BENEDETTI'S DEFENCE.

History of the Franco-Prussian War.

M. Benedetti's Account of His Famous Negotiations in Berlin and at Ems.

Count Benedetti publishes, says the Paris correspondence of the London *Times*, October 11, in Paris an octavo volume of 446 pages, entitled "Ma Mission en Prusse," which throws some light on the origin of the war of 1870. The preface consists, for the most part, of a letter addressed to a friend on the 20th November last, which was published in the *Morning Post* of the 9th December. In this he stated that he would ere long publish a full justification, and give the official documents to prove his statements. This promise he now redeems. He says that, save one despatch which remains accidentally in his hands, and certain instructions which he received at Ems, which he was unable to place among the archives of the Embassy at Berlin, he possesses none of those sent him by the Minister for Foreign Affairs. But he has preserved the minutes of his own correspondence, from which and from private letters he believes he has obtained sufficient evidence to satisfy all impartial judges, and these are the only persons to whom he appeals. He was accredited to Berlin at the end of 1864, and he commences his work with an account of the origin of the war of 1866, into which it is needless at the present moment to enter. It is also unnecessary to enter into the discussion concerning reports of the candidature of the Prince of Hohenzollern in the early part of 1869. The important part of the work commences with the account of M. Benedetti's mission to Ems, with regard to which he has in his possession the despatches and telegrams which he received at the time, and the whole of which he publishes. M. Benedetti says:—

"The candidature of the Prince of Hohenzollern was the immediate, if not the actual, cause of the last war, and, that the public may form a judgment with a full understanding of the case, it is indispensable to place before them all the documents."

He reached Ems on the 8th of July, and there he found his instructions from the Duc de Gramont, which set forth that the Prince of Hohenzollern had accepted the candidature for the crown of Spain, and that the Cabinet of Berlin, though not ignoring the fact, had declared itself indifferent to it, declaring it to be the private business of the prince. The Duke says:—

"In the position at which the question has arrived, and with the character which it has assumed in consequence of the emotion displayed in France, it is of the utmost importance that light should be thrown on the veritable intentions of Prussia, and we expect the most important results from the mission to the King with which you are entrusted, for we have the most thorough hope that after having heard from you the sincere and true exposition of the situation as it truly exists, His Majesty, with his clear reasoning powers, will not leave us any longer in doubt as to the intensions of his government. If the head of the House of Hohenzollern has been hitherto indifferent to this business, we demand that he shall no longer be so, and we entreat him to interfere, if not by his commands, at least by his counsels, with Prince Leopold. Given with the authority which appertains to him, they will not fail to exert a decisive influence upon the resolution of the Prince, and to destroy, along with the projects of Marshal Prim with respect to this candidature, the profound anxieties which it has everywhere produced. For us, M. le Comte, we should see, especially in the intervention of King William to prevent the realization of this project, the services which it would render to the cause of peace and the pledge of the consolidation of our friendly relations with Prussia. The government of the Emperor would appreciate a proceeding which, it cannot be doubted, would receive at the same time universal approbation. Inspire yourself with these considerations, enforce them with the King, and force yourself to obtain from His Majesty an assurance that he will advise the Prince of Hohenzollern to reconsider his acceptance."

In a private letter of the same date the Duke wrote:—

"You must absolutely get a categorical answer from the King, followed by its natural consequences. This is the only one which will satisfy us and prevent war—the King's government does not approve the acceptance signified by Prince Leopold, and orders him to withdraw it, as given without the King's permission. We are very much pressed, for we must take the initiative in case of an unsatisfactory reply, and must commence from Saturday the movement of the troops, in order to commence the campaign within a fortnight. You will instruct the King all the examples with which you are acquainted of certain crowns forbidden to certain princes for political reasons. The Duc de Nemours in Belgium; an English, Russian or French prince in Greece; a Murat in Naples, disavowed by the Emperor, &c. I insist, above all, on the necessity of not permitting time to be gained by evasive answers. We must know if we have peace, or if 'une fin de non-recevoir' obliges us to make war. If you obtain from the King that he revokes the acceptance of the Prince of Hohenzollern, it will be an immense success and a great service. The King will have on his side secured the peace of Europe. If not, it is war.

"P. S. Be on your guard against a reply which will consist in saying that the King abandons the Prince of Hohenzollern to his fate and takes no interest in what may happen; that he will remain neutral in the face of any events which may be the consequences of his individual resolutions. We cannot accept this reply as satisfactory, for the government of the King cannot now withdraw itself by mere words from a situation which it has contributed to create. It must be changed, it must be remedied, for us to accept this withdrawal."

