhibition upon the individual States to pass statutes of limitation, even where such statutes bar the judgments of sister States. It is therefore submitted that Congress never intended by this act to legislate for the several States, and that the act only binds the courts of the United States. The defendants appear to assume that the State was always in the Union, and in respect of the proceedings of her courts and the meaning of her statutes she was not affected in her status by the war. Submitted on the briefs without oral argument.

UNITED STATES DISTRICT COURT—IN ADMIRALTY.

Collision Case—Decision.

Before Judge Blatchford.

William Ives and John Waters vs. The Steamer Hammonia, Her Tackle, &c.—The libel in this case was filed to recover damages for injury to the Harriett Lievesley, a vessel of 365 tons burden, owned by the libellants. The two vessels came into collision in a dense fog on the afternoon of the 28th of June, 1869, off Nantucket Shoals. The Harriet Lievesley was thrown on her beam ends on her port side, with her sails and masts lying flat on the water. She was abandoned by her crew, with the exception of one man who was drowned, they having been taken off by the Hammonia and carried to New York. She was subsequently raised by wreckers. The Judge writes a lengthened opinion on the blame that is to be attached either to the sailing vessel or the steamer, and as to whether the latter or the former was upon the proper course or had improperly changed it. He says:—"The steamer ported in entire ignorance of the course or position of the vessel whose fog horn she heard. She should have stopped and reversed, without changing her helm. She could only infer from hearing the fog horn that it came from a sailing vessel under way. She is, therefore, chargeable with the knowledge that, if there was any risk of collision, it was her duty to keep out of the way of the sailing vessel, and also her duty to slacken her speed, and, if necessary, to stop and reverse and the duty of the sailing vessel to change her course. Yet Fokkes, one of the officers of the steamer, shows his utter ignorance of the rule of the road, and the same ignorance must have existed on the part of his inferior officers, judging by the course they pursued. Fokkes was asked, "Why was the steamer's helm ported?" He answered, "Because it is the law for two vessels meeting at sea end on both to port their helms to go clear of each other." The fact is (continues the Judge), that the bark was well off the starboard hand of the steamer and that the steamer was grossly in fault in porting in ignorance of the true position of the vessel whose fog horn she heard. There must be a decree for the libellants, with costs, with a reference to a Commissioner to ascertain the damages sustained by the libellants.

UNITED STATES DISTRICT COURT—IN BANKRUPTCY.

Petition for Adjudication of Bankruptcy.

Before Judge Blatchford.

Flatman & Co., 70 Broad street, vs. Theodore H. Vetterlein and Bernard Vetterlein, of the firm of Vetterlein & Co., Pearl and Cedar streets.—This case came before the court and jury for trial. The petition of the creditors sets forth that they hold promissory notes passed to them by the defendants, who are their debtors to the amount of $4,687 68, and that the defendants have committed acts of bankruptcy by not paying their commercial notes within fourteen days after they fell due. The petition prays that the Court shall adjudge the defendants bankrupt. Counsel for defendant moved to dismiss, on the ground that the notes were passed in extension of notes which fell due in May. These notes are still outstanding, and counsel contended that they were collateral and not commercial paper. The Court denied the motion, and left the case with the jury, with a direction to find that the bankruptcy, as charged in the petition, had been committed. They found accordingly.

The court then adjourned till this day.

UNITED STATES DISTRICT COURT.

The Seven-Thirty Fraudulent Bond Case Redivivus.

Before Judge Blatchford.

It will be remembered that in the last jury term of the court there was tried the important case of The United States vs. Jay Cooke & Co. The government sought to recover from the defendants the sum of $18,000, being the amount of eighteen seven-thirty bonds, of $1,000 each, which the government had purchased from Jay Cooke & Co. for redemption. It turned out, however, on investigation that the bonds in question were fraudulent and forged. The action was, therefore, brought to recover the amount of these bonds from Jay Cooke & Co. The trial lasted several days. It was fought with great pertinacity on both sides, and finally resulted in a verdict for the government for the amount claimed.

Yesterday Judge Blatchford called over the calendar of jury cases, which includes the case of the United States vs. Vermilye & Co., of Wall street. This case is one similar to that of Jay Cooke & Co., and it is brought to recover the large sum of $75,000, being the value of seven-thirties purchased by the government of Vermilye & Co. The government in this case, as in that of Jay Cooke & Co., claim that the bonds were forged, and they now bring this suit to recover the amount of them.

When the case was called Mr. Simons, United States Assistant District Attorney, named the 10th inst. as the day upon which it would be tried.

A gentleman present representing Mr. John E. Burrill, counsel for defendants, said that gentleman was ill, and, therefore, at present unable to attend to the trial of the case. He hoped that the matter would be put over for four weeks, when Mr. Burrill would be quite ready to proceed.

Mr. Davis, United States District Attorney, stated that he was ready to go on with the case. It was desirable that he should try one or more of these cases in the present term. At all events, he was ready to try the case against Vermilye, and would try others if there was time during the term.

Counsel for defendant replied that the interests of the government could not be injured in the slightest way by the delay asked for.

Judge Blatchford stated that if Mr. Burrill could not attend to the case other counsel should be employed to look after it. The case must remain on the calendar for the 10th; and, with respect to the other cases of a similar character, he would not make any disposition of them for the present.

In reply to the Judge, Mr. Davis stated that there was a bill of exceptions in the Jay Cooke Company case. To these exceptions amendments have been filed, and the probability is that the exceptions will soon be argued in court.

UNITED STATES COMMISSIONERS' COURT.

Charge of Smuggling Laces and Silks.

Before Commissioner Shields.

The United States vs. George Wright, Robert Smith, Thomas W. Wilson and J. Gilligan.—The defendants, Wright and Wilson, are charged with having smuggled into this country a quantity of laces and silks on board the steamship Europa, on which they had been engaged as purser and storekeeper; and Wilson and Gilligan, who are merchants in Church street, are also charged with having been in collusion with these parties in the reception of the goods. The particulars of the case were published in the HERALD of Sunday.

