THE COURTS.

Erie Railway Litigation—Alleged Mutiny—Business in the Court of Oyer and Terminer—Sentences in the General Sessions—Decisions.

UNITED STATES SUPREME COURT.

United States Lands in Wisconsin—Libels Between the Ships Webb and Shooting Star.

WASHINGTON, D. C., Dec. 14, 1871.

No. 28. *May G. Curtis vs. Jonathan Whitney et al.*—Error to the Supreme Court of Wisconsin.—This suit is based upon a deed executed by the county of Brown, Wisconsin, to the plaintiff, bearing date July, 1868, the deed being made in pursuance of a tax sale. The claim was resisted on several grounds—first, that the tract of land covered by the deed was the property of the United States at the time the tax was levied, and was, therefore, not liable thereto; second, that the defendants were in possession of the premises for more than thirty days during the six months preceding the expiration of the time for redemption, and yet no notice was served upon them that the deed was to be applied for as provided by the law of the State in such cases. The plaintiffs replied that this act of the State Legislature requiring the notice contended for was unconstitutional and void, because it was passed two years after the sale, and materially changed the conditions, thereby impairing the obligation of the contract between the State and the purchaser at the time of the sale. The Court sustained the act, and the same objection to it is insisted upon here as rendering it invalid. E. H. Ellis for plaintiff in error; T. O. Howe for defendants.

No. 30. *Steamer W. H. Webb vs. Barling and another, Executors*—Appeal from the Southern district of New York.—The owners of the ship Shooting Star libelled the Webb for damages for negligently towing her under a contract for towage from Portsmouth, N. H., to New York; and the owners of the Webb also libelled the Shooting Star to recover the price agreed upon for towing her, and for extra services, and for wages of a pilot, and other expenses. The Shooting Star had been grounded on the voyage by the perils of navigation, as alleged, by the steamer, and after she was again in condition to continue the voyage the steamer offered to complete the contract, but her services were declined. The decree in the District Court was against the steamer for over $20,000 damages suffered by the ship, and against the ship for about $1,000. Both decrees were affirmed at the Circuit, and the questions are now argued here, counsel for the steamer insisting that the damage to the ship was caused by perils of the sea—the inevitable accidents of navigation—the act of God; the rain, the fog, the darkness; the variable, conflicting and imperceptible currents and the winds. On the part of the ship it is contended that the steamer is responsible wholly for the damage, in consequence of the unskillfulness of her pilot and other causes. E. C. Benedict for appellant; D. D. Lord for appellees.

UNITED STATES COMMISSIONERS' COURT.

The Erie Railway Litigation—Counting the Certificates.

Before Commissioner White.

At half-past nine o'clock yesterday morning the work of counting the certificates which are to be transferred to Heath and Raphael, the English shareholders, under the order of Judge Blatchford, was commenced in the office of Mr. Kenneth G. White, the Master in Chancery, and was proceeded with until concluded. All of the certificates were found to be correct, except one, which, by an error, failed to contain the signature of the Assistant Secretary of the Erie Railway Company.

Mr. MORGAN, on the part of the Erie Railway Company, stated that before any actual delivery of the forty-seven thousand and odd shares was made they desired to have an argument before the Court on certain exceptions taken during the course of the reference before the Master.

At a subsequent stage of the proceedings, when the certificates had been completed, Mr. Lane, one of the directors of the Erie Railway Company, appeared, and stated that a consultation had been had with Mr. Beach and Mr. Stoughton in the interest of the Erie Railway Company, in reference to the rights of the company in the matter of the transfer, which consultation had been interrupted in order that they might appear before the Master; but at one o'clock the consultation would be resumed at Mr. Fields' office. He desired before the transfer was made that an argument should be had on the exceptions taken.

This request was resisted by Mr. Southmayd, on the part of the English shareholders, counsel stating that the order of the Court was for the transfer of 47,000 and odd shares, leaving in abeyance 12,782 shares, the ownership of which is disputed. He also stated that Mr. Hilton, the transfer clerk, was present yesterday with the transfer book for the purpose of completing the transfer, but that, owing to the fact that the certificates to be given to the receiver for 12,782 shares not being produced the transfer could not be made; that the transfer book was left in the hands of the Master for the purpose of having the whole matter completed this morning, but that this morning the transfer book had been removed by Mr. Morgan and taken back to the office of the Erie Railway Company. In view of these facts he should ask an order of the Master, directed to the Erie Railway Company, that the certificates of 12,000 shares to be given to the receiver be produced, and also that the transfer book be produced.

Mr. Coleman, the receiver, with his counsel, attended, and stated that he was ready to comply with the order of the Court at any time. He simply desired, so far as he was concerned, to have the whole matter properly and fairly conducted.

At half-past two o'clock Mr. Lane said that the transfer book would be produced in a few minutes.

In about half an hour after the book was produced.

Mr. Rolston, President of the Farmers' Loan and Trust Company, was in attendance.

