THE COURTS.

Important Decision in Bankruptcy—The Case of Alderman O'Neill in Court—The Irving-Dowley Assault Case—Suit Against Ex-United States Attorney General Black—Verdict Against a Railway Company—Important Storage Case—A Forger Sentenced by Judge Bedford—Business in the General Sessions.

UNITED STATES SUPREME COURT.

Questions of Practice in State Courts—Jurisdiction of United States Circuit Courts.

WASHINGTON, Nov. 17, 1871.

No. 268. *Phœnix Insurance Company vs. Slaughter, &c.*—Error to Circuit Court for Mississippi.—This is an action on a policy of insurance, and judgment below was for the defendant in error. A new trial was denied, and the cause comes here for review on questions of practice. The plaintiff in error files no brief, and the case is submitted on the brief of the defendant.

No. 289. *Christmas et al. vs. Gaines, Julian et al.*—Appeal from the Circuit Court for the Southern District of Mississippi.—This was a proceeding by bill in equity, instituted by the appellees to subject a debt due by one Lyon, one of the appellants, to Christmas to the payment of a judgment of the appellees, recovered against Christmas, on the ground that the debt due from Lyon had been assigned as a pledge to indemnify the sureties of Christmas on a writ of error bond, given on the suing out of a writ of error to the judgment to this Court, in which the judgment was affirmed at the December term, 1868. The proceeding was successful below, and it is here contended that the Court below was without jurisdiction, because the controversy was in fact between citizens of Kentucky, and that the decree must for that reason be reversed. On the merits it is said there was no assignment, as alleged, and if there was there was no such notice to persons debating with the assignor as would prevent the acquiring an interest in the notes representing the debt.

UNITED STATES DISTRICT COURT.

Important Decision in Bankruptcy—The Duties of Register—How Bankrupts' Accounts Are To Be Audited.

Yesterday Judge Blatchford rendered quite an important decision in bankruptcy, in the matter of Abraham B. Clark, as to who her the Register in that case (Mr. J. T. William) was bound to audit and pass certain accounts filed with him at an adjourned second meeting of creditors of the separate estate of Clark, held on the 9th of October, 1871, and direct the payment of such outstanding claims as were not objected to.

THE DECISION.

Judge Blatchford said—Inasmuch as the Register has, by section 4 of the act and General Order No. 5, the general power to audit and pass the accounts of assignees, and by section 27 it is provided that at the second meeting of creditors the assignee must report and exhibit to the Court and to the creditors just and true accounts of all his receipts and payments, verified by his oath, and produce and file vouchers for all payments for which vouchers are required by any rule of the Court, I think that the register has power, and that it is his duty to audit and pass any accounts so reported and exhibited. Section 27 requires the assignee to exhibit at the same time a schedule of creditors and property and a statement of the whole estate as then ascertained, and of property recovered and property on standing, and debts or claims undetermined, and in news remaining in hand, and then and there the creditors, by a majority in value, are to determine what net sum shall be divided, retaining a sum sufficient to provide for undetermined claims not proved and for other expenses and contingencies. The creditors are to have notice of this meeting, and must, therefore, be prepared to object, if they desire, to such accounts as the assignee shall then report and exhibit, under section 27. In order to arrive at the net sum to be divided the outstanding claims not disputed or objected to must be arrived at and their amount deducted. If they are not disputed or objected to it is the duty of the Register to direct their payment as part of the business of auditing and passing the accounts, even though they have not been actually paid by the assignee. They may properly come under the head of "other expenses," the amount of which is to be retained by the assignee, such retention being specifically authorized by the meeting and the Register to meet the specific items as such expenses.

The provision in section 28 for auditing and passing the accounts of the assignee at the meeting for the final dividend cannot in any manner be regarded as implying that such accounts of the assignee as are presented at the second general meeting of creditors shall not then be audited and passed by the register.

UNITED STATES COMMISSIONERS' COURT.

The case of Herman O'Neill.

Before Commissioner Davenport.

The United States vs. Bernard O'Neill.—The defendant in this case, it will be remembered, had been held to bail on a charge of having been concerned in an alleged election fraud about a year ago.

Yesterday defendant's counsel, Mr. Joseph Bell, applied to the Commissioner for an examination.

The Commissioner refused to grant an examination on the ground that Mr. O'Neill had given bail to await the action of the Grand Jury, and was not, therefore, entitled to an examination.

Mr. BELL—I shall make the application to some other commissioner.

Irving-Dowley Case.

The United States vs. Robert Foster.—The defendant was taken before Commissioner Davenport on a charge of having been concerned in the assault alleged to have been committed by Jim Irving and others upon Deputy Marshal Dowley. The defendant resides at East Nineteenth street. It is stated that he is a barber, while persons who are not friendly to him, or who, professing to know the fact state that he is engaged in a less honorable calling. He denies all participation in the alleged crime, but an affidavit of Marshal Sharpe, upon information and belief, claims that Foster was one of the crowd who "punctuated" the deputy marshal's head with "clubs," or "clubs," as the case may be. Foster was released on $2,000 bail.