M. Benedetti wrote on the 9th July, 1870, that M. Werther had informed him that the Prince of Hohenzollern had consulted the King, who had consented to his acceptance of the candidature, and that it was therefore now most difficult for the King to advise him to give it up. The King, in an interview with M. Benedetti shortly afterwards, confirmed this statement, but asserted that in giving his consent it was simply as head of the family, and with no reference to his position as King of Prussia. M. Benedetti said that public opinion would not see this distinction, and after some further conversation the King said that he had communicated with the Prince and his father to inquire how they looked upon the disturbance caused by the affair. He added that if they were disposed to retire from the candidature he would approve of this decision, but he refused to say anything further until he had heard from them. He said, moreover, that he had not advised the Prince to accept the candidature, but had not thought it right to forbid him from doing so. On the 10th M. Benedetti received the following despatch from the Duc de Gramont:—

"Write me a despatch which I can read to the Chambers or publish, in which you will show that the King knew of and authorized the acceptance of the Prince of Hohenzollern, and above all say that he asked you to permit him to have an understanding with the Prince before letting you know his conclusions."

M. Benedetti sent off on that day a caution to Paris. War, he said, would become inevitable if military preparations were commenced with ostentation. In the evening he saw the King and told him that the French government could not possibly put off its explanations in the Assembly. The King said he had not heard from Prince Leopold, but would receive M. Benedetti in the morning. On the 12th the Duc de Gramont wrote to M. Benedetti a private letter, in which he said, "We really cannot allow our adversaries to get before us to-day as they got before Austria in 1866. Besides, I tell you frankly public opinion is vehemently excited, and threatens to take the control of affairs out of our hands. We must begin, and we shall not wait longer than until the arrival of your despatch to call in the 50,000 men who are liable. I beg you earnestly to telegraph to me something clear and decisive. If the King will not counsel the Prince of Hohenzollern to give way—well, there is nothing for it but war, and in a few days we shall be on the Rhine." On the 11th M. Benedetti obtained another audience of the King, which lasted an hour. The King asked the French minister to telegraph to Paris and say that he expected an answer from Prince Leopold that evening or next day, and would see M. Benedetti immediately upon its arrival. In the course of the conversation the King said, "I am not so ignorant as you may suppose of the preparations your people are making in Paris, and I tell you frankly that I on my side am taking care not to be surprised." He afterwards said that he trusted peace would be maintained, and that it would be if at Paris they would only wait the short time that would be necessary to enable him to contribute to that result.

It was not until the 13th that the King received his answer from the Prince of Hohenzollern, and what occurred on that day is detailed in the following despatch to the Duc de Gramont, dated Ems, July 13, 1870:—

"M. LE DUC—I had the honor of telegraphing yesterday to Your Excellency that I had proceeded to the King to renew my requests and to press His Majesty to put me in a position to acquaint you with his resolutions. The King, as I have informed you, replied that he had received a telegram announcing that the reply of the Prince of Hohenzollern had been despatched, and that he would receive it this morning. He begged at the same time to assure me that he would hasten to satisfy me as soon as it should have reached him.

"Your telegram of seven o'clock yesterday evening was sent to me in the middle of last night, by which, while announcing that Prince Anthony had notified to the Spanish Ambassador in Paris that his son had desisted from his candidature, you request me to ask the King to associate himself with his resolve, and to give us the assurance that he will not permit Prince Leopold to reconsider his renunciation.