Mr. SOUTHMAYD—Mr. Coleman, have you the certificate for 60,026 shares of common stock of the Erie Company?

Mr. COLEMAN—I have, sir.

Mr. BUCKLEY (of counsel for Mr. Coleman)—I produce one certificate for 60,026 shares of common stock and one certificate for twenty-nine shares of preferred Erie stock.

Mr. SOUTHMAYD requested the Master to direct that the twenty-nine shares of preferred stock and the 47,292 shares of common stock be transferred by Mr. Coleman, as receiver, to his (Mr. Southmayd's) clients, and that the new certificates, which had just been prepared under the Master's orders, be registered at the Farmers' Loan and Trust Company by Mr. Rolston, its President, and then delivered to Mr. Swan as attorney for Heath and Raphael. He also asked that the 60,000 shares be cancelled and delivered to Mr. Rolston as the basis for the registration of the new certificates which were to be issued instead, and that the Farmers' Loan and Trust Company be furnished by the Erie Company, through its secretary, with a specification of the numbers of the share certificates which were to be issued as representing those now existing.

The MASTER gave directions to that effect.

Mr. Mortimer Smith, assistant secretary of the Erie Railway Company, was then examined. He stated he had signed all the certificates referred to, and they were now in Court; they were certificates in such a shape as, according to the usages of the company, entitled them to be registered at the Farmers' Loan and Trust Company.

Mr. Ralston, President of the Farmers' Loan and Trust Company, declined to register these certificates without a request to do so by some officer of the Erie Company. Neither Mr Smith nor Mr. Hilton, the transfer clerk, was willing to advise him to make the registry.

The Master said he would compel the most responsible officer of the company to request this registry, as the order of the Court should be obeyed.

The Court then adjourned till this morning, when it is expected Mr. Gould will be in attendance in answer to a summons requesting him to comply with the order of the Master for the registration of the stock.

Alleged Mutineers.

Before Commissioner Osborn.

John Silva, colored, of the American bark Hunter, of Boston, and Auguste Rueison, of the American brig Mary Celeste, have been sent to this port—Silva by the British Consul at Kingston, Jamaica, and Rueison by the American Consul at Aspinwall—on charges of mutiny. Silva also being charged with desertion. They were held to answer.

COURT OF OYER AND TERMINER.

Cases Disposed of—Sentences.

Before Judge Ingraham.

Charles Nelson, grand larceny, Penitentiary for six months. John Kineran and Patrick McCarthy, indicted for robbing a Connecticut farmer, were tried and found guilty. Matalar, the countryman, swore that he met the prisoners in the street, and was asked by them to go and see a fight. Intending to do so, he walked with them a few blocks, when they suddenly wheeled him around and ran off, quite bewildering him. He soon discovered that he had been robbed, and told his story to a police officer, who arrested the accused. Witnesses for the prisoner McCarthy swore that he was with them all day and could not have committed the robbery, but the jury took a different view of the case and found him guilty. Mr. Spencer, who defended them, moved to set the verdict aside, but Judge Ingraham said the Court had no power to grant such a motion. The Court ordered them to be remanded.

SUPREME COURT—CHAMBERS.

The Amsterdam Insurance Company.

Before Judge Cardozo.

A motion was made yesterday to discharge the receiver appointed to settle the affairs of the Amsterdam Insurance Company, on the ground that after paying all its liabilities the company would still have over $40,000 assets, and were in a condition to continue the business. Judge Cardozo said he would take the papers and examine the case thoroughly, but would not give his decision before several days, as it was a matter which required much consideration.

COURT OF COMMON PLEAS—SPECIAL TERM.

Decisions.

By Judge Loew.

Weston vs. Scott.—Motion granted.

Underwood vs. Hancock.—Motion to discharge from order of arrest granted, with costs.

Commissioners of Excise vs. Denno.—See memorandum for counsel.

COURT OF GENERAL SESSIONS.

A Daring Burglary at Tiffany's—Sent Up for Five Years—General Sentence Day.

Yesterday the Recorder disposed of a large calendar of cases in this Court, the most important conviction being that of Francois Fournier, who burglariously entered the store of Tiffany & Co., Broadway, on the 26th of November, by swinging himself from the window of the Spingler House into the fourth story of Tiffany's store. The porters, when awakened, found him concealed, and when searched a large file, a sharp knife and candle and matches were taken from him. As soon as the verdict of guilty was rendered the Recorder said that the prisoner should have been indicted for burglary in the first degree, when he would have sent him to the State Prison for twenty years. His Honor imposed the severest penalty the law allowed, which was five years in the State Prison.

Peter Donnelly, charged with stealing a horse and cart, valued at $400, on the 14th of October, the property of Margaret Baker, pleaded guilty and was sent to the State Prison for four years.

John Fellows pleaded guilty to an attempt at burglary in the third degree in breaking into the premises of Agnes Spiers, 230 East Eighteenth street, on the 15th of November.

John Calhoun, charged with a similar crime, pleaded guilty to an attempt, the indictment alleging that on the 22d of November the premises of Patrick C. Davey, No. 290 Ninth avenue, were burglariously entered.