The case had been set down for examination yesterday at two o'clock.

At that hour the representative of the District Attorney appeared and wanted a postponement of the matter for a week, on the ground that the Custom House officers were engaged in examining the books of the defendants, Wilson and Gilligan.

Judge Stuart, counsel for Wright and Smith, and Mr. Joseph Bell, counsel for Wilson and Gilligan, opposed the adjournment.

The Commissioner said the defendants had been some days arrested; they were entitled to a speedy examination, which he would fix for to-morrow (this day) at twelve o'clock.

Complaint Against General Quesada.

A complaint was made yesterday before Commissioner Shields, by a sailor belonging to an American ship, that while he was sailing to Cuba from the port of New York General Quesada, who was on board as a passenger, threatened to cut his head off, and it appears the cause of the trouble was this:—The complainant states that after the vessel had got to a certain point on her voyage the American flag was pulled down and the Cuban flag was run up in its place. He protested against this, and said it was an insult and an outrage upon America. Thereupon, as the complainant says, General Quesada threatened to cut his head off, and struck him upon the nose. The complainant made a statement to the Commissioner; but he referred the matter to the District Attorney. As, however, General Quesada is not in the country, nothing could be done in the affair.

SUPREME COURT—CHAMBERS.

More Erie Railway—Model Decision by Judge Barnard—The Case Viewed from a Moral Standpoint.

One of the numerous Erie Railway suits, it will be remembered, was brought against Wm. Ramsay, D. B. Eaton and others, to restrain them from an alleged unauthorized representation of the company as its counsel. This complaint was dismissed against all the defendants but Mr. Eaton. Judge Barnard yesterday rendered a decision touching the latter gentleman's case. It has the merit, at least, of being a model of brevity.

THE DECISION.

In this case I direct the entry of the judgment in favor of the defendants, but without costs or allowance. In a moral point of view I feel convinced that the conspiracy charged in the plaintiff's complaint existed at the time of the commencement of the action. The plaintiff's counsel failed, however, to establish by legal proof the allegations of the complaint. Fraud is the groundwork of the plaintiff's suit. Fraud must be clearly proven. It will never be presumed. Let findings in accordance with this finding be presented to me.

Suit Against a Defunct Express Company.

Before Judge Barnard.

Kroeger vs. The New York Express Company.—The plaintiff brought a suit against the defendants to recover money alleged to be due for services, and a judgment was found in his favor. An execution was served on this judgment and the same returned unsatisfied. Upon this result a suit was brought, according to statute making directors individually liable for the acts of a company, against Erastus Corning, Jr., and judgment obtained against him by default. Mr. Corning moved to open the judgment and come in and defend, which motion was granted. Among the other directors were John Morrissey, Robert Murray, Owen Brennan, William G. Fargo and Thurlow Weed.

SUPREME COURT—SPECIAL TERM.

Decisions.

By Judge Brady.

Lantz vs. Buckingham.—See opinion

Bank of British North America vs. Heard et al.—See opinion.

By Judge Freedman.

Atwater vs. Skiddy et al.—Order granted.

Pecher vs. Colume.—The same

The Massachusetts Mutual Life Insurance Company vs. Carpenter.—The same.

Palmer vs. Darling.—The same.

Marks vs. Jacob.—Motion dismissed, with ten dollars cost.

SUPERIOR COURT.

"Important Trade Mark Decision Affecting Liquor Dealers."

In the report of the decision rendered by Judge Monell, in the Superior Court, in the case of Martin R. Cook & Co. vs. George A. Starkweather & Co., which appeared in yesterday's HERALD, an inaccuracy occurs which, as it might do unintentional injury to the defendants, we correct. The Court decided that the trade mark used by the defendants prior to the commencement of the suit so resembled the plaintiffs' that dealers "might" mistake one for the other, and that therefore the defendants should not use such marks. The Court did not rule that the defendants' had not the right to manufacture and sell "Old Valley Whiskey" by the name of Old Valley Whiskey; but, on the contrary, expressly decided that "they have the right" to make and sell whiskey by that name, defendants not having used the prohibited trade mark since September 1, 1870. This correction is of interest to dealers, as it will tend to ease their minds of any fears they might harbor on the score of selling "Old Valley Whiskey" under the ban of "trades marks" or rulings of the courts.

MARINE COURT—PART I.

Decisions.

By Judge Joachimsen.

Christalar vs. New.—Judgment for plaintiff for $3 12, costs and allowance.

Ward vs. Baxter.—Decision reserved.

COURT OF GENERAL SESSIONS.

Before Recorder Hackett.

At the opening of the Court yesterday the Grand Jury sworn on Monday were discharged till the 20th inst.

A HIGHWAY ROBBER SENT TO THE STATE PRISON FOR TEN YEARS.

John Smith pleaded guilty to robbery in the first degree, the complaint alleging that on the 16th of January a silver watch and chain, valued at eighteen dollars, were forcibly taken from Patrick J. Giles about eight o'clock in the evening by Smith and another man while he was passing through Mulberry street.

The Recorder, in passing sentence, said, "I will not send you to the State Prison for twenty years, but will give you a chance by sending you ten years. Smith will not have a "chance" to vote for the next two Presidents of the United States.

TWO BURGLARS SENT TO SING SING FOR FIVE YEARS.

Diedrich Klumyer and Joseph Hepler were convicted of burglary in the third degree, they having on the night of the 11th of January burglariously entered the restaurant of George Rothenhoffer, 151 Fulton street. A few cigars and a book were found in their possession by the officer who arrested them on the premises. The prisoners received the full penalty, which was five years each in the State Prison.

SENTENCED.

Henry Barky, who on the 11th of January stole some clothing from Henrich Mathes, was convicted of petit larceny and sent to the Penitentiary for six months.