"Seeing that the King on rising had gone to the mineral springs, I did not lose a single moment in approaching His Majesty and executing your commands. I informed the King of the communication which M. Olozaga had made to you. I added that no course taken by the Prince could be of no value to us if it were not approved by His Majesty, and that we should be further assured that he would not be permitted later to resume the project which he had abandoned; and that this guarantee, necessary for the restoration of confidence, could only be given us by the King; and I asked His Majesty to commission me to report to you that if occasion arose he would forbid the Prince from again becoming a candidate. Appearing to be surprised at the course taken by Prince Anthony, intelligence of which he had not received, as well as at the request which I conveyed to him at the same moment, the King replied that he knew nothing yet of the determination of Prince Leopold; that he expected every moment the message which was to inform him of it, and that he could not, consequently, give me any information or authorize me to transmit to you the declaration which I was soliciting. I replied that the renunciation of Prince Leopold could be no longer doubtful after his father had made it known to the Spanish Ambassador; further, that we might act upon the hypothesis and admit that it would be ere long an accomplished fact, and that His Majesty might therefore give us at the present moment the assurance that he would at need exert his authority to prevent any fresh attempt with a view to reconsider this first combination. 'You ask of me,' said the King, 'an engagement without a term, and for any case; I could not undertake it.' To justify this mode of looking at it His Majesty maintained that he could not destroy his own freedom of resolve, and that he must in all matters reserve to himself the power of taking account of circumstances, under various eventualities, which might ultimately arise; that assuredly he had no hidden purpose, and that this affair had occasioned him too much serious anxiety for him not to desire that it might be irrevocably removed; but that it was in any case impossible for him to go as far as we were asking him. 'I would explain myself up to a certain point,' continued I in my turn, 'that the Sovereign or his government might not wish to give a pledge for the future, but to rest on the standpoint on which the King has placed himself. I address myself to the head of the family of the Hohenzollerns, and in this relation Your Majesty may assuredly grant, without prejudice of any kind, the demand which I have been entrusted to present to you.' I applied myself to the duty of laying down precisely the object of this proceeding, and to prove that we had in view solely the desire to get rid of any new disagreement and to restore complete confidence to disturbed interests. The King absolutely refused to acquiesce in it, and it was but too easy to convince me that I should not succeed in changing the views of His Majesty, who soon put an end to our interview on the public promenade, by expressing his regret that he could not make what he called a new and unexpected concession. I returned to the hotel, and there found your telegram dated the previous night at 1:45. I considered that if the King had been thoroughly informed—and I must believe this after what he had kindly told me—the courier whom he expected from Sigmaringen would arrive before the middle of the day, and that he would send for me to inform me, as he had promised, of the reply of the Prince of Hohenzollern, and that I should have the opportunity of a fresh explaining myself to His Majesty. The King did, in fact, receive, a few hours later, the message which had been sent him, but foreseeing, doubtless, my intention, in place of receiving me he charged one of his aides-de-camp to inform me in his name that Prince Leopold had retired from his candidature, and that His Majesty urged me to telegraph to you that he would consider this affair as definitively concluded. While inviting my informant to thank the King for this communication, I begged him to remark that I had invariably solicited the authority to transmit to you along with the withdrawal of the Prince the explicit approval of His Majesty. I told him, further, that I had received a fresh telegram from Your Excellency, which obliged me to insist upon the matter which I had had the honor to lay before the King in the morning, and that I was under the necessity, before sending you the intelligence which His Majesty had been kind enough to give me, of asking to have these two points settled. Having explained to the King the desire which I had expressed to him, the aid-de-camp returned to me and declared that His Majesty had seen no difficulty in permitting me to send you word that he approved of the renunciation of Prince Leopold; and I wrote down, in the presence of his messenger, the second paragraph of the despatch which I sent you this evening at seven o'clock. In the same telegram I told you how the King had received the desire I had expressed of obtaining a fresh audience, to submit to him once more, and to develop more completely than I had been able to do in the morning the considerations which showed the propriety of our proceedings in the matter of the guarantees for the future.

"Everything leads me to believe, and I cannot conceal it from you, that the King is firmly decided to refuse us this satisfaction. Notwithstanding the apparently gracious reception which he has not ceased to accord to my requests, I have been able to perceive clearly that His Majesty yielded with as much regret as repugnance before our attitude in undoing the difficulties which he had contributed to produce; and without any doubt he does not conceal from himself the gravity of the check which he has personally met with. Having this feeling, the King considers that he would increase the discontent which the renunciation of the Princes of Hohenzollern will provoke in Germany, and the responsibility of which will lie less upon this candidate than upon His Majesty himself if he were to subscribe to the obligation which we demand he should accept.

"I foresee even that from this moment it will be less easy for me to approach him, and I doubt not that he desired to avoid giving me the opportunity of doing so when he entrusted to one of his officers the duty of informing me of the resolution of the Prince of Hohenzollern. Your Excellency may be assured in any case that I will not neglect any effort to fulfil your instructions and the commands of the Emperor, and that I will employ all needful energy. You will allow me to report to you this position of affairs, and to hope that you will kindly appreciate it. I will await your direction before quitting Ems, and I need not say that I will go directly to Paris if you consider it fitting. Accept, &c.,

"BENEDETTI."

After the receipt of the telegram mentioned in the above letter the Duke sent a despatch desiring M. Benedetti to make a last effort to induce the King to say he would forbid the Prince to reconsider his renunciation. This the Duke said was a small matter to the King, but a most important one to the French government. The Comte replied that he could not readily speak to the King, but had had some conversation with the Minister, who, having laid the matter before the King, returned with the statement that he had nothing further to communicate. On the 14th M. Benedetti saw the King at the railway station, and His Majesty informed him that any further negotiation might be carried on by the government. The King returned the next day to Berlin, M. Benedetti having in the meantime reached Paris.

THE BOARD OF HEALTH.

This Board met yesterday at the usual hour, and the following reports of the several bureaus were received and adopted:—

The Sanitary Committee respectfully submit the following report of the work of the different bureaus for the week ending October 21, 1871:—

SANITARY INSPECTION.

The City Sanitary Inspector reports a total of 2,130 inspections by the Health Inspectors, as follows, viz.:—3 public buildings, 1,049 tenement houses, 158 private dwellings, 163 other dwellings, 7 manufactories and workshops, 8 stores and warehouses, 93 stables, 3 markets, 11 fat-rendering establishments, 3 dumping grounds, 56 slaughter houses, 71 sunken and vacant lots, 92 yards, courts and areas; 51 cellars and basements, 65 waste pipes and drains, 158 privies and water closets, 59 streets, gutters and sidewalks; 8 cisterns and cesspools, 4 piggeries, 15 dangerous stairways, 56