Fellows and Calhoun were each sent to the State Prison for two years and six months.

Fritz Clatten, charged with stealing $50 from Abraham Schmidt on the 16th of October, pleaded guilty and was sent to the State Prison for one year.

John Connolly, who on the 17th of October stole $55 worth of household goods, the property of Thomas W. Smith, pleaded guilty to an attempt at grand larceny and was sent to the Penitentiary for one year.

John Dougherty, jointly charged with Laurence Dorsay, was tried upon an indictment for grand larceny in stealing two cases of goods from one of the cars of the Hudson River Railroad Company. The property was shipped and the larceny discovered near Fort Washington and the prisoners in close proximity to it, but the evidence not being sufficiently strong, Dougherty was discharged.

George Muller was tried for stabbing Moritz Isaacs on the 19th of November, with a small knife, while they were engaged in a difficulty in Clinton, near Stanton street. The jury rendered a verdict of simple assault and battery and the Recorder suspended judgment.

COURT CALENDARS—THIS DAY.

SUPREME COURT—SPECIAL TERM—Held by Judge Barnard.—Nos. 157, 237.

SUPREME COURT—CHAMBERS—Held by Judge Cardozo.—No. 206.

SUPREME COURT—CIRCUIT—Part 1—Held by Judge Van Brunt.—Nos. 623, 725, 961, 1073, 1215, 1573, 1645, 1681, 1699, 1979, 2069, 2143, 2153, 2173, 2175, 2281, 2237, 2243, 2245, 2247, 2267, 2275, 2277, 2283, 2377. Part 2—Held by Judge Brady.—Nos. 763, 1644, 1545½, 2140, 2541, 2566, 2584, 2586, 2588, 2592, 2596, 2602, 2614, 2616, 2630, 2634, 2636, 2638.

SUPERIOR COURT—TRIAL TERM—Part 1—Held by Judge Monell.—Nos. 1465, 867, 1288, 1674, 1585, 1654, 1797. Part 2—Held by Judge Spencer.—No. 904.

COURT OF COMMON PLEAS—GENERAL TERM—Held by Judges Daly, Robinson and Loew.—Nos. 49, 79, 104, 14, 18, 15, 16, 17, 63, 11, 27, 55, 83, 107, 93, 96, 108, 29, 105.

COURT OF COMMON PLEAS—TRIAL TERM—Part 1—Held by Judge J. F. Daly.—Nos. 845, 1027, 727, 946, 947, 1801, 876, 1028, 68, 192, 374, 12, 33, 403, 467½, 1130, 772, 751, 172, 598, 998, 1048, 241, 935, 847, 1134, 506, 659, 1034, 1064½, 1068½, 1099, 1065, 539.

MARINE COURT—TRIAL TERM—Part 1—Nos. 3464, 6185, 3688, 3112, 7517, 7469, 7483, 7484, 7772, 7521, 7522, 7524, 7524½, 7425, 7526. Part 2—Held by Judge Shea.—Nos. 6211, 6184, 7046, 7330, 7506, 7324, 7462, 7077, 7289, 7237, 6485, 7020. Part 3—Held by Judge Joachimsen.—Nos. 7357, 8266, 8267, 8053, 7498, 7512, 8327, 8050, 8051, 7910, 7704, 4919.

COURT OF APPEALS.

ALBANY, Dec. 14, 1871.

The following is the Court of Appeals calendar for December 15:—Nos. 197, 477, 440, 482, 483, 484, 485, 486.

BROOKLYN COURTS.

SUPREME COURT—SPECIAL TERM.

The Church Street Extension Case.

In the General Term of the Supreme Court, Kings county, the following cases, growing out of the Church street extension, were decided:—

Catharine A. Schuchardt vs. The Mayor, Aldermen and Commonalty of the City of New York; William P. Douglas vs. The Mayor, &c.; A. Gordon Hamersley vs. The Mayor, &c.—It is charged that the city took the materials of buildings belonging to these plaintiffs without allowing them their value. The cases were originally argued on demurrer before Justice Cardozo, who decided in favor of the city. The property owners appealed to the General Term, Judges Ingraham, Barnard and Cardozo presiding. As the last named Judge heard the argument in the Court below he was disqualified. Judge Ingraham delivered an opinion in favor of the plaintiffs and Judge Barnard dissented. Thus, the Court being equally divided, the cases were referred to the Second Department for a reargument. In accordance with this order they came up yesterday at the Brooklyn General Term.

Mr. J. HOOKER HAMERSLY argued on the part of the plaintiffs that the Commissioners, in making their report, excluded from their estimate of damages the value of the materials of the building standing upon the lots, and that it has been the usual custom to give the materials to the owners of the building as part compensation. That before the report was presented to the Court for confirmation the Commission said to the property owners interested that the report gave them the right to the materials of the buildings and the right to remove them from the lots taken, and thereby prevented them from making any objection to its confirmation by the Court and secured their acquiescence in it.

