THE COURTS.

Fifth Day of the Trial of Mayor Hall for Misfeasance in Office.

A SESSION OF LEGAL ARGUMENT.

Mr. Hall Willing to Submit the Case to the Jury on the Evidence for the Prosecution, Under the Ruling of the Court.

Instructions Submitted to the Court by the Prosecution and the Defence on the Points to Charge the Jury.

Tweed To Be Brought Into Court To-Day.

The Indicted Assistant Aldermen, Isaac Robinson and Edward Costello—They Are Charged with Bribery.

Held to Await Trial in $5,000 Bonds Each.

A Herald Reporter Interviews Robinson, Who Gives a History of the Case—Other Developments Pending.

REGISTRATION PROSECUTION

The Case of Francis P. Healey, Charged with False Registration—He is Confined in Ludlow Street Jail Pending His Examination.

MORE MANDAMUSES.

A Writ Granted Against the Board of Audit and Apportionment Directing the Board to Pass Upon the Claims of the Officers of the Court of Oyer and Terminer.

Another Chapter in the Lord Gordon-Erie Swindle.

He Operates on a Large Scale in Edinburgh Under the Title of Lord Glencairn.

INTERESTING TESTIMONY.

Business in the Other Courts—Abandonment of the Alleged Whiskey Frauds Prosecution—Naturalization—Decisions, &c.

There was a very numerous body of spectators in the Court of Oyer and Terminer yesterday morning long before the usual hour for resuming the proceedings in the case of The People vs. Mayor Hall. The unexpected close of the case on the previous day in consequence of the consultation held between counsel on either side, and the public curiosity excited to ascertain in what it was to result, considerably increased the interest felt in the case and the developments that were expected to ensue. It seemed to be the general impression that a plea of guilty in the count charging neglect to audit would be offered and accepted. In this, however, the assemblage was disappointed, for as soon as Judge Brady had taken his seat on the bench—Mayor Hall and counsel on either side being all in their places—the case, without the expected results from the previous day's consultation, was at once proceeded with. Mr. Hall himself was the first to address the Court. He stated that it was his own and counsel's opinion that there was nothing in the testimony for the prosecution which the law does not reject as absolutely tainted or that called for an answer by way of evidence for the defence, and that he was willing to submit the case to the jury on the prosecution's evidence, under charge of the Court.

Ex-Boss Tweed will be brought up to day before Judge Brady in the Court of Oyer and Terminer, and an early day fixed upon for his trial.

In the case of the indicted Assistant Aldermen, the accused, Isaac Robinson and Edward Costello, were yesterday brought before Judge Brady, in the Court of Oyer and Terminer, in custody of Sheriff Brennan. They are charged with corrupt practices in connection with the New Haven Railroad Company in lending their aid to defeat an ordinance of the city government, as members of said Board of Aldermen, in favor of the railroad company. Judge Brady in response to one of the accused stated that the indictment charged them with a very serious offence. The Court fixed the bail in $5,000 each, which the accused gave in open court, to await trial. The proceedings and the revelations in the case, which are of great public interest and likely to lead to further developments, will be found fully reported below.

Judge Leonard yesterday, in Supreme Court, Chambers, granted a writ of mandamus to compel the Board of Audit and Apportionment to audit the claims for allowance of the attendants of the Court of Oyer and Terminer.

Testimony was taken before Judge Fancher, of the Supreme Court, yesterday, *bene esse*, in a case in which a Mr. Smith, of Edinburgh, Scotland, testified that the Lord Gordon who a short time ago figured so prominently in our courts, in connection with his alleged swindling of Erie stock from Jay Gould, had swindled himself and other Edinburgh merchants of large sums under the title of Lord Glencairn.

The case of Francis P. Healey, charged with false registration, was again up yesterday, before Commissioner Davenport, and was adjourned till this morning. Healey lies in Ludlow Street Jail, in default of $5,000 bail.

The prosecution in the alleged Whiskey Ring frauds, in which Lewis Samuels and others are defendants, and which has been pending before United States Commissioner Shields for some time past, was yesterday abandoned and the parties discharged. The United States District Attorney admitted that there was no case against them.

MAYOR HALL.

Fifth Day of the Trial—The Proceedings Yesterday.