SUPREME COURT—CHAMBERS.

Decisions.

By Judge Brady.

Guion et al. vs. Finney et al.—Motion granted for short calendar.

Holbrook vs. Sheppard et al.—I think the bond sufficient.

Parsons vs. Sheridan et al.—Motion granted.

The National Wood Manufacturing Company vs. Seco.—Same.

By Judge Ingraham.

Baiser et al. vs. Carney et al.—Motion granted.

Wilson et al. vs. Bates et al.—Same.

Williamson et al. vs. Williamson et al.—Memoranda for counsel.

SUPREME COURT—GENERAL TERM.

Applicants for Admission to the Bar.

On next Monday, at three o'clock P. M., the committee to examine into the character of applicants for admission to the bar will enter on their duties.

SUPERIOR COURT—SPECIAL TERM.

Decisions.

By Judge Spencer.

Greggory vs. Greggory.—Both motions granted.

Dabney vs. Greeley.—I am in doubt about this demurrer being frivolous, and therefore deny the motion, with $10 costs to abide event.

The Manhattan Brass and Manufacturing Company vs. Roberts.—Demurrer sustained, with leave to defendant to amend his answer on payment of costs within twenty days.

Newcomb vs. Lee.—Order granted.

Brock vs. Collins.—Reference ordered.

Fahn vs. Same.—Same.

Fielding vs. Field.—Order for extra allowance.

West vs. Tilton.—Reference ordered.

COMMON PLEAS—SPECIAL TERM.

Suit Against an Ex-Attorney General of the United States.

Before Judge Loew.

Thereon R. Strong and Elliott S. Shepard vs. Jeremiah S. Black.—This action was commenced in this Court last March by plaintiffs, who are lawyers of this State, against Jeremiah S. Black, of Pennsylvania, formerly Attorney General of the United States, to recover $40,000 for services rendered and moneys advanced on behalf of defendant. The cause was referred and proceeded for some time, but not up to the point of the defendant entering on his defence. Under these circumstances defendant now seeks to move the cause into the federal Court on an affidavit setting forth that the parties, both plaintiffs and defendant, are residents of different States; that from local prejudice he cannot have an impartial hearing. He has filed the petition pursuant to statute, and has tendered a bond in $500 (Horace F. Clark and Augustus Schell being sureties), to respond to any judgment that may be rendered against him. In opposition to the motion it was contended that the trial having been partially gone through with, it was too late to remove the case. Decision reserved.

Decisions.

Greenwood vs. Pfirrman.—Motion granted on payment of $10 costs. Order to be settled on five days' previous notice to opposing party.

Stern vs. Ice Company.—Motion denied, without costs.

Reich vs. Frcare.—Motion to continue an injunction and appoint a referee denied.

Dies on vs. Gass.—Motion denied, with leave to renew.

Roberts vs. Taylor.—Order to examine judgment debtor vacated, without costs.

Ball vs. Ball.—Order of arrest vacated.

COURT OF COMMON PLEAS—PART 2.

Truck Accident.

Before Judge Larremore.

John L. Bartlett vs. The Central Railroad of New Jersey.—The plaintiff is a truckman, and on the 21st of June, 1870, was bringing freight to the pier foot of Cedar street, which is leased by the defendants. The wheel of the truck stuck in a hole in the pier, throwing plaintiff from his seat and seriously injuring him, to the extent of breaking his collar bone. The railroad company did not appear to defend, and the jury gave the plaintiff $2,250.

MARINE COURT—PART 1.

Important Storm in Case—Decision.

Before Judge Joachimsen.

Peter Jones vs. The Snyder Manufacturing Company.—This action is brought to recover the value of certain machinery stored with the defendants, and sold by them for the payment of storage, without process of law, but after due notice. It was admitted that the plaintiff was entitled to the possession of the property previous to the sale, on payment of storage, and that the defendants had a lien thereon for storage which they have a right to offset against plaintiff's claim. The only question to be litigated on the trial was whether defendants had the legal right to advertise and sell the property in the manner claimed in the answer, without the consent and against the will of the plaintiff.

DECISION.

A lien is a tie, hold or security upon goods or other things which a man has in his custody until he is paid what is due him. (3 Am. Law J., 128.) A lien is neither a *jus ad rem* nor a *jus in re*, but a simple right of retainer. (1 Mason, 319.) A lien in equity is not a property in the thing, nor does it constitute a right of action for the thing, but it is a charge upon the thing. (2 Story's R. C. R., 141.) A lien depends on contract, express or implied. (1 Wash. C. C. R., 174.)