Mr. AARON J. VANDERPOEL contended on behalf of the city that on the confirmation of the report by the Supreme Court the amount became fixed, and that, inasmuch as the property owners did not object, they are now prevented from making any confirmation.

The Court held that, as the city did not object at the time the report was confirmed, it cannot object now, and gave judgment for the plaintiffs in all three cases. From $300,000 to $400,000 is involved.

CITY COURT—CIVIL BRANCH.

The Westfield Disaster—Disagreement of the Second Jury—Now for a Third Trial.

Before Judge Neilson.

Jane Madden, Administratrix of John Madden, vs. The Staten Island Railroad Company.—The jury in this case, after being locked up all night, appeared in Court yesterday morning and stated that they could not agree upon a verdict. Judge Neilson said that there must be some lack of intelligence somewhere. Perhaps it was on the part of the Court in not being able to make itself properly understood.

One of the jurors remarked that the Court did not seem to touch the point on which they had split.

Judge NEILSON said that the jury were to determine whether the boiler was a safe one or not, and if there was negligence in its management.

The Jurors replied that they had split on the question as to whether it was negligence to permit the steam to go over twenty-five pounds.

Judge NEILSON said that the jury must decide that point. If the boiler could stand twenty-five pounds only, was it safe to exceed that amount?

The jury again retired and remained out for about half an hour, when they returned and reported that there was no possibility of their agreeing upon a verdict. They were thereupon discharged. They stood seven for plaintiff and five for defendants. Thus ended the second trial of Mrs. Madden's action to recover $5,000 damages for the loss of her husband.

CITY COURT—CRIMINAL BRANCH.

The Election Fraud Cases—Another Postponement.

Before Judge McCue.

The case of Michael J. Weldon, Thomas McGiff and John Shandley, the inspectors in the First district of the Sixth ward, who were indicted on the charge of placing bogus names on the poll lists and stuffing the ballot boxes, was called on yesterday morning for a second trial. The case was first tried last week, when the jury disagreed.

Mr. D. P. BARNARD, counsel for defence, yesterday asked for a

POSTPONEMENT OF THE TRIAL

on the ground that a very material witness—John J. Campbell, a poll clerk—was unable to attend in consequence of illness. Counsel read several affidavits, including one from Dr. Alexander Cochrane, the attending physician, setting forth that Campbell was suffering from smallpox, which is very prevalent in Brooklyn just now.

Mr. Dow, counsel for Weldon, also asked for a postponement on behalf of his client.

District Attorney MORRIS opposed both applications, and said that the object of the postponement asked for was simply to

DELAY THE TRIAL

and defeat the ends of justice.

Mr. BARNARD denied that there was any attempt being made to procure a delay. The affidavits showed that Campbell was a material witness. He kept the poll lists, not the defendants.

District Attorney MORRIS said that under no possibility could the testimony of Mr. Campbell or any body else wipe out the fact that there were five hundred names on the poll list before the voting commenced. If Campbell were present it would be impossible for him to explain that. Mr. Morris said he was ready to proceed that day or any other time.

After some further talk Judge McCUE said he would set the case down for next Friday, with the understanding that if the defence could get Campbell there by that day they should do so, but, if not, then his testimony should be taken by Dr. Cochrane. An officer could easily be found before whom Campbell could acknowledge it.

Rough on the Juror of the Nineteenth Century.

District Attorney MORRIS did not want his acknowledgment. He would take his statement.

Judge McCUE—I think it better to have it sworn to. The intelligence of the nineteenth century is such that jurors disagree on very slight causes.

The trial was adjourned until Friday next, at ten o'clock A. M.

BROOKLYN COURT CALENDARS.

SUPREME COURT—GENERAL TERM.—Nos. 1, 25, 28, 33, 67, 68, 75, 78, 79, 80, 81, 82, 83, 84, 85, 105, 106, 132, 135, 140, 95.

CITY COURT.—Nos. 106, 317, 315, 43, 168, 313, 314, 135, 159, 194, 227, 338, 231, 63, 10, 47, 94, 98, 123, 182, 188, 216, 225, 236, 239, 249, 250, 266, 276, 281, 290, 321, 322, 56, 44, 25, 46, 103, 107, 189, 141, 187, 210, 222, 238, 255, 268, 270, 272, 279, 280, 284, 295, 329, 330, 339, 191, 48.

EMIGRANT SWINDLING.

Recorder Hackett Immures Charles Moore in the Tombs—Flutter Among the Pothouse Politicians.

More than ordinary public attention has been called to the case of Charles Moore, charged with robbing a poor immigrant by the name of Comack; and unjust aspersions have been made against District Attorney Garvin and the Judges of the General Sessions, who had put all the enginery of the law into operation to secure Moore's arrest after he had forfeited his bail in the summer. It appears that the accused surrendered himself on Monday, and yesterday District Attorney Garvin directed him to be placed at the bar of the General Sessions. The court room was crowded with emigrant runners and politicians from the First ward. The prosecuting officer informed Recorder Hackett that he was not ready for trial then, but hoped to be able to proceed at some future day, as soon as he could ascertain the whereabouts of the prosecuting witness.