ALLEGED FELONIOUS ASSAULT—ACQUITTAL OF THE DEFENDANT.

John Franklin was tried upon a charge of felonious assault and battery. The complainant, John Hussey, testified that as he was passing through Water street on the 22d of August he stepped upon Franklin's foot, whereupon he (the prisoner) turned round and fired a loaded pistol at him, the ball entering the arm. Mr. Howe cross-examined Hussey at length, and brought out the fact that he had fighting proclivities, and visited Ireland to see Mace and Coburn fight.

Franklin, who was out on bail and came from his work, testified that he was attacked by Hussey in a savage manner, and fearing that he was going to be robbed, he fired the pistol in self-defence.

The jury rendered a verdict of not guilty.

OTHER ACQUITTALS.

John McGuire was acquitted of a charge of grand larceny, the indictment alleging that on the 9th of January he attempted to steal a chest of tea, the property of Arnold, Sturges & Co.

Edward Dreary and John J. Carey, who were charged with stealing a silver watch from James Develin on the 2d of January, were placed on trial. Mr. Howe defended the prisoners, and an examination of the complainant showed that there was nothing to sustain the indictment. Assistant District Attorney Sullivan abandoned the case, and the jury rendered a verdict of not guilty.

Henry Pearsall was tried upon a charge of grand larceny. It seemed from the testimony that on the 21st of December six pieces of calico were stolen from the premises of Emanuel Strauss, No. 3 Avenue D, and that several days after a detective learned that the defendant sold two pieces to a woman in the tenement house where he resided, which the complainant identified as a part of the stolen property. Pearsall showed by a witness that he bought a piece of calico for one dollar from two peddlers. As there was a doubt in the case, the jury gave the accused the benefit of it and acquitted him.

John J. Looney, who was charged by two women with stealing a gold watch from William Benson on the 29th of December, was found not guilty.

AN ASSAULT UPON A WOMAN.

Michael Kennedy pleaded guilty to an assault and battery upon Eliza Dougherty on the 25th of December, and was sent to the Penitentiary for six months.

The following is the calendar for to-day:—The People vs. Charles McDermott, rape; Same vs. John Costello, robbery; Same vs. Frederick Lee, robbery; Same vs. John H. Miller, Augustus Burhard and others, robbery; Same vs. Cyrus Butler, burglary; Same vs. James Curran, burglary; Same vs. Terrence Devlin, John Reilly, burglary; Same vs. Louis M. Van Eeten, forgery; Same vs. Henry McCann, grand larceny; Same vs. Albert F. Craig, grand larceny; Same vs. William Barley, Henry Russell, grand larceny; Same vs. William Thompson, grand larceny; Same vs. William McGuire, John Higgins and others, grand larceny; Same vs. William H. Guyon, larceny from the person.

COURT CALENDARS—THIS DAY.

SUPREME COURT—GENERAL TERM.—Held by Judges Ingraham, Barnard and Cardozo.—Opens 10½ A. M.—Non-enumerated motions.

SUPREME COURT—CIRCUIT.—Part 1.—Held by Judge Sutherland.—Nos. 64, 141, 311, 2731, 2799, 236, 61, 83, 35, 253, 269½, 1, 39, 41, 59, 51, 21, 77, 83. Part 2.—Held by Judge Van Brunt.—Nos. 14, 18½, 970½, 34, 1608, 522½, 202, 133, 144½, 212, 214, 216, 216½, 218, 220, 228, 230, 236, 238, 240.

SUPREME COURT—CHAMBERS.—Held by Judge Barnard.—Nos. 71, 112, 115, 130, 152, 157, 179, 202, 242, 243, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258.

SUPERIOR COURT—Part 1.—Held by Judge Monell. Nos. 73, 275, 447, 291, 39, 353, 391, 171, 21, 167, 217, 195, 209, 323, 387. Part 2.—Held by Judge Jones.—Nos. 370, 146, 596, 1172, 512, 360, 326, 316, 822, 356, 610, 614, 620, 1248, 622.

COMMON PLEAS.—Part 1.—Held by Judge Loew.—Nos. 526, 62, 93, 471, 555, 556, 557, 559, 560, 561, 562, 564, 565, 566. Part 2.—Held by Judge Daly.—Nos. 156, 538, 542, 547, 461, 63, 567, 568, 569, 570, 571, 572, 573, 576.

MARINE COURT.—Part 1.—Held by Judge Joachimsen.—Nos. 4830, 4967, 4970, 4808, 4829, 4857, 4861, 4882, 4893, 4901, 4906, 4939, 4998, 4997, 5020, 5093, 4996, 4990. Part 2.—Held by Judge Shea.—Nos. 4716, 4299, 4869, 4849, 1216, 4688, 4887, 4888, 4910, 4947, 4963, 4909, 4978, 4976, 4996, 5010, 5012. Part 3.—Held by Judge Tracy.—Nos. 5557, 5608, 5612, 5613, 5614, 5615.

BROOKLYN COURTS.

UNITED STATES COMMISSIONERS' COURT.

The Charge Against William Lane.

Before Commissioner Winslow.

The hearing of the case of William Lane, who is charged with having misappropriated government property while superintendent of the engineer's works at Fort Hamilton, was resumed. Thomas Fowler testified that two years ago he had a contract for drawing stone; that government teams were used, and that for the use of them he paid, by Lane's direction, the sum of five dollars to a clerk in the office. Several other witnesses were examined, and the further hearing was adjourned until Wednesday next.

Alleged Illicit Distilling.

John Scully was before the Commissioner on the charge of carrying on the distilling business without paying special tax. The hearing was set down for the 14th instant.

CITY COURT.

Burglars Sentenced.

Before Judge Thompson.

Harris Franklin and Henry Brown were indicted for having broken into the residence of Mr. Joseph Geis, No. 160 Franklin avenue, on the 5th of January. The prisoners were arraigned yesterday, when they pleaded guilty to burglary in the third degree. Judge Thompson sentenced each of them to the Penitentiary for three years and six months. The court then adjourned until this morning.