2. The mere lien of the warehouseman does not carry with it any power of sale implied in the case of a factor or consignee nor does it become a pledgee or pawnee, acquiring by contract a right of property in the thing pledged, though for his protection against thieves and other wrongdoers a "special property qualification" is conceded to him.

3. The property in the thing warehoused remains absolute in the owner, and he can not be divested of it except by due process of law, or by his own act or with his consent. The manner of foreclosing a lien on personal property on the statute of 1869, is discussed in 1 Bulton's R., 99, citing all the authorities referred to by plaintiff's attorney.

4. The sale of the property in question was destructive of the lien because the possession of the property was voluntarily parted with, and the lien being gone, there was not even a colorable right of sale. A bailee can protect himself by express agreement with the bailor by which a jurisprudence can be conceded, but the naked bailment does not carry with it any such power. The exercise of such a power by the bailee adversely to the bailor would constitute the former a judge in his own cause and is inadmissible.

The question first litigated must be decided in favor of plaintiff.

COURT OF GENERAL SESSIONS.

Breede, the Notorious Forger, Sent to the State Prison for Three Years and Fined $15,000 by Judge Bedford—A Well Known Ruffian Sent to Sing Sing for Five Years—Alleged Manslaughter.

Assistant District Attorney Fellows conducted the prosecution yesterday, and after the transaction of a good deal of routine business the notorious

ARTHUR X. BREEDE

was arraigned and pleaded guilty to an indictment charging him with false pretences. On the 29th of May the prisoner, who is an intelligent, smart-looking fellow, called upon Mr. Edwin D. Morgan, in Exchange place. He gave the name of Downer, and wished to purchase five New Orleans, Mobile and Texas Railroad bonds. The following day the bonds were delivered, and in payment Breede gave Mr. Morgan's secretary a check, purporting to be drawn by B. S. Downer on the Stuyvesant Bank, for $5,000, and purporting to bear a certification of the bank. It was subsequently found to be a forgery.

Judge BEDFORD, in disposing of the prisoner, said:—"Breede, it is very common that a man of your antecedents is ever brought into a court of justice. You have been travelling all over this country, forging and defrauding people. You are known under the names of B. S. Downer, Arthur X. Breede, J. C. Whitemore, and under the name of Harry Young you were convicted in Boston as J. H. Ransom. You obtained in Toledo $2,[illegible] and in Hamilton, Canada, $5,000. In this particular case, when Officer Elder arrested you and had you in the station house, in order to get away with the evidences of your guilt, you, having forged a check, put it into your mouth and succeeded in swallowing a large portion of it. I am told that you are one of the most notorious forgers in the United States. I shall send you to the State prison for three years, and at the expiration of that term you will stand committed until you have paid the State of New York the sum of $15,000, that being three times the amount of the check you forged."

ALLEGED FELONIOUS ASSAULT.

William Henry (colored) was called to the bar and a jury sworn to try an indictment found against him for felonious assault and battery. Samuel Spencer (also a colored man) testified that on the 4th of October he was in company with the prisoner drinking at John De Long's saloon boarding house, in Baxter street, and that while there they commenced to fight, the prisoner threw the complainant down and beat him, when the latter said, "I don't want to fight any more;" but he (Henry) continued to kick him and drew a loaded revolver, which some one took away from him; whereupon he (the prisoner) drew a knife and stabbed Spencer in the abdomen, upon each side of the navel; Spencer pulled out a clay pipe and made believe that it was a knife, which caused his assailant to run. The complainant was three days in the Park Hospital.

Upon cross-examination by Mr. Howe, who was assigned to defend the accused, Spencer admitted that he had a sheath knife on board of ship, but denied that he used it on that occasion; he admitted that he was under the influence of liquor and could not tell how the difficulty commenced.

Officer Fitzmaurice testified that he arrested the prisoner three or four days after the occurrence; saw the complainant at the station house on the night that he was stabbed; looked at the wounds upon the stomach, which appeared to have been inflicted by a sharp instrument, and knew that Spencer was taken to the hospital.

William Henry went upon the stand and gave evidence in his own behalf. He went on to say that while they were drinking Spencer attempted to strike the barkeeper, and learning that he (Henry) was interested in a torchlight procession in favor of Mike Norton, Spencer said that any black man who would vote the democratic ticket ought to be shot down on the spot. A quarrel and fight then ensued, and, according to Henry, Spencer ran at him with a sheath knife, and, in order to protect himself, he stabbed Spencer with a small pocket knife.

Colonel Fellows cross-examined the prisoner, who admitted that he had been in the Penitentiary twice, and was tried for fighting. He also said that during the war he was arrested for desertion by officer Field. The officer, prisoner declared, offered to let him go free for $50.

Officer Field being in court, Judge BEDFORD said that, knowing Officer Field so well, and having implicit confidence in his integrity, as an act of official courtesy he (Judge Bedford) ought to have an opportunity to vindicate himself. Whether the official be a policeman or a judge, or holding any official position, it was the duty of the Court to give him an opportunity to vindicate himself if he saw fit to do so.