Mr. WILLIAM F. HOWE, counsel for Moore, stated that his client was out on bail upon this charge, but through some inadvertance he was not in court when the case was called up. A man jointly indicted with him was prosecuted with great energy by the District Attorney to a conviction, and the Court sent him to the State Prison for five years. The bail was subsequently forfeited in the case of Moore, and as soon as the judgment was entered up the accused came forward and surrendered himself. He (Mr. Howe) urged with his usual earnestness and ability that his client should be bailed until he would be called to trial.

District Attorney GARVIN vigorously opposed the motion, and proceeded to give a history of the case, stating that as he and His Honor were desirous of breaking up this gigantic system of emigrant swindling it was found necessary to imprison the complainant in the House of Detention for weeks. The prisoner kept away from the jurisdiction of the Court until they were compelled to discharge the witness. A bench warrant was issued for Moore's arrest, but he could not be found, and did not make his appearance until he heard of the discharge of the poor emigrant he had swindled. Everything was done to arrest the villain Moore, and he (Mr. Garvin) hoped that the Recorder would commit Moore to prison without bail, so that he could be kept in custody until the witness was found. The most persistent efforts would be made to secure the presence of the complainant; and if he was in Ireland, Scotland, Germany or in this country he would be brought back to New York in order to secure the conviction of Moore.

The RECORDER said that the matter of emigrant swindling had attracted public attention to a large degree, and some of the papers had seen fit to comment upon the want of a proper enforcement of the law. So far as emigrant swindlers were concerned they were prosecuted faithfully and earnestly by the District Attorney, and when convicted the extreme penalty of the law was enforced by his colleague and by himself. It would seem from the history of this particular case that everything had been done by the authorities to secure Moore's attendance; and as he (the Recorder) had no confidence that this defendant would make his appearance if bailed he would refuse the motion for bail and commit him to prison until the attendance of the witness for the people could be obtained.

This action on the part of the Recorder and District Attorney created quite a stir among the downtown pothouse politicians who crowded the Court.

A DUTCH "SOLON SHINGLE."

A Great Cow Case at Essex Market Court—One of Bergh's Deputies Routed by a Heroic Girl.

Aaron Loeb, of No. 118 Suffolk street, is a milkman, and keeps four or five cows in a rear shed at that number. Yesterday morning Sherman P. Sage, of the Association for the Prevention of Cruelty to Animals, was passing and saw one of the bovines lying in the alleyway sick and uncared for. He at once summoned officer Acker and had the owner arrested. Simultaneously a man came rushing with breathless haste into the Essex Market Police Court, and, in a state of nervous trepidation, startled Baron Schleiger, the Clerk, with the inquiry:—"On! sir, tell me, sir, quick, where I get a gude cow lawyer!"

The Baron looked bewildered and said, "What do you mean?"

"I want to get a lawyer right away, in a cow case," answered the perspiring man.

Baron SCHLEIGER—I don't know anybody particular. Ask for Feuchtwanger.

Pretty soon the riddle was solved, for Mr. Sage, Officer Acker, Baron Loeb and his daughter made their *entrée*. Their entrance was signalized by an immense uproar, each struggling for the privilege of a first hearing.

Judge LEDWITH (suddenly looking up)—What's the matter, officer? What's the matter now?

The officer, pointing to Mr. Sage, said that he (Sage) was the complainant in the case.

Mr. SAGE—I was passing 118 Suffolk street this morning, and I saw a sick cow lying in the alleyway; there was nothing to cover her, and she seemed to be suffering great agony; I, accordingly, caused the owner to be arrested on a charge of cruelty.

JUDGE (addressing the prisoner)—Well, sir, what have you to say for yourself?

LOEB—My daughter, Magdalena, she speak English.

Magdalena is a tall girl, with flashing black eyes, hard-set features and determined expression. She was evidently highly incensed at her father's arrest, took a defiant attitude at once, looked savagely at Mr. Sage and soon made it apparent that the services of no professional advocate were required in her father's behalf. She squared herself, and commenced to address the magistrate.

"Meester Sludge," she said, "I dell you all abowit dis ding. My fader he hat dot cow seek on his hands now for two veeks. He send for de doctor, and dot doctor he say dot cow goin to be healdy cow. Dees morning she valk owit de shtable and lay down all by herself in de alleyway. Den dees veller who dinks heemself so shmardt coom along und he say ve shall shoot dat cow. Vot for ve shoot dat cow—it no gude for putcher?"

Mr. SAGE—The cow is sick and in agony, Judge.

JUDGE—I can give you no authority to shoot the man's cow. You must apply to Mr. Bergh. Officer, did you see this cow?

Officer ACKER—Yes, sir, and it looked very sick.

MAGDALENA—Vot you know abowit it? Are you a doctor of cows? I guess de doctor knows better as you, and you, too (looking derisively at Mr. Sage).