BROOKLYN COURT CALENDAR.

CITY COURT.—Part 1.—Nos. 19, 125, 127, 135, 170. Part 2.—Criminal trials.

COURT OF APPEALS.

ALBANY, Feb. 7, 1871.

The following is the Court of Appeals day calendar for February 8:—Nos. 74, 84, 85, 15½, 63, 86, 87, 88.

A DIAMOND DENOUEMENT.

An Essex Market Case—The Result of Speculation in Precious Stones—A Question of Veracity.

Business at the above court was very dull yesterday, there being but one case of any interest whatever brought up for examination. Mrs. Caroline Tannenbaum, of No. 416 East Ninth street, complained that on the 30th day of July last Solomon Migel, who does business at No. 9 Union square, and his brother Marcus violently assaulted her, from the effects of which—she being at the time in a delicate condition—she has been very sick ever since, and, consequently, unable to appear against her assaulters. She says that she, accompanied by her brother-in-law, went to Migel's place for the purpose of purchasing a diamond; that Solomon Migel placed a small case containing the precious stones upon the counter, and that she examined them, but not seeing any she liked she did not make a purchase; that she then turned to go out of the store, when

BOTH SOLOMON AND MARCUS MIGEL ASSAULTED HER,

Solomon striking her on the breast with his fist, catching her by the throat and trying to choke her, and finally drawing a pistol, which he brandished in her face, and with which he attempted to shoot her. Mr. Tannenbaum, her brother-in-law, corroborated her statement fully.

But there are always two sides to a good story, and this one is no exception to the rule, as Mr. Solomon Migel's version of the affair shows. When the Justice asked him what he had to say in defence he replied that he had a great deal to say. Mrs. Tannenbaum and her brother-in-law came into his place upon the day above mentioned, and

WANTED TO SEE SOME DIAMONDS.

He showed them a lot, but they did not seem to suit them; so of course they did not buy. When he looked at the case again in which the diamonds were he noticed that one of them was missing, and as a matter of course he accused the parties of taking them. They protested that they had not, but he had them both arrested and taken before Justice Shandley, at the Jefferson Market Police Court.

"Now," said he, "these parties have had me arrested and brought up here for the purpose of getting 'square with me,' as they call it. I never carried a pistol in all my life, nor did I ever own one; and so far as striking this lady is concerned, I can only say that I never laid my hands on her."

Mr. Migel had a friend with him, who verified his statement, and said he had known the defendant a long time, and knew positively that he never owned a pistol or a deadly weapon of any kind.

As neither party was provided with counsel, and the case seemed to be a somewhat complicated one, Judge Ledwith adjourned it until next Thursday.

THE LAST UNFORTUNATE KELLY.

What It Is To Be a Society Man, and Particularly a Temperance and Moral Society Man—Sam Weller's Advice on the Subject of Widows Proven Sensible.

William Kelly, of the numerous and unfortunate family of Kellys, was formerly a member in good standing of the society whose distinctive initials embrace a pretty good share of the alphabet, known as the Y. M. F. M. U. B. T. A. Society, Branch No. 1. Not long since he was expelled. The expulsion did not please him, and accordingly an application was made a few days since for an order to show cause why a mandamus should not be issued directing his reinstatement by the society. This order was returnable yesterday morning before Judge Barnard. The lawyer for Mr. Kelly started off with a statement of the case, which promised to be prolonged to painful prolixity had not the Judge suddenly brought him up with a sharp interrogatory.

"Why was the man expelled?" asked the Judge.

"I'll tell you as delicately as I can," said the lawyer. "It's a delicate case, you see."

"Never mind the delicacy—give us the facts."

"Well, then, you shall have them. About two years ago Mr. Kelly made affidavit that he had had illicit connection with a widow, and that upon this a charge of immoral conduct was preferred against him and he was expelled."

"Served him right for telling it," said the Judge. "That was the greater offence of the two." (Laughter.)

"But the man did not tell of it," persisted the lawyer.

"You just said he did."

"But I mean of his own accord, and I'll explain it if you'll allow me."

"Certainly; go on."

"This widow you see wanted to get into a female branch of the society to which the mother and sister of Mr. Kelly belonged and was blackballed."

"Well, go on."

"She got mad and up and told a member of the society to which Kelly belonged of Kelly's intimacy with her and caused him to prefer the charges of immorality against Kelly resulting in his expulsion. It was a piece of petty spite, as she believed Kelly was the cause of her being blackballed."

"It is a mixed case, and I don't know only one way I can help Mr. Kelly," said the Judge. "I must deny this motion. This society must keep up its morality. (Laughter.) The only thing for Kelly is to join some society—and there are plenty of them in this city—where no fuss is made over any such little irregularities as those described."

BOARD OF SUPERVISORS.

The Board of Supervisors met yesterday at two o'clock, Mayor Hall presiding. A communication was received from the Supreme Court Judges asking that the Chamber of this Board be set aside for the use of the General Term, as they are incommoded from transacting their business for want of an additional room. A resolution was adopted granting the request. The bill of Sheriff Brennan, for official services during January, amounting to $6,774, was ordered to be paid, as also the bill of the Coroners for the quarter ending September 30, 1870, amounting to $18,100. The bill of the Knickerbocker Ice Company for ice furnished the various courts and county offices during 1870, amounting to $3,674 35, was also ordered to be paid. A claim of $4,430 for salary as Supervisor and expenses was presented by Mr. John Foley, and referred. Adjourned.

THE BLACK PRINCE HOMICIDE.

Coroner Jones, of Brooklyn, began the investigation yesterday as to the cause of the death of John Johnson, the boatswain's mate on board the ship Black Prince. The deceased, as alleged, died from the effects of a blow on the head by a capstan bar in the hands of Joseph Cleary, who was employed on board of the Port au Prince as watchman. The affray occurred on the vessels on the night of the 1st inst. Several witnesses testified to having seen Cleary strike the deceased and knock him overboard. The inquest was adjourned until to-day.