Officer Field, whose character was endorsed by the District Attorney and the counsel, denied ever making such a statement to the prisoner. Before the close of the trial John De Long came into Court and corroborated the statement of the complainant.

The jury rendered a verdict of guilty of assault and battery, with intent to do bodily harm.

THE SENTENCE.

Judge BEDFORD, in passing sentence, said:—"Henry, while I do not find fault with the jury in the rendition of the verdict, still, in behalf of this community and for the future protection of society, I would have been better pleased had they rendered a verdict of assault with intent to kill, which I think the evidence justified them in doing. I remember you when I was Assistant District Attorney. In 1865 you were brought here for a felonious assault, and sent to the Penitentiary. Captain Kennedy tells me that ever since then you have visited the Island and have been frequently before Judge Dowling, and that you associate with the worst of thieves that are known as a notorious ruffian. Officer Field corroborates him in every sense of the word. Had the jury rendered a higher verdict I could have put you out of the way for ten years, but as it is I shall send you to the State prison for five years, which is the full limit."

ALLEGED HOMICIDE.

James Gray was placed on trial for manslaughter, the indictment alleging that on Sunday, August 27, James Creegan was struck by Gray with his fist on the sidewalk, at the corner of Greenwich and North Moore streets, which caused him to fall to the ground, causing compression of the brain and superinducing his death. The only witness for the prosecution who claimed to identify the accused was Mrs. Loether, who testified that she saw Creegan and another man both of whom were very drunk, walk up Greenwich street and that while at the corner of North Moore street Creegan struck an old man with a cane, jostled on and soon returned and struck the old man with his fist, whereupon Gray came up and struck Creegan a blow with his hand and knocked him down. The witness said she was looking out of her window opposite; that she did not see Gray's face, and that he was in his shirt sleeves. It was shown, however, by other witnesses for the people, that at this time Gray was in the adjoining street, dressed in black, and that the funeral procession to accompany the remains of his child to the grave was forming. Counsel for the defence said they had twenty witnesses to establish the fact that the accused was not present at the scene of the difficulty.

Mr. Fellows promptly abandoned the case, and Judge Bedford remarked that the Grand Jury should never have indicted Gray, and after the rendition of the verdict said he was honorably discharged.

ACQUITTALS.

Joseph B. Lewis, a pawnbroker, was acquitted of a charge of receiving a gold watch, knowing it to have been stolen.

James Wilenie, who was charged with stealing $180 on the 1st inst. from John Driscoll, on board of the steamer Bristol, was also acquitted, although every one in the court room was morally convinced that the prisoner stole the money. Upon the rendition of the verdict, Mr. Fellows informed the Court that when Wilenie was taken to Headquarters a detective recognized him as a notorious thief.

BROOKLYN COURTS.

CITY COURT.

The Westfield Disaster—Action to Recover $5,000 Damages—Judge Neilson and the Law as to Travelling on Sunday—Disagreement of the Jury.

Before Judge Neilson.

Jane Madden, Administratrix, &c., vs. The Staten Island Railroad Company.—The plaintiff brought this suit to recover $5,000 damages for the death of her husband, ex-Deputy Sheriff John Madden, who was killed by the explosion aboard the steamboat Westfield, in July last. The trial of the case was commenced on Tuesday last and concluded yesterday afternoon. It was claimed by the defendants that the plaintiff could not recover, as the deceased was travelling in violation of the Sunday law when he met his death. The evidence was principally as to the condition of the boiler and the care exercised by the employés of the company. Judge Neilson denied a motion to dismiss the complaint and yesterday, at the conclusion of the evidence, delivered his charge to the jury. He said:—