JUDGE—Where does this great doctor live?

MAGDALENA—Oop by Tompkins square und Eighth street.

JUDGE—Well, we'll have to subpœna the doctor. I will hold your father in the meantime to bail.

MAGDALENA—Mein Gott! you dond can lock a man oop for noding, I guess. Dot's quer justice, dot ces.

JUDGE (good humoredly)—You had better go look for bail, young lady, and not stand here talking.

MAGDALENA (proudly, and with a touch of irony)—How many tousand tollars you vant?

JUDGE—Three hundred, that's all.

Magdalena gathered her mantle around her shoulders and departed, muttering "curses not loud but deep." In a short time she returned with a bondsman and brother milkman.

"What property have you got?" said the Judge.

BONDSMAN—I got five cows und a vagon, und I got money in paus.

JUDGE—How much are the cows and the wagon worth?

BONDSMAN—Four hundred tollars.

JUDGE—You must get somebody else; he wont do.

MAGDALENA (savagely)—Mein Gott! vot a lot of droubles, for noding at all.

Some of Magdalena's friends in the meantime had scared up another bondsman in the shape of a Mr. Jacob Feld, who owns a house and lot, 152 Second street. He was immediately accepted, and the imprisoned father was restored to the arms of his heroic daughter, Magdalena.

THE MURDERER SULLIVAN.

The Sanity of the Assassin To Be Tested by a Medical Commission.

ALBANY, Dec. 14, 1871.

The Governor has appointed Drs. D. Tilden Brown and Thomas H. White, of New York, and Jacob D. Mosher a commission to examine into the sanity of Lawrence Sullivan, under sentence of death in New York.

COUNTERFEITING.

Continuation of the Trial of J. D. Miner, the Alleged Counterfeiter.

Yesterday the trial of Joshua D. Miner, who is indicted for having had counterfeit plates and counterfeit money in his possession, was resumed in the United States Circuit Court, before Judge Benedict. There was a large attendance of spectators, and more interest appeared to be taken in the proceedings on the part of the public than during any preceding day of the trial.

Mr. Pierrepont, Mr. Purdy and Mr. De Kay conducted the prosecution on behalf of the government. Mr. Fullerton and Mr. Phelps appeared as counsel for the defendant.

TESTIMONY OF DETECTIVE APPLEGATE.

Mr. Applegate, an officer of the Secret Service, was called and examined by Mr. Pierrepont. In the course of his examination he testified:—Colonel Whitley informed me that Cole was going to purchase a set of plates from Miner—a $10 plate of the Poughkeepsie National Bank and $2 plate of the Ninth National Bank of New York—and that Cole was to give Miner $1,500 for the plates; I met Whitley at his office on the 25th of October; there were several officers of the Secret Service present; Whitley told me to go up to Fifty-ninth street to meet Cole, search him and then follow him up to connect with Miner, to see them "make a deal" for a set of plates; this was at five o'clock in the evening; before that Colonel Whitley took $1,500; it was marked and given to Cole in a lager beer saloon in the Bowery, between Bleecker and Houston streets; Cardell, Kennoch, Bauers, De Lomo, myself and Fitzpatrick took a carriage, drove to Fifty-sixth street, got out of the carriage there and walked up to Fifty-ninth street; there we found Cole; I searched him; he had a knife and two keys, and this marked money he had in his inside coat pocket; he was searched in the presence of Kennoch; Cole then walked up toward Sixty-seventh street; Kennoch and Barnes followed Cole; De Lomo and Cardell followed them, and Fitzpatrick and Drummond were after them and I "shadowed" them. I saw Cole with Miner; I was standing a little below on the sidewalk; I saw two men; I remained behind a dirt pile until I saw Cole come up to Miner, and as they came together Kennoch seized Miner, and as he was seized by the collar Miner threw the package of plates toward me; the package was enclosed in a buff paper; I kept my eye on the package, expecting that if any one came up I should arrest him; I expected that some one connected with Miner might come up to aid him and if he did I would arrest him; Kennoch and Miner were squabbling, and I helped Kennoch to put irons on Miner; I sent Kennoch after Cole; he got him; Miner, Cole, Kennoch and myself got into the carriage and drove down to the office in Bleecker street; Kennoch opened the package; the outside paper of the package was much torn; inside was a green cloth and inside that were the plates—the $10 and $2 plates; we searched Cole, but did not find the $1,500 on him; Kennoch and I took lanterns, went up to Sixty-second street and found the money; it was wet; I signed a list of the money which was examined and would know that list again; I did not see the arrest of the man who gave the plates to Miner; this man gave his name as Evey, but I believe his real name is Thomas Ballard; I put no mark on the plates, but I know them by the drilling and the oil paper in which the plates are packed. [Mr. Fullerton specially asked the Court to have the oil paper marked.] I cannot say that this is the paper in which the plates were packed. Ballard was kept until next day.