GOVERNMENT AGENTS.

Liabilities of Military Officers as Agents of the Government—Important Decision.

A very important decision has just been rendered at the General Term of the Marine Court—Judges Gross, Shea and Tracy on the bench, Judge Shea delivering the opinion of the Court—which will undoubtedly settle the question of the liabilities of officers of the government, acting under special or general military instructions, as regards the transactions, contracts or otherwise, of individuals with the government. The Court decides, and presents authorities in support, that "agents of the government, acting in that capacity for the public, are not liable for the contracts made by them merely in their public capacity and within the scope of their public agency." The opinion is also of importance in a civil sense, as relates to the law of contracts, where an "agent acts for the public and treats in that capacity." The case came up before General Term on appeal, the Court, by its subjoined decision, reversing that of the Court below—a fact which counsel practising in the Marine Court will no doubt "take a note of."

The case was that of Silas Crispin vs. Elisha Crowell.

DECISION.

Judge Shea delivered the opinion of the Court as follows:—

The defendant is an officer in the military service of the United States, and as such was on duty in charge of the Continental (ordnance) Stores at Brooklyn at the time that the supposed cause of this action arose. In the month of February, 1869, boxes of ordnance stores and other goods were shipped to the defendant from New Orleans on board the plaintiff's brig, bound for Brooklyn, directed to "Colonel S. Crispin, Continental Stores, Brooklyn, N. Y." The usual bills of lading were delivered; and the boxes and contents were in due course forwarded and delivered to the defendant, as such officer in charge at that place of destination. The freight money was $3,643, upon which the defendant, in his official capacity, paid to the plaintiff $3,156, leaving a balance of $487, which defendant refused to pay, alleging that the articles delivered were less than the quantity consigned; and he (defendant) therefore claimed to deduct the balance due on the freight as indemnity to cover the loss on the goods. This action is brought against the defendant to recover from him personally that balance and interest. The cause was originally tried before a judge of this court, without a jury, who gave judgment in favor of the plaintiff for the amount of $487 and interest and costs, and from that judgment this appeal is taken. In coming to that conclusion the Judge who tried the cause must have found as a fact that all the boxes and their contents received on board the brig at New Orleans were delivered by the plaintiff at the Continental Stores, and the only question presented or presentable on this appeal is that relating to the individual liability of the defendant. After a full consideration of the facts of the case it is clear to my mind that no legal liability was assumed by the defendant individually, and that in such cases the law does not permit individual liability to be imputed or inferred. It is not pretended that the defendant undertook expressly to pay the freight or any part of it, nor that he was otherwise interested in the transaction than as a public servant in the careful performance of his assigned and usual duty. We are asked, however, to infer from the facts and circumstances of the whole case that the defendant incurred personally an obligation to the plaintiff; and in this view much stress was laid on the voluntary relinquishment by the plaintiff of the carrier's lien by the delivery of the boxes at the Continental Stores, and the defendant's receipt of them; and, also, on the fact of the subsequent payment on account of the freight. But it is manifest these things were done by the defendant in the ordinary course of his official employment, and no other than this reasonable inference can be made. There surely is nothing like an express understanding in all this on the part of the defendant. Then again it was strongly pressed, and with great show of equity and reason, that the inconvenience, delay and expense of getting payment in like cases from the government itself resulted in a substantial failure of justice, and practically left the plaintiff remediless. This is the true point of the case. Yet, even conceding the truth in fact of this point, the law is, in my opinion, too firmly and authoritatively settled to permit a court or jury to infer an individual obligation on the part of the defendant. No stronger assertion of the alleged equities applicable to the plaintiff's case can be found than the earnest and eloquent expressions of Livingston, C. J., in Sheffield vs. Watson (3 Caine's Rep., 69), and of Thompson, C. J., in Gill vs. Brown and in his dissenting opinion in Walker vs. Swartwout (both cases in 12 Johnson's Rep., 365 and page 444). Their views failed ultimately to be established as correct reasoning. If a public agent is to be held responsible upon transactions relating to the business of his agency it can result from an express undertaking only, supported by a consideration independent of the original contract made on behalf of his principal. The plaintiff is a public agent, an officer acting as such on behalf of the United States government. A different doctrine prevails in regard to a person acting as a functionary of the government from one acting in a mere private agency. The rule of law in such case as this cause presents may be thus stated:—That agents of government, acting in that capacity for the public, are not liable for the contracts made by them merely in their public capacity and within the scope of their public agency, although there be no other person against whom a legal remedy lies to enforce the contract. And it has been laid down that "in any case where a man acts as agent for the public, and treats in that capacity, there is no pretence for making him personally liable." The reason of this distinction as to the liability personal of public and of private agencies is quite elemental and is fully treated of in Paley on Agency, 376-378, marginal paging; Story on Agency, sec. 302; and in a note to the late edition of Kent's Commentaries, second volume, page 991. This rule of law has not been questioned, so far as I am able to discover, since the Supreme Court in this State in Walker vs. Swartwout (12 Johnson's Reports) refused to be bound by the prior opinions in the cases of Sheffield vs. Watson and Gill vs. Brown, and would not concur with the views of Chief Justice Thompson. But the Court then and there reasserted the principle as stated by Chief Justice Marshall in delivering the opinion of the Supreme Court of the United States, that "it is too clear to be controverted that where a public agent acts in the line of his duty, and by legal authority, his contracts, made on account of the government, are public, and not personal." During the course of the argument it occurred to me that an action might perhaps be sustained against a public agent if he had public funds in his hands at the time properly applicable to the plaintiff's claim. The suggestion is to be found in reported cases, of which Fox vs. Drake (8 Cowen's Reports, 191) is an example. It is in the nature of an action for moneys had and received to the use of another. But an examination of the authorities gives no encouragement to that notion as against public agents. That relation is an exception, founded on reasons of public utility. And those reasons are well stated in Gidley vs. Lord Palmerston, on page 288 of 3 Broderip and Bingham's Reports. An action will not lie against a public agent for anything done by him in his public character or employment, though alleged to be, in the particular instance, a breach of such employment, and constituting a particular and personal liability; "such persons are not understood personally to contract," and "on principles of public policy an action will not lie against persons acting in a public character and situation." See, also, Story on Agency, secs. 304 and 305, and the notes to those sections. I am of opinion that the judgment below must be reversed, with costs. Justices Gross and Tracy concurring.