GENTLEMEN OF THE JURY—My duty is to call your attention to such rules and principles of law as are applicable to the case to which it is your duty to apply the facts as proven. I propose to call your attention to some general characteristics of the testimony, and then leave the testimony and facts as proven for your consideration. You are bound to accept and act upon the law as I state it to you, and then decide upon the facts irrespective of any opinion that I may seem to entertain concerning them. I think it proper to ask you to dismiss from your minds everything that is extraneous, whether it has been entertained by testimony or whether it may have been suggested to you by counsel, so that you may look at the case in its true light. I ask you to dismiss from your minds the fact, if it be a fact, that there are several suits of this kind, and that this is but a pioneer suit. You must also dismiss from your minds the fact, if it be a fact, that an indictment has been found against Mr. Vanderbilt, or any other gentleman concerned in this company. It has been stated by counsel, and if it were a conceded fact, that there are a number of these suits, and reference was also made to the tone of the public newspapers at that day. Now, all that must be dismissed from your mind, and the present to be looked upon by you as the only case in existence. This action is governed by statute as a common law action. This statute provides that in case the death of a person is caused by a railroad or steamboat, caused by the wrong and neglect of the directors of such road or vessel, an action may be brought by the administrators of the deceased. In these actions when a railroad car runs off the track or a boiler bursts the presumption of law arises that there was either in the construction of the car or boiler, or in their management and condition, something wrong on the part of the defendant. That presumption is to be met by the defendant. A corporation is just as much liable for the action of its employes as if it were personally present, as to the degree of skill and care requisite to such a case. Counsel have agreed upon the proposition that the defendants were bound to do all that human skill and science would enable them to do for the protection of their passengers. It is for you to determine whether they did so in this case, and whether, had they done so, would this disaster have occurred. And in order to determine this you must consider the condition of this boiler, its original make, its history, use and its condition at the time of the disaster, what had been done to it in the way of inspection, repairs, &c., and whether there was any neglect in that matter. It may be material in connection to remember what time elapsed between the disaster and previous examination, and you must also remember that they were bound to have competent and faithful persons to manage their boats, not only when in motion but when at the wharf, to see to the condition of the steam and prevent its undue accumulation. The question for you to decide is whether they did so.

Judge Neilson re erred to the professional evidence as to the cause of the explosion and reminded the jury that they must determine the weight to be attached to the evidence of these witnesses. He declined to charge a request of the defendants that the jury be charged that if the deceased was travelling in violation of the Sunday law his administratrix could not recover. He said that this was the first time that the question of statutory prohibition had been raised in this State under circumstances similar to those in the present case, and then continued as follows:—It had been raised in a contract, and the contract in consequence was justly declared void. The rule, however, said His Honor, a case of this kind settled in Massachusetts; but I don't think the law there laid down is to be followed. I think it would be exceedingly impolitic and dangerous to so consider our statute, which imposes a fine of $1 for travelling on Sunday for pleasure, as to put passengers absolutely at the mercy of persons employed upon steamboats or upon our city cars. A low me to say that when I lived at Bay Ridge the cars were like beehives as they returned from Fort Hamilton on Sunday with the poor of the city who were all the week confined in narrow streets, and found Sunday the only day that gave them an opportunity to breathe the sweet air of the country. Now, is it to be supposed that the Legislature has passed a statute providing that when any of these persons so travelling on Sunday are killed by the negligence of a car conductor they cannot recover? I think not. When such a statute is passed, one that can neither be evaded nor explained away, then I will charge it, but not till then. The law of Massachusetts is inconsistent with our own in many respects concerning Sunday, and therefore I refuse to consider the discussion in question as authenticated in this case.

The jury then retired, and remained out for almost four hours without being able to agree upon a verdict. They were thereupon discharged. They stood nine for plaintiff and three for the defendants.

ROCKLAND COUNTY COURT.

Suit Against the Northern Railroad of New Jersey.

Before Judge Tappan.

The Circuit of the Supreme Court for Rockland county, held by Judge Tappan, in New City, has been engaged for two days in the trial of the case of Henry E. Wylde against the Northern Railroad of New Jersey. The plaintiff was a passenger on the cars of the company in the month of January last. He was in the smoking car, and after the locomotive had been switched off, and when the car was inside the depot, had risen from his seat and was standing ready to leave the car as soon as it reached the platform. For some unexplained reason the speed of the cars was not slackened in the usual manner. It is believed that the brakes were not applied or refused to work. The car was run against the platform with great force and violence, and the plaintiff, who was near the rear door, was thrown back and fell against the arm of a chair which formed one of the seats of the car. He broke two of his ribs and severely bruised and injured his back, and suffered very greatly, and has continued to suffer up to the present time from the injuries received, and the medical testimony was that the effects of the injury would be permanent and painful. The suit was brought to recover $20,000, and the jury failed to agree on their verdict, it being understood that eleven were in favor of a verdict for the plaintiff for the full amount claimed, while one juror stood out against any verdict for the plaintiff. It came out on the trial that the Northern Railroad Company has some contract with the Erie Railway, by and under which the latter company runs the road of the former and owns or provides all the rolling stock used, and has the general management and control of its affairs. The dissenting juror, it was understood, believed that the Erie Company was bound to answer for the damages and should have been sued for them, and upon this ground refused to find for the plaintiff, and the Erie Company seemed to think so, too, as its counsel defended the suit and urged that view of the case. The result will force Mr. Wylde to try his case a second time at the next Circuit.

COURT OF APPEALS CALENDAR.

ALBANY, Nov. 17, 1871.

The following is the Court of Appeals day calendar for November 20:—Nos. 399, 397, 399, 400, 401, 402, 403, 404.

THE BEEKMAN WILL CASE.

The Battle for His Riches Renewed—Heroic Struggle of a Niece for Her Rights.

Before Surrogate Hutchings.