OTHER NUISANCES

and 22 visits of contagious diseases. The number of reports received from the Health Inspectors was 555. During the week 39 complaints have been received from citizens and referred to the Health Inspectors for investigation and report. This report shows that during the week the Disinfecting Corps have visited 22 premises where contagious diseases were found, and have disinfected and fumigated 21 houses, 21 privy sinks, together with clothing, bedding, &c. Four cases of smallpox were removed to hospital by the Ambulance Corps. This report also shows that 169 sinks and cesspools have been cleansed and disinfected by the night scavengers, under

PERMITS OF THE BOARD,

and 414 loads of nightsoil removed from the city. Two complaints concerning street pavements, sewers, &c., were referred to the proper departments. Permits have been granted to vessels to discharge cargoes on vouchers from the Health Officer of the Port. There have also been 3,185 cattle inspected at the market yards, of which 50 were found bruised and 16 badly bruised.

PUBLIC HEALTH.

The following is a comparative statement of the number of cases of contagious diseases reported:—

	October 14.	October 21.
Typhus fever	6	1
Typhoid fever	9	15
Relapsing fever	0	0
Scarlet fever	39	27
Smallpox	13	9
Measles	0	0
Diphtheria	3	4

The Register of Records reports that during the past week there were registered 441 deaths, being a decrease of 45 from the previous week, and 64 less than for the corresponding week of 1870. The number of fatal cases of smallpox declined from 9 to 3, those of scarlatina from 9 to 8, those of typhoid fever from 8 to 6, those of typhus fever from 2 to 1. Measles has occasioned no deaths within the past three weeks. In the past week the mortality of diphtheria and croup

TOGETHER DIMINISHED

from 13 to 10, and that of whooping cough increased from 15 to 16. There were 5 deaths from remittent fever—an increase of 3—and 3 from intermittent fever, against the same number in the preceding week; 53 deaths were due to diarrheal diseases—an increase of 18—and 65 to phthisis pulmonalis—a decrease of 24. The local respiratory diseases also decreased in mortality from 77 to 67. The following were the principal meteorological features of the week as recorded for this department at the Cooper Union:—Mean reading of barometer, 30.042 inches; maximum temperature, 73 degrees; minimum temperature, 35 degrees; mean temperature, 53.25 degrees, being 2.81 degrees less than for the corresponding period within the past ten years; mean degree of humidity, 49.76. The attorney reports for the week ending October 21, 1871:—Number of actions commenced for non-compliance with orders or violation of the Health laws or ordinance, 109; number of judgments obtained in pending actions, 29; number of actions discontinued upon evidence of abatement of all cause of complaint, 17; number of complaints by inspectors examined and form of order endorsed thereon, 242; number of such complaints examined and returned for additional statement, 42.

ATTEMPTED SUICIDE OF AN ALLEGED COUNTERFEITER.

Some days ago a man named Patrick Kelly was brought before Commissioner Shields and charged with having dealt in counterfeit money. From the statement of Mr. A. H. Purdy, United States Assistant District Attorney, it would appear that Kelly is an old offender in this line, and that the government had been a long time endeavoring to arrest him. He was asked to furnish bail in the sum of $50,000, but he stated he could not give that amount. Finally he was removed to Ludlow Street Jail. Yesterday Kelly was brought to his own house by an officer, with the view of enabling him to engage counsel for his defence and obtain a change of clothes. Kelly went to the water closet, and while there cut his throat, the blood flowing from his wound profusely. Two doctors, who were at once called in, sewed up the wound, and believing it to be of a dangerous, if not fatal character, gave directions that Kelly should not be removed from the house. This statement caused considerable sensation in the United States Building yesterday.

THE COURTS.

A Suit in Admiralty—The Fisk-Stokes Case—Liabilities of a Suspended Bank—Valuable Property at Fort Washington in Litigation—Suit Against a Receiver—The Folsom Will Case.

UNITED STATES SUPREME COURT.

WASHINGTON, Oct. 25, 1871.

No. 168. *Alexander vs. Rodriguez et al.*—Appeal from the Circuit Court of California.—The widow and heirs of one Villa were indebted to the defendant, Rodriguez, in the sum of about $10,000, the larger part of which was secured by mortgage on certain lands of the Ranche Corral de Piedra, and which are now in controversy. In April, 1864, for this indebtedness, equalling the land in value, the widow and five of the seven heirs executed to Rodriguez a deed for the lands, which, as claimed by the appellees, was in full payment of the debt, and was by him so received. Subsequently the widow and six of the children joined in a conveyance of the same property to the plaintiff (appellant), who instituted the proceeding to set aside the deeds to Rodriguez, alleging that they had been given merely as security for a pre-existing debt, and that there was no intention to convey the fee to him. The Court below sustained the title of Rodriguez, and the case comes here, where it is insisted that the evidence is overwhelming to show that the parties regarded the deed as a continued security for the debt in question, and that the expectation was that Rodriguez would treat the deed to him as a security and not as an absolute property. The evidence is examined at great length by counsel, and the argument of the case is still in progress.

UNITED STATES DISTRICT COURT—IN ADMIRALTY.