Edwards Pierrepont and Stanley for appellant; Cotterell, Starr and Ruggles for respondent.

LADY GRADUATES' REUNION.

The Late Senior Department of Twelfth Street School—A Bevy of Beautiful Girls—Programme of Exercises.

The second reunion of the graduates of the senior department of Twelfth street school came off yesterday afternoon, and was attended by a brilliant assemblage of fair ladies. Judge E. C. Benedict, ex-trustee, presided, and Miss Lydia Wadleigh, principal, and Miss Holman, vice principal, superintended the exercises. Mr. George F. Bristow, the popular composer, performed the accompaniments on the piano. Among those present were Commissioner Wood, Mr. James W. Girard, Judge Fowler, and other gentlemen of note. The programme comprised a great variety of exercises, and the merry, bright-eyed damsels who took part in them while the hours away by giving much amusement to the audience. After the reading of the Lord's Prayer Miss L. Hopkins recited a poem entitled "A Welcome." This was followed by the reading of the statistics, according to which twelve classes have graduated between the years 1859 and 1870 inclusive. The number of graduates was 352, of these 5 have died, 77 are married, 230 remain single, 97 are engaged in teaching and other employments, 151 are reported as living in the city, and 83 are elsewhere. Among those who distinguished themselves by their parts in the exercises were Miss Louisa Qua and Miss Ella Dey, two fair young damsels; Miss F. Julien, a facetious brunette of sixteen or thereabouts, read a long essay entitled "Auld Lang Syne." It was full of funny allusions and caused considerable merriment. Miss E. T. Chisholm, a vivacious young lady, read a humorous composition of her own, yclept "Spinsterhood," which displayed considerable merit of style. The "Reunion Song" and the "Battle Hymn of the Republic" were then sung by the chorus of graduates. In conclusion Mr. Benedict feelingly alluded to the death of Mr. James D. Oliver, late trustee of the school.

An Arkansas planter, who has carefully noted the work of about sixty Chinamen, reports that they are better cotton pickers than the negroes, and that they are very industrious and obedient, and at the same time cleanly in their habits and persons. They work for fifteen dollars a month and board, and live principally on rice and molasses.

ST. DOMINGO.

The President's Response to Senator Sumner's Resolution.

Instructions to the Naval Commanders in the West Indies—Report and Opinion of Captain Selfridge—Correspondence Regarding Captain Owen—What He Was Told to do—Instructions to Admiral Poor—Correspondence Between Saget and Poor—Admiral Lee's Letter to the Department.

WASHINGTON, Feb. 7, 1871.

In response to the resolution of Senator Sumner of January 4, the President to-day transmitted to the Senate copies of the instructions to the commander of our naval squadron in the waters of the Island of St. Domingo since the commencement of the late negotiations with the Dominican government and the replies of the commander. The document is very voluminous and comprises letters of the Secretary of State to the Secretary of the Navy, directing, in the name of the President, that the naval force in the West Indies be directed to inquire into the political and financial condition of the republic of St. Domingo, and especially regarding the annexation question, all expenses to be defrayed by the State Department. It contains also the instructions to Commodore Selfridge.

In accordance with the above Lieutenant Commander Selfridge, under date of July 14, 1869, reports that if any port in Dominica be purchased or leased by the United States, he recommends that of Nicola Mole, at the north end of the island, and that it was a good time to contract, as Salnave was hard pressed, and the gift of a couple of worn-out monitors would be a sufficient price; that the English and French interests are antagonistic to the United States acquiring a part of the island that may be made useful as a naval station, though not adverse to the acquisition of the whole, as they believe it would help their trade. His report closes as follows:—

While my short stay in the island will not permit me to speak with authority, it is my individual opinion that if the United States should annex Hayti, on the representation of a party, it would be found an elephant—both costly in money and lives.

There is considerable correspondence regarding the sending of Captain Owen to seize a pirate. By telegraph communication from the Secretary of the Navy to Commander Owen, under date of July 13, 1869, he is ordered to remain with his ship at Samana, on the coast of St. Domingo, and to give him the moral support of his guns. A telegraphic order of January 29, 1870, to Rear Admiral Poor, at Key West, says:—

You are commanded to proceed with the Severn and Dictator to Port-au-Prince, communicate with our Consul there, and inform the present Haytien authorities that this government is determined to protect the present Dominican government with all its power. You will then proceed to Dominica and use your force to give the most ample protection to the Dominican government against any power attempting to interfere with it. Visit Samana Bay and the capital and see the United States power and authority secure there. There must be no failure in this matter. If the Haytiens attack the Dominicans with their ships, destroy or capture them; see that there is a proper force both at St. Domingo city and Samana.

Then followed the correspondence between Saget and Poor, in which Saget is informed of Poor's instructions and his determination to carry them out, and a variety of unimportant letters and despatches, Baez on one occasion asking for United States war vessels to carry his mails over to St. Thomas, in order to catch the steamer. The last communication is from Admiral Lee to the Secretary of the Navy, as follows:—

Admiral Lee wrote to the Secretary of the Navy from St. Domingo, January 11, 1871:—

I would like to wait here for the commission, but think it best to be near the Captain General of Cuba. I have ordered the Swatara hence to fill with coal and provisions at Samana, and then to proceed to communicate with all the accessible ports on the north side of St. Domingo; thence with all the healthy and accessible ports from the east end, by the south ports off Cuba, to Havana. I have also ordered the Nantasket, now at Porto Plata, to come here and keep ready for any service which the commission may require. Commander Irwin, in the Yantic, will be the senior officer here.