The contest for the riches of the wealthy old bachelor, Samuel P. Beiden, of Brownsville, Texas, who died in February last, at the Tremont House, in this city, was continued before Surrogate Hutchings yesterday. Mr. Beiden made a will on November 17, 1870, bequeathing the bulk of his riches to his niece, Mrs. Leichardt, who chiefly attended him during his illness. His two brothers and sister participate in the estate to some extent, but thinking that

THE LION'S SHARE

should not go to Mrs. Leichardt, they contest the will. The grounds on which the will is contested are undue influence and mental incapacity. The undue influence, the contestants allege, was exercised over the deceased by the niece, Mrs. Leichardt, who, to the almost total exclusion of other relatives, was the attendant on deceased during his illness.

The mental incapacity is claimed to be proved by the unconscious and delirious state of the patient in his sickness. The contestants also relied strongly on the fact, and took much pains to prove it, that the deceased was greatly addicted to drink, and that he suffered from softening of the brain.

THE TESTIMONY RESUMED.

Mrs. Cornelia Becker, who is an aunt to Mrs. Leichardt, the proponent, was examined as a witness for the contestants. She was re-examined in order that she might explain some of her former answers. She said:—

Mrs. Leichardt is my sister's daughter; I reside in East New York; the deceased was when I came to him asked, "How did I come?" In explanation I have to state that there is only one method of transportation from East New York to this city, namely, by horse cars and ferry, unless by coach; I stated on the last day that friendly feelings existed between the deceased and Mrs. Leichardt from 1867 to the time of his death; I should have said from 1868 to the time of his death; there were not friendly feelings existing between them from 1865 to 1868.

Thomas Power, a son-in-law of deceased's brother, saw the deceased in the November before he died, and subsequently almost every day during his last illness; at the time of the making of the will (November 17) the condition of deceased was very weak; he could not recognize any one; his conversation was irrational; he would say he was sick.

Mr. GRAVES—Well, but he was sick. That isn't wandering. (Laughter, in which Mrs. Leichardt joined).

Mr. GRAVES—Do you know of your own knowledge the occasion of Mrs. Leichardt's absence?

COUNSEL objected to the question being put; but it was allowed.

WITNESS—She was absent on pleasure.

SURROGATE—Where was she?

WITNESS—On Broadway.

SURROGATE—Do you call that being on pleasure? I am often on Broadway, and it is for something else than pleasure.

WITNESS—The reason why the deceased invited Mrs. Leichardt to come to the Tremont House was more for charity than anything else; the deceased at one time imagined he was swallowing

A SKUNK.

Cross-examined by Mr. Britton—Frederick Beiden, the brother of the deceased, was with witness in the room of the deceased on the evening of the day the will was made; Mr. Frederick Beiden told witness that the will had been made, and told him one or two points about what it contained.

Counsel questioned the witness rigidly, with the view of showing that he was not present on the evening alluded to at all. He asked the witness was there a moon up nine o'clock, November 17, 1870. Witness replied that there was.

Mr. BRITTON—How much of a moon? Witness did not know.

Adjourned.

NEW YORK LEGISLATURE—1872.

List of Members of the Senate and Assembly Elect.

The following is a list of the members elect to the Senate and Assembly of this State for the session of the Legislature for 1872. Those marked with an asterisk were members of the last Legislature:—

SENATORS ELECTED.

Dist.
1—Townsend D. Cock, dem.
2—John C. Perry, rep., gain.
3—*Henry C. Murphy, dem.
4—*William M. Tweed, Tammany.
5—Erastus C. Benedict, rep., gain.
6—Augustus Weismann, rep., gain.
7—James O'Brien, reform dem.
8—Daniel F. Tiemann, reform, gain.
9—William H. Robertson, rep., gain.
10—Edward M. Madden, rep., gain.
11—Aaron W. Palmer, rep., gain.
12—Isaac V. Baker, Jr., rep.
13—Charles H. Adams, rep., gain.
14—*Jacob Hardenbergh, dem.
15—We ster Wagner, rep., gain.
16—Samuel Ames, rep., gain.
17—Wells S. Dickinson, rep.
18—*Norris Winslow, rep.
19—Samuel S. Lowery, rep., gain.
20—A. C. McGowan, rep.
21—William Foster, rep.
22—Daniel P. Wood, rep.
23—James H. Graham, rep., gain.
24—Thomas I. Chatfield, rep.
25—*William B. Woodin, rep.
26—William Johnson, dem., gain.
27—Gabriel T. Harrower, rep.
28—*Jarvis Lord, dem.
29—*George Bowen, rep.
30—*James Wood, rep.
31—*Loran L. Lewis, rep.
32—Norman M. Allen, rep.

Republicans, 24; reform democrats, 2; democrats, 6.

ASSEMBLYMEN ELECTED.