Q. Where did you go next day with Ballard? A. 256 Rivington street.

Q. What did you find there? Objected to.

Mr. Pierrepont stated that he offered to prove that the witness, with Nettleship, went with Ballard to 256 Rivington street, and there, on the pointing out of Ballard, seized fibre paper, counterfeiting materials and about $2,500 or $3,500 of counterfeit money printed from the very plates found with Minor.

The offer was ruled out, the Court holding that there was no foundation laid for it.

To a Juror—When I found the bills on the sand pile they were not rolled up; they were scattered about.

THE JUROR—Did you count the money at the sand pile?

WITNESS—I did up to $1,200.

To Mr. Pierrepont—This is a list of the money I found that night on the sand pile (list produced); it was written by Mr. Sullivan, one of the officers of the Secret Service.

Cross-examined—Colonel Whitley instructed me to arrest Cole if he gave plates to Miner; I am certain that Whitley mentioned Miner's name; Whitley said, "Now go up to Fifty-ninth street and Ninth avenue and meet Harry Cole and then follow on when he connects with Miner;" Whitley told us that the signal was to be the dropping of a hat, but when we went up there we found it too dark for that signal to be given; Whitley told us to search Cole and see if he had anything on him; we found nothing on him but a roll of bills; I saw Colonel Whitley give him the roll of bills in the Bowery, between Bleecker and Houston street, in a lager beer saloon; I and Whitley went to the lager beer saloon alone and met Cole there; I had been told nothing about Ballard that night; I was not here when Cole was kept three days in Bleecker street; I was in Boston; I knew Cole first about three years ago; I was up at his house; we took his wife and his stepson over to Taylor's Hotel, Jersey City; they were charged with counterfeiting; in the lager beer saloon Cole said to Colonel Whitley, "He (Miner) has agreed to deliver me the plates to-night; he may give them to me at the stable, or he may take me out and connect with some other party."

Q. From what direction did Miner approach Cole? A. Apparently across the avenue, in an angle across; Miner and Cole both had umbrellas, and Miner, in throwing away the package, chucked it from him with a motion of his arm; I have no idea what hand he threw the plates from; I do not think he threw the package from the hand that held the umbrella.

Mr. FULLERTON here read from the deposition of the witness made before Davenport, the Commissioner, to the effect that he had seen a bundle drop from Miner.

WITNESS—I think I saw it thrown; I saw it go down on the ground; he could drop it or throw it.

Q. Were you not instructed by Colonel Whitley or by some one else that night to be present when the arrest was made to see that nothing was thrown down—to take up your position and watch and see if Miner threw away anything? The witness hesitated considerably over his answer, and finally said—I do not think he told me to watch and see if he threw away anything.

Q. Did you testify in this way before the Commissioner—"My instructions were to see if anything was thrown down?" A. I will not be positive; I had seen Miner before that; twice before that—on the 25th of August and again on the day we arranged with Bill Gurney to go up to the stable; I do not think I stated before the Commissioner that I had not known Miner before that night; on the night of the arrest three persons did not pass us in Sixty-second street; I found the money on the sand pile, a little ahead of the spot where I stood; Miner and Kennoch were struggling on the sand pile; I did not go to Kennoch's assistance until he called out that Miner was biting him; the money was scattered on the west side of the sand pile; I think the wind blew from the northeast to the west (laughter); I did not see them struggling on the top of the pile; I do not think that the easterly wind blew that money to the top of the sand pile; when I searched Cole at Fifty-ninth street I felt in his pocket what I supposed to be a roll of bills; I did not take out the money and examine it; I felt it, and knew it was money from the way it felt; the money was in a roll, but I cannot say it was tied up; I put no mark upon the plates.

Q. Did you see anything taken out of the package but the plates? A. Nothing to notice it.

Q. How came you, then, awhile ago, in answer to the Judge, to say that there were those pieces of oiled paper? A. I know that the next time I saw the plates there was this oiled paper, and for aught I know the paper may have been there in the first instance; I saw Cole while Kennoch was putting the irons on Miner; Cole then could not have been more than ten steps from me—about thirty feet; Miner was then down on the ground; I was holding him by the throat while he was down on the ground.

In reply to other questions on cross-examination the witness denied that he had ever been accused of any crime; that he had been engaged in real estate matters in New Jersey before his entrance into the Secret Service, and that he had been introduced to that service by Mr. Nettleship, an officer of the department; he had never been charged with any crime in connection with counterfeiters in New Jersey.

HENRY C. COLE RECALLED.

Henry C. Cole was again recalled. He stated, in reply to Mr. Medan, one of the jurors, that Colonel Whitley had not promised him any position on his staff or any favor in case Miner was convicted—nothing of the kind; he was simply promised his liberty for telling what he knew about this business.

TESTIMONY OF MORRIS S. SULLIVAN.

Morris S. Sullivan, an officer of the Secret Service Department, was the next witness. He deposed that on the 25th of October, between eleven and twelve o'clock in the day, he drew up the paper now handed to him. This was a list of the bills composing the $1,500 alleged to have been handed by Whitley to Cole for the purpose of giving it to Minor in return for the plates. Witness handed the notes and the list to Colonel Whitley on the same day.