"THE OLD GUARD."

Annual Meeting and Election of Officers.

The annual meeting of the "Old Guard," composed of the veteran members of those famous old flank companies, the Light Guard and the City Guard, was held at their headquarters, 907 Broadway, on Monday evening, 6th inst. The meeting was very fully attended and a great deal of spirit and enthusiasm was evinced by all present for the success and prosperity of the organization, which is now in an extremely flourishing condition, numbering more than 150 members. After the discharge of routine business the annual election was held for both civil and military officers for the ensuing year, the choice of the corps resulting as follows:—Major, George W. McLean; captains, Lewis D. Bulkley and David D. Hart; first lieutenants, James T. Hatfield and Benjamin Gurney; second lieutenants, Frederick Allen and A. D. Williams; adjutant, William G. Tompkins; quartermaster, Moses A. Wheelock; paymaster, George Brady; surgeon—Vandervoort, M. D., commissary, Joseph B. Wheelock; chaplain, Mathew Hale Smith. In the selection of Major McLean as their commandant by acclamation, the corps rendered a deserved tribute to the founder of the organization. The following non-commissioned officers were elected:—First sergeant, John Martine; second sergeant, Gershom B. Smith; third sergeant, Caleb T. Foster; fourth sergeant, B. Griffin Barney; corporals, Henry L. Faris, John E. Cossart, Amos S. Rogers and Benjamin F. Moore. For civil officers the following were elected:—President, Lawrence Burke; vice-president, Henry Molton; treasurer, George Brady; secretary, J. B. Wheelock.

The Old Guard will celebrate the anniversary of the signing of their charter by Governor Hoffman, on the 22d April, by a full dress parade and dinner at one of our principal hotels. The following gentlemen were appointed a committee to make the necessary arrangements for the anniversary:—James T. Hatfield, Frederick Allen, L. D. Bulkley, Joseph Navlor, Charles A. Peverely, W. S. Fogg, D. M. Henriques and *ex-officio* Major McLean. The honorary members of the Old Guard are Governor John T. Hoffman, Senator William M. Tweed, General Thomas N. Cazneau, of San Francisco; W. W. Tompkins, Lester Wallack and Brigadier Generals James McQuade, Franklin Townsend, William M. Tweed, Jr., W. H. Morris and G. J. Magee.

BLACKWELL'S ISLAND BRIDGE.

How It Is Viewed in Queens County—Monster Petitions Against It.

Senator Genet's pet measure, the Blackwell's Island bridge, causes almost as much of a sensation among the farmers as the market movement. It is not the bridge to which they object, but the taxation it will impose. The bill proposes that Queens county shall give bonds for $900,000, with thirty years' limit, and that it shall pay seven per cent interest to the holders of the bonds, which would amount to $63,000 per year, and in thirty years would sum up an aggregate of $1,890,000, which, added to the principal ($900,000), would make the sum total of $2,790,000. The people of Queens county have no voice in constructing the bridge or in its future management. Petitions against the passage of the bill are being circulated in every hamlet, and receive signatures very rapidly. On Monday, at the farmers' meeting in Jamaica, over 1,000 persons protested against the passage of the bill. It is claimed that the bridge can be of no benefit to any portion of Queens county save Long Island City.

THE LAMP OF DEATH.

Two Girls Burned to Death in Brooklyn.

By the explosion of another kerosene lamp two more girls have been burned to death in Brooklyn. Coroner Jones was notified yesterday to hold inquests over the bodies of two girls, named Mary Hickey and Catharine O'Rourke, who died from burns received from the explosion of a kerosene lamp on Sunday night, at No. 11 Grand avenue. The lamp exploded with considerable force, and the fluid was scattered over four persons, all of whom were badly burned. In the case of the two young girls the accident resulted fatally.

THE TIPPECANOE BATTLE GROUND.—The Lafayette (Ind.) *Courier* of January 28 says:—"We understand that the heirs of General John Tipton are making an effort to get possession of the Tippecanoe battle ground, and one of the heirs, Mr. George Tipton, of Logansport, is now in this city gathering evidence in the case. It will be remembered that this land was given to the State by General John Tipton about the year 1831, or forty years ago. It is now claimed by the heirs that the State has forfeited its title to the lands for non-compliance with the conditions upon which they were deeded to the State. It is claimed by the heirs that one of the conditions was that the State should keep it under fence and build a monument to the memory of those who fell in the engagement."

THE REPUBLICAN COURT.

MRS. GRANT'S RECEPTION.

Inner and Outer Domestic Life in the White House.

Mrs. Admiral Porter's German—Festive Reunion of the Naval Bon Ton.

WASHINGTON, Feb. 7—7:30 P. M.

Mrs. Grant held her usual reception to-day. There was the same rush and crush that there usually is at the White House on these occasions. The same crowd of personal friends called to pay their respects, and more than the average number of strangers inspected the suit of rooms which are opened to the public. The Red Room was much admired, and many paused on their way to the Blue Room to examine the pleasant, cheerful,

COSEY-LOOKING FAMILY PARLOR.

Everything about it is of a warm, bright, crimson hue—carpet, draperies and satin damask furniture. Antique vases and massive bronzes ornament the mantelpieces, beautiful flowers are scattered about, and a very large picture, in a rich, heavy frame, representing President Grant and family, hangs over a crimson-covered grand piano. Just in the rear of the Red Room is the state Dining Room, which looks cold, formal and uninviting; but the

FAMILY DINING ROOM

opposite wears a very different aspect. The table, which is set for dinner, looks very homelike and attractive with its cut glass, silver and bouquets of flowers. A little further on is the billiard room, and beyond it

THE CONSERVATORY,

the attractions of which are so great that you almost dread to return to the pomp and glitter of the Blue Room, where fashion reigns supreme and heartlessness prevails. The conservatory is very large, and, judging from the numbers of people who wandered through it, it must have been one of the greatest attractions of the reception. The air was heavy with the perfume of rare exotics, and flowers of every hue delighted the eye.