County.	
Albany	1—Stephen Springsted, rep., gain.
	2—Henry Smith, rep.
	3—Daniel L. Babcock, rep., gain.
	4—G. B. Mosher, dem., gain.
Allegany	—W. W. Crandall, rep.
Broome	—*William M. Ely, rep.
Cattaraugus	1—C. F. Vedder, rep.
	2—Enoch Hoinridge, rep.
Cayuga	1—Ira D. Brown, rep., gain.
	2—Enjah E. Brown, rep.
Chautauqua	1—*Matthew F. Bemus, rep.
	2—Jerome Preston, rep.
Chemung	—*David B. Hill, dem.
Chenango	—*Andrew Sheparduson, rep.
Clinton	—Edward Kingsland, rep., gain.
Columbia	1—*Benjamin Ray, dem.
	2—*Perkins F. Cady, rep.
Cortland	—D. C. Squires, rep., gain.
Delaware	1—William Lewis, Jr., rep.
	2—MacGhee Griffin, rep.
Dutchess	1—Edward M. Gelling, rep.
	2—Harvey G. Eastman, rep.
Erie	1—*George Chambers, dem.
	2—George Baird, rep., gain.
	3—*Franklin A. Alberger, rep.
	4—John Simson, rep., gain.
	5—*John M. Wiley, dem.
Essex	—F. W. Tooey, rep.
Franklin	—*James H. Pierce, rep.
Fulton and Hamilton	—John McLaren, rep.
Genesee	—*Volney G. Knapp, rep.
Greene	—Augustus Hill, dem.
Herkimer	—Eleazer C. Rice, rep.
Jefferson	1—*Oliver C. Wyman, rep.
	2—William W. Enos, rep.
Kings	1—*David C. Aitken, dem.
	2—Edward D. White, rep., gain.
	3—*Dominick H. Roche, dem.
	4—*William W. Mosely, dem.
	5—Eugene H. Berri, rep.
	6—Peter G. Peck, rep., gain.
	7—Charles B. Moore, rep., gain.
	8—George C. Bennett, rep., gain.
	9—*John C. Jacobs, dem.
Lewis	—Amos V. Smiley, rep.
Livingston	—Arch. Kennedy, rep.
Madison	1—John W. Lippitt, rep.
	2—Francis A. Hyatt, rep.
Monroe	1—George A. Gross, rep., gain.
	2—*George D. Lord, dem.
	3—Leonard Barnitt, rep.
Montgomery	—W. J. Van Ousen, rep.
New York	1—James Healy, rep. dem., gain.
	2—James Dunphy, dem.
	3—James Hayes, dem.
	4—*John J. Blair, dem.
	5—David S. Page, rep., gain.
	6—*T. J. Campbell, dem.
	7—Haratio N. Twombly, rep., gain.
	8—Conrad Geib, rep., gain.
	9—Stephen Fell, dem., gain.
	10—Henry H. Haight, rep., gain.
	11—Richard Hawkins, rep., gain.
	12—*William W. Cook, dem.
	13—George H. Sacker, rep., gain.
	14—John A. Foley, ref. dem., gain.
	15—*Alex. Frear, dem. (contested).
	16—Nicholas Haughton, ref. d., gain.
	17—Charles A. Flammer, rep., gain.
	18—S. J. Tilden, ref. dem., gain.
	19—*Thomas C. Fields, dem.
	20—S. D. Moulton, rep., gain.
	21—William A. Whitbeck, rep., gain.
Niagara	1—Isaac H. Bancock, rep.
	2—George M. Swain, rep.
Oneida	1—Martin L. Hungerford, rep.
	2—Eleazer Beckwith, rep.
	3—George K. Carroll, dem.
	4—Albert L. Hayes, rep.
Onondaga	1—*Thomas G. Alvord, rep.
	2—*Peter Burns, rep.
	3—*Gustavus Sniper, rep.
Ontario	1—Ambrose L. Van Duesen, rep. gain
	2—Cyrillo S. Lincoln, rep.
Orange	1—*Robert H. Strahan, rep.
	2—Frank G. Abbott, rep., gain.
Orleans	—E. Kirke Hart, rep.
Oswego	1—Daniel G. Fort, rep.
	2—Thomas W. Green, rep., gain.
	3—*Chauncy S. Sage, rep.
Otsego	1—*Alfred Chamberlain, dem.
	2—*J. Lee Tucker, rep.
Putnam	—James Dykeman, rep., gain.
Queens	1—*L. Bradford Prince, rep.
	2—*James G. Oakley, dem.
Rensselaer	1—Jason M. Osgood, ind. ref.
	2—John L. Snyder, rep.
	3—Castle W. Herrick, rep., gain.
Richmond	—David W. Judd, rep., gain.
Rockland	—Daniel Tompkins, rep., gain.
St. Lawrence	1—Darius A. Moore, rep.
	2—*Don Alus S. Lynde, rep.
	3—Parker W. Rose, rep.
Saratoga	1—George West, rep., gain.
	2—Nathaniel M. Hodgman, rep.
Schenectady	—William Greenhalgh, rep., gain.
Schoharie	—Peter Conchman, dem.
Schuyler	—Harmon L. Gregory, rep., gain.
Seneca	—Peter Lott, rep., gain.
Steuben	1—Thomas M. Fowler, rep.
	2—James B. Murdock, rep., gain.
Suffolk	—John S. Marcy, rep.
Sullivan	—*Frank Buckley, dem.
Tioga	—William Smyth, rep., gain.
Tompkins	—Anson W. Knettles, rep.
Ulster	1—Robert Longuran, rep.
	2—C. M. Woolsey, rep.
	3—Allen Whittaker, rep., gain.
Warren	—Joseph Woodward, rep., gain.
Washington	1—E. W. Holister, rep.
	2—George W. L. Smith, rep.
Wayne	1—Edmund B. Wells, rep.
	2—L. F. Freeman, rep.
Westchester	1—William W. Niles, rep.
	2—Albert Badeau, rep.
	3—*James W. Husted, rep.
Wyoming	—John N. Davidson, rep., gain.
Yates	—*George P. Lord, rep.