Before Judge Blatchford.

Dunham vs. 1,265 Vitrified Pipes.—The libel in this case was filed to recover the freight of the pipes, which had been imported from Glasgow, Scotland, to New York. The party to whom the pipes had been consigned declined to pay the freight, on the ground that it was delivered in a broken, injured condition. The libellant claims that only a few of the pipes were broken, and that this breakage was caused by the perils of the sea during a tempestuous voyage. The case has not concluded.

UNITED STATES CIRCUIT COURT.

Judge Woodruff was occupied yesterday in hearing motions in patent suits.

SUPREME COURT—CHAMBERS.

A Step Backward in the Stokes-Fisk Case.

Before Judge Ingraham.

Stokes vs. Fisk.—This case, in which exciting developments have been eagerly anticipated, reached a sudden and unexpected *finale* yesterday morning. As the case was called counsel for the plaintiff stated that the motion on his side had been withdrawn. This, it will be remembered, was a motion to set aside the award of arbitrators to whom the matters in dispute between the parties to the action had been referred. As the case stands there is a fair promise that the racy affidavits of which so much has been said and written, and the contents of which there has been on the part of many such feverish anxiety to know, will now be consigned to the tomb of the Capulets.

Important as Touching the Liability of a Suspended Bank.

In the Matter of O. H. P. Archer, Receiver of Stuyvesant Bank.—This was a motion to compel the Receiver of the Stuyvesant Bank to pay a check for $212. The check in question was deposited in the bank at three o'clock P. M. on the day the bank suspended, such suspension having taken place at one P. M. It was urged for the motion that the check was in the nature of a special trust, and not the property of the bank. The motion was granted.

SUPREME COURT—SPECIAL TERM.

A Nice Dispute About a Nice Piece of Property at Fort Washington.

Before Judge Cardozo.

Susan B. Ward vs. B. L. Ackermann et al.—This is a suit brought to cancel a deed and recovery of about seventeen acres of land in the vicinity of King's Bridge. In March, 1867, the property was conveyed by the plaintiff to Ackermann and Harrison, another of the defendants, the consideration being $137,000, a portion of the same being secured by bond and mortgage. One W. H. Potter, a real estate agent, attended to the negotiations. The plaintiff states that shortly after the sale she learned that Potter had an understanding with Ackermann and Harrison by which he was to receive one-half of the profits of the future sales of the property, and that a few acres of it had been sold for nearly $80,000 an acre, and that Potter received a large amount of this as his portion. The plaintiff claims that she was induced to take a much less sum than she otherwise would had she supposed Potter to have had any pecuniary interest in the same, and not acting for her best interest. Upon this state of alleged facts she avers that she has been deceived and defrauded by the three parties named, and asks not only a cancellation of the deed and reconveyance to her of the property, but an accounting of the profits already made by them on the portion sold. The defence is a general denial of the plaintiff's allegations imputing to them fraud, and that the plaintiff was paid all the property was worth at the time of sale. The property is now estimated at $900,000. The case is still on.

Decisions.

By Judge Ingraham.

R. B. Winchell vs. E. Winchell.—Motion denied, but plaintiff may serve reply to answer unless defendant stipulates to withdraw defence of condonation.

Samuel Friedberger et al. vs. Wm. E. Balch et al.—Motion granted.

Brewster vs. Bostock et al.—Motion denied; defendant may renew on other papers on judgment of costs.

In the Matter of Michael Dooley for Permission to Build, &c.—Application granted.

SUPERIOR COURT—SPECIAL TERM.

A Receiver Who Does Not Wish to be Disturbed.

Before Judge Jones.

Barr vs Greggory et al.—A new phase in this case, which in one shape and another has been before the Courts for the past fifteen years, was a motion on part of the plaintiff for an injunction to restrain the defendants from interfering with him as receiver. The case was argued at length, when the Judge took the papers.

SURROGATE'S COURT.

The Folsom Will Case.

Before Surrogate Hutchings.

On the 18th of September last Mrs. Virginia Folsom died in this city. She made a will in which she bequeathed her library, a case of surgical instruments and some family portraits to her son, Mr. Francis T. Folsom, and the remainder of her property to her daughter. The will is now contested by Mrs. Virginia Mary Wilcox, one of the daughters, on the ground that undue influence was exercised on the testatrix when she signed the instrument.

Mrs. Amelia Southard, of Peekskill, N. Y., testified that she was acquainted with Mrs. Folsom; a Mr. Johnson was present when she executed the will; she was raised up in the bed when she signed the will; her daughter, Mrs. Sharpe, was present.

Mr. Johnson, of No. 263 West Twenty-fifth street, deposed that the last witness helped up Mrs. Folsom in the bed to sign the will; did not hear Mrs. Folsom say that the instrument exhibited was her last will and testament.

The case was then adjourned.

COURT CALENDARS—THIS DAY.