Mrs. Secretary Borie, Mrs. Postmaster General Creswell, Mrs. Cramer and Miss Kitty Felt, of Galena, Ill., assisted Mrs. Grant in receiving to-day. Mrs. Grant, with this chosen band, lingered a little too long over the nice lunch which was provided for them to-day, so the crowd in the East Room had begun to grow very impatient before the curtain rose upon

THE GRAND RECEPTION SCENE.

Mrs. Grant seemed in unusually good spirits and wore a becoming dress of white moire antique, dotted with black, the bottom of the trained skirt and the long overskirt trimmed with a narrow black and white moss trimming; a deep black thread lace ruffle on the bottom of the overskirt, high corsage, finished with white point lace, coral ornaments.

MRS. SECRETARY BORIE

wore a fawn colored silk with deep plaited ruffle on the bottom, beaded by a flounce of black Chantilly lace, same lace on overskirt, headdress of white lace and blue ribbon.

MRS. CRESWELL

looked as stylish as usual in a black gros grain trimmed with green velvet and blush roses in her hair.

MISS FELT

wore a lavender silk with white point trimmings.

MRS. CRAMER

looked lovely in a crimson and white silk.

President Grant was present after the meeting of the Cabinet. The stream of visitors continued to pour into the White House during all the afternoon. Lively conversation was kept up among them, and altogether the reception was delightful.

MRS. ADMIRAL PORTER'S GERMAN.

Mrs. Admiral Porter gave a delightful German yesterday, from three to eight o'clock, which was numerously attended. Many ladies were in full evening dress; others wore carriage costumes.

THE JAPANESE

Assistant Minister of Finance and his secretary were present, and their quaint comments upon the scene and life in Washington generally afforded much amusement to the guests. The handsome suit of rooms were thronged with beauty and elegance, and in the spacious, beautifully decorated ballroom light feet kept time to gay music.

NAVY BUTTONS

glittered everywhere, and beautiful toilets graced the scene. Prominent among them were those of Miss Beale, of Chester; Miss Wood, of New York, and Miss Porter, who were assisting Mrs. Porter in receiving.

Personal Intelligence.

Mr. A. H. Laflin, Member of Congress, of Herkimer, N. Y., is sojourning at the Metropolitan Hotel.

Mr. Thomas A. Scott, Vice President of the Pennsylvania Central Railroad, has arrived at the Fifth Avenue Hotel.

Prince Isha Ishekower, of Japan, is among the latest arrivals at the Grand Central Hotel. He has been sent to this country by the Japanese government and leaves to-day for Washington.

Major Thomas B. Riley, of the United States Army, is quartered at the St. Denis Hotel.

General W. A. Butler has arrived at the Westminster Hotel.

Bishop Henry W. Lee, from Iowa, is at the St. Nicholas Hotel.

Mr. Ross Campbell, a prominent citizen of Baltimore, is staying at the Fifth Avenue Hotel.

Colonel Matt Houston, of the United States Army, has taken quarters at the Metropolitan Hotel.

Colonel Charles Sharpe, of Philadelphia, is among the recent arrivals at the St. Denis Hotel.

General James A. Cunningham, of Boston, is stopping at the St. Nicholas Hotel.

Mr. W. W. Secombe, of the Treasury Department, Washington, has apartments at the Westminster Hotel.

Colonel E. E. Rice, United States Consul to the island of Jessa, Japan, is at the Grand Central Hotel.

Colonel C. Morris, of the United States Army, is registered at the Metropolitan Hotel.

OBITUARY.

Henry Steinway.

Mr. Henry Steinway, founder of the well known piano firm of Steinway & Sons, died at his residence, on East Fifty-third street, yesterday morning about three o'clock, after a lingering illness. He was born in the Duchy of Brunswick, Germany, on the 15th of February, 1797. An inherent talent for music, combined with positive inclination, induced him in early boyhood to make his own musical instruments, on which he played with marked predilection and taste. These were the cythera and the guitar. In a short time his efforts in the direction he had selected received a further impetus. He first learned cabinet making at Goslar, and there also worked in an organ factory. After having thoroughly studied the art of piano making he founded an independent business, and becoming dissatisfied with the narrow sphere of a German State he came to America with his family in 1850 and settled in New York. Three years after, with the assistance of his four sons—Charles, Henry, William and Albert—Mr. Steinway founded the present firm. The commencement was made in a small rear building in Varick street, and the extent of the business did not average more than one piano per week. It is unnecessary to speak of the changes which eighteen years have brought forth and how the firm of Steinway & Sons grew to its present colossal proportions. William, Theodore and Albert Steinway succeed their father in the management of the business. Mr. Steinway was universally respected and a host of friends will mourn his loss.

THE FOUNDLING ASYLUM.

This admirable institution still continues its useful work of abridging the crimes which it was founded to prevent. The good Sisters work night and day, laboring untiringly and uncomplainingly in caring for the specks of humanity which might otherwise suffer untimely death or add to the already heavy calendar of crime additional items of infanticide. The cares of the devoted ladies are daily growing greater; the number of waifs committed to their charge increases wonderfully, and yet no murmur. It should be borne in mind that each addition to the family of the institution entails additional expense. The asylum cannot possibly be self-supporting, and the charitable and humane residents of the metropolis can find no better way in which to show their liberality than in aiding the good Sisters to support the institution.

Mr. Dan Bryant has taken a forward step in this regard, and to-morrow afternoon will give a special matinee, at his pretty little hall on Twenty-third street, for the benefit of the asylum, thus giving an opportunity to enjoy a good performance and aid good work.