Cross-examined by Mr. Phelps—There was any number of people in the office while I was making the list, but there was no one to watch me while I was writing it.

EVIDENCE OF OFFICER DRUMMOND.

Officer Drummond, of the Secret Service, deposed that he was one of the detectives who watched Miner and assisted in his arrest; witness saw Miner approach Ballard; they remained together about half a minute, when they parted, Ballard going toward Fifty-ninth street; he was there arrested by witness, to whom he put the question, "What is this for?" "You have," said the officer, "robbed a friend of mine;" when Ballard (who then gave his name as Evey) saw Miner, who stood some distance off, he remarked, "This cannot be for robbery;" Ballard was then taken to Colonel Whitley's office; Miner was present in the office at the time the package containing the plates was opened; he merely remarked that he did not keep such things; Colonel Whitley's directions to us were that if things went right we were to get plates at Sixty-ninth street.

The witness was cross-examined at great length. He admitted that he had been once arrested for being in a drunken crowd in New York, and that, on another occasion, while drunk, as he believed, he had fallen through a shoemaker's window in Bangor, Me; he was arrested for that and taken to the station; he paid $2 50, and was discharged in the morning.

The Court adjourned to eleven o'clock this morning.

THE SMALLPOX IN BROOKLYN.

A Startling Acknowledgment of the Health Officer—The Spread of the Disease—The Contagion is All the Institutions and Jail—An Extra Corps of Physicians To Be Employed.

Yesterday, in accordance with the motion of Alderman Bergen, the Committee of the Board of Health, composed of Aldermen McGroarty and Clancy and Health Officer Cochran, visited the Mayor's office to confer with him in regard to employing an extra force of physicians as a vaccinating corps. At the interview the report in the HERALD of yesterday in regard to the spread of the disease in Brooklyn was fully confirmed. The disease has assumed a more threatening attitude than many imagine; but no one knows the extent of the contagion better than the Health Officer, who has now become

THOROUGHLY ALARMED.

He said to the Mayor yesterday, "We have come here to-day, Your Honor, to say that we are out of money and that the smallpox is increasing in all sections of the city. It is in all our institutions and the jail, and it will be necessary for us to take some action in the matter. The only thing I can recommend at present is vaccination and the keeping of the streets clean, and if this is not done we will have serious trouble. Now we have come here to ask if we shall employ an extra corps of physicians to do

THE WORK OF VACCINATION."

The Mayor took up a copy of the laws and ordinances of the city of Brooklyn and read the following provision in regard to the powers of the city authorities in the matter:—

In case of any prevailing epidemic disease or sickness, provided the sums of money so procured shall in the first place be declared necessary, shall be raised by a certificate, to be signed by the Mayor, County Judge and Street Commissioner, and in a later case by a certificate to be signed by the Mayor, Health Officer of the said city and the presiding officer of the Kings County Medical Society, which certificate shall be presented to the Common Council before they shall take any action in the matter, and the money to be obtained shall be applied only to the specific use and purpose for which it shall be so appropriated.

The MAYOR—Under that provision, gentlemen, the Common Council will have to convene before the money can be raised. You will have to make out a certificate and then the Common Council will authorize the raising of the money.

HEALTH OFFICER—I do not want it to go forth that I have failed to do my duty. The more physicians you employ the cheaper it will be in the end. I warn you that it is coming, and you cannot prevent it. If you do not give money and help you can take the keys and the responsibility.

The Health Officer was authorized to employ the physicians and use all efforts to control the disease.

MISMANAGEMENT OF THE SMALLPOX HOSPITAL.

TO THE EDITOR OF THE HERALD:—

The fearless and undaunted manner in which you invariably espouse the cause of truth and justice induces me to raise my feeble voice in conjunction with "An Old Citizen," who to-day asks the momentous question, "Who is responsible?" I speak whereof I do know when I endorse all that he has written. I spent some weeks in the Smallpox Hospital myself. Although not an inmate of "Long Branch" I have as little reason to commend the accommodations of the "Stone House" as "An Old Citizen's" informant had to be pleased with the former habitation. I frequently asked the doctor and matron for articles that I considered necessary for my comfort and speedy convalescence, and was almost always met with the reply, "We have ordered them." Food was always supplied when I asked for it; but the luxury of a damask tablecloth, silver fork, spoon or napkin I never enjoyed, while the quality of the beefsteak was often of the toughest character and the butter of superior strength. I once feasted my eyes on some delicious looking biscuit; but when I came to the eating of them my teeth remained glued together in a mass of unreclaimable dough. This, I learned, was the fault of the range, which has stood the test of time since the erection of the building. I spoke to the visiting physician from the city about this and other deficiencies, when he told me, most politely, however, "I have ordered a new one." Now, not to take up too much of your valuable space, I would like to know what has become of that $100,000 which was appropriated for the exclusive use of the Smallpox Hospital. It is not devoted to