UNITED STATES DISTRICT COURT—ADMIRALTY CASES—Held by Judge Blatchford.—No. 196, Chase vs. Bark Alice Taintor; No. 140, Luce vs. Steamer City of Baltimore; No. 201, Corsen vs. Steamboat Wyoming; No. 199, Sherman vs. Mott; No. 67, Benary vs. Ship Prince Albert; No. 221, Boston, Newport and New York Steamboat Company vs. Propeller Oceanus; No. 226, Rupp vs. Edge; No. 152, Evans vs Wilkesbarre barge 129; No. 130, Brown vs. The Brig Annie Lindsley; No. 141, Keen vs. Audenried; No. 206, Bayle vs. The Schooner Breeze; No. 232, Marshall vs. The Steamer Ellen S. Ferry.

SUPREME COURT—CIRCUIT—Part 2—Held by Judge Brady.—Case on.

SUPREME COURT—CHAMBERS—Held by Judge Ingraham.—Nos. 76, 92, 172, 184, 190, 193, 194.

SUPERIOR COURT—TRIAL TERM—Part 1—Held by Chief Justice Barbour.—Nos. 649, 655, 805, 797, 368, 563, 531, 1159, 1161, 561, 1091, 789. Part 2.—Nos. 930, 1801/2, 1216, 1080, 782, 1132, 1140, 1170, 1148, 888, 612, 1120, 1155, 66, 988, 876, 882.

COMMON PLEAS—TRIAL TERM—Part 1—Held by Judge Loew.—Nos. 68, 1013, 772, 984, 944, 925, 1008, 1034, 932, 151, 895, 510, 993, 812, 1035.

MARINE COURT—TRIAL—TERM—Part 1—Held by Judge Joachimsen.—Nos. 6240, 6142, 7003, 7004, 7005, 7006, 7007, 7008, 7025, 7026, 7027, 7028, 7165, 7166, 7107. Part 2—Held by Judge Curtis.—Nos. 5972, 5819, 6568, 6674, 6642, 6753, 7013, 7014, 7015, 7017, 6992, 7018, 7019, 7020, 7021, 7022, 7023, 7024. Part 3—Held by Judge Alker.—6767, 6568, 6804, 6808, 7027, 7498, 7579, 7639, 7009, 7010, 7011, 7012, 7627, 7749, 7750, 7751.

BROOKLYN COURTS.

UNITED STATES DISTRICT COURT.

The Result of Refusing a Man Passage on a Steamboat.

Before Judge Benedict.

David F. Barney yesterday filed a libel against the steamboat D. R. Martin, plying between Suffolk county and New York, claiming damages in the sum of $25,000 for being refused passage on that steamer. He alleges that on Monday last he purchased a ticket for New York, but that the captain and crew of the vessel refused to receive him, and ejected him from the vessel, notwithstanding that there was plenty of room and he was in a fit condition to be received as a passenger. He claims that not being allowed to go by the boat he was damaged in his business to the amount above stated.

Process was issued and made returnable November 8 next.

Condemning a Propeller.

Process was returned yesterday in two cases against the steam propeller Rondout, whose hull and boiler have not been inspected according to law. The owners failed to appear and the vessel was condemned and ordered to be sold.

UNITED STATES COMMISSIONERS' COURT.

The Homicide Aboard the Ship Nightingale.

Before Commissioner Winslow.

Edward Barnes, a sailor on board the ship Nightingale, who was accused of having murdered H. P. Hunt, the first mate of that vessel, off Cape Horn, on the 11th of July last, was discharged by Commissioner Winslow. The Commissioner rendered the following decision in discharging the prisoner:—

The defendant shipped on the Nightingale on the 1st of May last from the port of New York on a voyage to San Francisco. About four o'clock on the morning of the 11th of July it was his turn at the wheel. Being some ten or fifteen minutes behind time, the first mate, Hunt, inquired why he was so slow; to which the defendant replied that the weather was very cold, and he was putting on his oil suit; whereupon the mate seized and beat him upon his bare head with a belaying pin, an instrument about the size of a policeman's club. While beating him with this belaying pin the second mate and a sailor, attracted by the blows, came to the rescue of the defendant, and took the weapon from the hands of the first mate, who then called for another, and while Barnes was going forward to the main deck, as he was ordered to do by the second mate, the first mate again seized the defendant, and in the struggle both fell. The mate got up and took another belaying pin from the rail and struck Barnes several times on the head, when the defendant stabbed him in the bowels with his sheath knife, which sailors always carry and use in their ordinary duties aboard ship. From this wound the mate died on the 18th of July. The testimony of the captain and second mate was taken before the American Consul at Rio Janeiro, and they both gave the defendant an excellent character for being a quiet and peaceable man, while the deceased "was a rough kind of a man, using violent language most of the time." The Consul expresses the opinion that "the killing was in self-defence." The defendant and two witnesses were sent to this port by the ship Portsmouth, that the case might be investigated by the civil tribunals. The first mate was a powerful man, six feet high, and the defendant much inferior to him in size and strength. The defendant had "retreated to the wall" to escape the violence of the deceased; was overtaken, and while being clubbed with this terrific weapon, in the last extremity used his knife, the only weapon at his command, clearly in self-defence. I do not think there is probable cause to believe the defendant guilty of any offence, and therefore discharge him from custody.