RECAPITULATION.

Total number Assemblymen	128
Republicans	99
Democrats	23
Reform democrats	5
Independent	1
Republican gains	35
Democratic gain	1

THE INDIANA TRAGEDY.

ARREST OF THE NEGRO MURDERERS.

Confession of One of the Prisoners.

GREAT EXCITEMENT AMONG THE PEOPLE.

[From the Louisville (Ky.) Journal, Nov. 15.]

Notwithstanding three days had passed up to last evening since the massacre of Captain Cyrus M. Park at Lebanon church on Saturday night, the intense interest manifested in the details of the awful affair seems to be unabated. The announcement yesterday morning in Jeffersonville that the whole plot had been discovered and the fiendish murderers arrested caused the excitement to break out anew. Everybody anxiously inquired after new particulars; they gave fresh and impetuous vent to their indignation against the red-handed villains and called down the most awful imprecations of Heaven upon their guilty heads. Hanging was deemed too good for them, and everybody seemed at a loss what to do that a just punishment might be meted to the murderers. It was feared that they would be summarily dealt with by the people, many of whom were ready and eager to swing them to the first tree, in order that their fate might have the effect of teaching offenders the danger of rousing the public temper and showing them that such awful deeds cannot be tolerated even by a most patient and Christian community.

THE CRIMES TOLD.

When our reporter left Henryville, at half-past six o'clock on Monday night, George Johnson, the suspected negro, was securely held in the residence of John C. Stuard, at that place. The conflicting statements made by Johnson satisfied the people of Henryville that he was at least an accomplice of the parties who did the deed. The more the evidence against him was canvassed the deeper and broader became the impression that Johnson knew the facts of the case. Parties gathered on the streets and in the stores, where they discussed the matter thoroughly. As the evening advanced the excitement became more intense, and it was at last determined that stern measures should be at once resorted to in order to reach, if possible, an explanation of the mystery that enshrouded the murder.

CONFESS OR DIE.

Accordingly, a party of citizens, armed with deadly weapons and a rope, took possession of the negro Johnson, and, taking him to the adjoining woods, they there informed him that they knew all about the murder, who the perpetrators were, what it was done for, &c. Johnson protested that he knew nothing of the murder, and could not, therefore, disclose anything. The demand was again made, pistols were presented, and the negro was urged to save himself. Again he protested, and again the demand was made, until the patience of the citizens was exhausted, and matters came to the direct issue, "Confess or die." At last,

JOHNSON CONFESSED.

He gave the following statement:—"A negro man named Squire Taylor came to me last Thursday and made arrangements to kill Captain Park. Taylor said Park had money he had collected for a meeting house. Taylor said he was in want of money; that he had had a law-suit, and needed money to pay his lawyer. I said I looked pretty hard to kill people. Taylor replied it was hard, but he must have money. On last Saturday night I met Taylor and another colored man named Charles Davis, at the graveyard opposite Lebanon church. Davis got there first, I arrived next and Taylor last. We soon started down to Park's house, Taylor saying that he did not know whether they could get the money without killing the family or not; he did not know the exact condition of the house; he would go down and see what they could do, and if they could not get the money without killing them he would have to do it. When we had arrived there Taylor went around the house twice to see what he could discover. He then said that they were all in the house, and that he could not possibly get the money without killing them. Taylor went and got an axe belonging to Park. They told me to stay in the front yard and watch that nobody approached. Taylor and Davis then went in together to get the money, entering at the back door. Directly after they got in they struck a light, after which I heard the licks groaning and mashing. After they had been in there some time they came out, Taylor carrying an axe. Taylor and Davis each had a bundle of clothing, one in a quilt, the other in a counterpane. I