SUPREME COURT—CIRCUIT.

Action to Recover Possession of Land.

Before Judge Pratt.

William J. Blydenburgh and Others vs. James Nesmith.—The plaintiffs, as heirs of Samuel Jackson, bring suit to recover possession of a lot of land in Dock street, valued at about seventeen thousand five hundred dollars. The plaintiffs claim the land through the title of their ancestor. Nesmith claims to have had possession for more than twenty years, and he claims title to the land by grants from New York city to Joshua or Comfort Sands. The most of the evidence is documentary. Case on.

CITY COURT.

A Desperate Young Highwayman Sent to the Penitentiary.

Before Judge McCue.

Oliver Cantlin, a youth about seventeen years of age, hailing from Greenwich street, New York, was convicted a short time since of highway robbery. On the night of the 13th of July last he followed Mr. Edward P. Arthur, of President street, Brooklyn, from New York, and at the corner of Henry and President streets knocked him down with an iron bolt which he had taken from the gate at Hamilton avenue ferry and robbed him of his wallet. Mr. Arthur's cries attracted the attention of Officer Porter, of the Butler street station house, who hastened towards the scene and caught young Cantlin as he was attempting to escape. The wallet was found in his possession. The iron bolt was found in the street, where the highwayman had thrown it in his flight. Mr. Arthur was struck on the head and rendered almost insensible by the blow, but he was not seriously injured.

Cantlin was arraigned for sentence yesterday morning. In passing sentence Judge McCue said that in consequence of the prisoner's youth and the respectability of his parents he would sentence him to the lowest term allowed by law and would send him to the Penitentiary instead of the State Prison. The sentence of the Court was imprisonment in the Kings County Penitentiary for five years. The prisoner shed tears upon receiving the sentence.

PUBLIC INSTRUCTION.

Meeting of the Commissioners of Common Schools—Reducing Expenses—Trustees of the City College in Session—Granting Fellowships.

The Commissioners of the Department of Public Instruction met yesterday, at four P. M., and adjourned after adopting a resolution presented by Mr. Bell, to the effect that a resolution adopted last April in relation to six musicals to be given by Professor Wehli to the pupils of the Normal College be reconsidered, as the present finances of the Board will not admit of the expense.

COLLEGE OF THE CITY OF NEW YORK.

The Trustees of the College of the City of New York held a meeting, at which Commissioner Palmer presided, in the absence of Commissioner Smyth. After the reading of the minutes Mr. BELL moved that the portion of the minutes referring to the appointment of Gustav Fisher in the place of Ernest Fiston be not approved.

Upon motion of Mr. BELL that the minutes as amended be approved Mr. LEWIS offered a motion referring the question to the counsel of the Board.

After considerable discussion a resolution, offered by Mr. JARVIS, to refer the question to the Executive Committee was adopted.

A resolution was adopted making a requisition for $125,000 to meet current expenses of 1872.

A communication was received from a large number of merchants suggesting that, "inasmuch as about one-half of the entire population of the Continent speak the Spanish and its kindred tongues, Spanish, French and German be taught, and that each be presented at the option of students at the commencement of their studies."

A resolution was adopted amending the bylaws and providing that the Faculty of the College name at each "commencement" not more than five of the graduating class to be appointed "fellows," who should act as instructors for not less than ten years, receive not more than $500 each year, and if found capable should be entitled to certificates entitling them to appointments as teachers to any public school in the city.

A communication was received from General Webb containing a copy of resolutions adopted by the Faculty of the College in relation to the death of Dr. Horace Webster. It was ordered on file being printed in the minutes.

The following communication was received and read:—

SUPERINTENDENT'S OFFICE, NEW YORK, Oct. 25, 1871.

TO THE HONORABLE THE BOARD OF PUBLIC INSTRUCTION:—

I respectfully report that since the opening of the evening schools all of our schools have been visited and inspected, either by myself or the Assistant Superintendents, and their discipline, mode of organization, &c., inquired into.

The number of pupils on register at the date of visit was 10,938 males and 5,165 females. There were in attendance at the first session on the 2d inst. 7,023 males and 3,664 females, making a total of 10,687 pupils. In addition to this there were on register in the three colored evening schools 214 pupils, with an attendance of 96. The whole number of classes formed in these various schools was 504, with, inclusive of principals, 543 teachers. These classes are generally either of a primary grade or of one of the lower grades of the grammar schools.

The school recently opened for the first time in Carmansville appears to have made a successful commencement, 113 pupils being in attendance on the first night and 230 having been registered.

Very great care has been exercised by the principals of these schools in their organization. The applicants for admission have been rigidly scrutinized, and, as far as it was possible, all have been excluded who did not present satisfactory evidence of respectability and a desire to benefit themselves by the instruction offered. In consequence of this the tone and discipline of these schools are much more satisfactory than was the case last year, and the promise of efficient work on the part of the teachers greatly increased.

From the returns made to me by the principals of the grammar and primary schools, it appears that the number of pupils on register on the 30th ult. was 98,39[illegible] and the average attendance for the preceding month 84,132, which is slightly in excess of the attendance for the corresponding period last year.

The number of days of absence by teachers during the month of September was 1,059, which is 6 days in excess of that reported in September, 1870. Most of the absence is for periods of less than five days and therefore does not, under the bylaws, require to be excused by the Board. The whole number of teachers whose absence severally amounts to upward of five days was 39 and the whole amount of such absence only 235 days. This is a fact which seems to require the careful consideration of the Board. Since the 1st inst.

VISITS HAVE BEEN MADE

to most of the corporate schools, as required by law, viz.:—To the schools of the Children's Aid Society, twelve in number; the schools of the Female Guardian Society, twelve in number; the schools of the Roman Catholic Orphan Asylum, the New York Orphan Asylum, the Leake Watts Orphan Asylum, the New York Juvenile Asylum and House of Reception, the Colored Orphan Asylum, the Protestant Half Orphan Asylum, the Ladies' Home Mission, the Five Points House of Industry and the Nursery and Child's Hospital, making in all forty-four schools, containing on their registers 5,160 pupils, with an attendance at the time of visitation of 6,180 pupils. In most respects these various schools appeared to be well organized and conducted. The sessions are reported to be of the length required by law, and from the facts obtained during these visits, the provisions of the law in relation to sectarian teaching appeared to be in all respects carefully and fully observed. The other corporate schools not included in the above will be visited hereafter, and the results communicated to the Board. Respectfully submitted,

HENRY KIDDLE, City Superintendent.

The meeting then adjourned.

ROSENZWEIG ON TRIAL.

The Trunk Horror To Be Judicially Investigated—The Whole of Yesterday's Session Occupied in Swearing a Jury—The Trial Proper To Be Entered Upon This Morning.

The trial of Jacob Rosenzweig, the hero of the revolting trunk sensation, for causing the death of Alice Augusta Bowlsby, of Paterson, N. J., was adjourned from last Monday on account of a scarcity of jurors until yesterday, when it was again called up at the General Sessions, before Recorder Hackett. Long before the hour arrived for the opening of the Court people commenced to assemble in the halls and about the passage ways of the "brown stone building;" but, as on former occasions, when

IMPORTANT AND GRAVE TRIALS

were in progress, a strict guard was kept at the doors, and no one was permitted to pass into the court room before undergoing the searching scrutiny of Captain McCloskey's deputies. Every particle of available space was, however, occupied, and the most intense interest was manifested in the proceedings on the part of those present.

THE PRISONER ROSENZWEIG

was brought to Court in the prison conveyance at half-past ten o'clock, and was quickly hurried up the stairs and into the apartment devoted to persons charged with crime. He looked as usual, but his massive frame shook and his countenance paled with the exertion of ascending the two flights of stairs leading to the General Sessions.

District Attorney Garvin was on hand, wearing his usual imperturbable exterior, while Assistant District Attorney Sullivan sat beside him to assist in the prosecution. On the bench with the Recorder sat his colleague,

JUDGE BEDFORD,

who, by his fearless action against abortionists, and his prompt punishment of those notorious scoundrels "Doctors" Lookup Evans and Wolf, has not only raised himself high in the estimation of every right-minded person, but has also obtained the most complimentary endorsements from the various medical faculties throughout the country.

Just previous to empannelling a jury, Mr. Hummel for the defence, arose and made a harangue to the Court, stating that his partner, Mr. Howe, was indisposed, and could not be present to conduct his part of the trial, which, from the gravity of the charge and the peril in which the prisoner stood, was absolutely necessary. He therefore prayed that an adjournment might be ordered for a few days, to give Mr. Howe time to recover sufficiently to put in an appearance.

The Recorder denied the motion. He had informed Mr. Howe that the case would be set down peremptorily for to-day (yesterday), and that was perfectly understood by the invalid. The case was then ordered to proceed. The Court offered to assign counsel to assist the youthful barrister if he so desired, but the offer was declined, as he did not think any assistance would be required to-day (Wednesday), and probably by Thursday his associate would be convalescent and therefore able to resume his duties.

THE EMPANNELLING OF A JURY

was then commenced. The first juror called was Thomas Revel, a dry goods dealer. He was found to be so inebriated that he was immediately excused by the Recorder. The task of selecting a jury was after this continued, but the proceedings were very tedious. After two hours and a half of monotonous examination of candidates for jurors the following gentlemen were selected and will constitute the arbiters of the fate of Jacob Rosenzweig:—

Maurice Manitok, cigars, No. 550 Eighth avenue.
William Rane, tailor, No. 24 West Eighth street.
Thomas McPherson, builder, No. 599 Third avenue.
John Dew