The Court opened punctually at eleven o'clock; all the counsel employed on each side were in attendance, and Mayor Hall occupied his usual place. Nearly one hour was occupied in private consultation between counsel on each side and with frequent conferences with Judge Brady by the respective counsel.

About twelve o'clock Judge Brady drew his chair nearer to the bench, arranged himself to take notes, and said, "Gentlemen, are you ready to go on?"

MAYOR HALL'S ADDRESS TO THE COURT.

Mayor Hall then rose and said:—

If the Court please, since the adjournment yesterday I have been advised by my counsel and other legal friends—and in the phrase "friends" the former are particularly included—that, with the exception of the documentary evidence in this case, upon which argument one way or the other necessarily weighs without any other evidence, there has been no testimony which the law does not absolutely reject as tainted, and, therefore, there is nothing in this case which calls for an answer by way of evidence. I therefore state that, waving the defendant's right of being heard, either by himself or counsel, I am willing to submit this case upon the evidence for the prosecution under the charge by the Court to the jury.

THE PROSECUTION NOT WILLING.

Mr. Peckham—So far as we are concerned we do not feel willing to submit the case without addressing the jury. We purpose to address the jury; you can do as you please.

THE CASE FOR THE DEFENCE.

Mr. Buckley then addressed the Court for the defence, and said that he proposed to submit to the Court certain prayers, to be delivered to His Honor in the progress of this case. He might content himself by simply submitting them, but he deemed it appropriate to accompany the presentation by some remarks, founded on the law of the case, having no relation whatever to the facts except so far as reference to them might be necessary to apply and enforce the propositions that he intended to submit. Before he should do this, however, he would refer to an indictment, which was a record of the Court—an indictment against

WILLIAM M. TWEED.

Mr. Peckham said he would interpose a preliminary objection.

The Court ruled that it was necessary to put the document in evidence if Mr. Buckley intended to use it.

After a short argument, in the course of which Mr. Buckley said that all he sought to show was that an allegation in the Tweed indictment, if true, proved that the allegation in the Hall indictment was not true, the document was handed to the Court.

The Court ruled that all that was evidence was that it was an indictment in that court. An exception was taken and allowed.

REQUESTS TO CHARGE.

Mr. Buckley then read the following requests to charge, on behalf of the defendant:—

First—There can be no conviction under any of the counts charging an offence at common law, because there is no competent evidence of any wilful or fraudulent breach or perversion of any duty imposed by law upon the defendant Hall.

Second—That none of the acts of the defendant set up in the indictment constitutes any offense at common law, because it was never

PART OF THE DUTY OF A MAYOR

at common law to audit accounts, demands or claims against a city.

Third—In reference to the counts framed under the statute, there is no competent evidence of any neglect to audit the several accounts of

KEYSER, GARVEY AND DAVIDSON,

or either of them.

Fourth—No conviction can be had upon either of the counts founded upon the statute, unless there is evidence before the jury from which they would be authorized to find that the action of the defendant (Hall) connected with the audit of the accounts above referred to was

COMBINED WITH AN EVIL INTENT.

Under that request, and as covering all the law in the case referred to, counsel cite:—

Fifth—The duties imposed on the Mayor as a member of the Board of Audit were judicial in their character, and whatever way those duties were by him exercised he is not responsible under this indictment or under this proceeding for such exercise, unless his action is shown, beyond a reasonable doubt, to have been wilful or corrupt.

Under this request counsel referred to People vs. Norton, 7 Barbour, 477; Kendall vs. Stokes, 3 How., 98; Cunningham vs. Bucklin, 8 Cowen, 178; 7 How., United States, 131; 3 Laws, 74; 23 New Hampshire, 359; 1 Wharton's Criminal Law, section 713; Bishop on Criminal Law, fifth edition, sections 205, 206, 285, 286, 287; Roscoe's Criminal Evidence, page 804; Johnson's Impeachment, volume 2, page 169.

Sixth—There is no evidence from which the jury in this case would be authorized to infer any wilful, corrupt or evil intent on the part of this defendant in any one of his acts alleged in the indictment.

Seventh—That the jury must discard all evidence respecting any acts or conversations of the defendant not directly connected with the acts charged in the indictment.

Eighth—There is no evidence connecting the defendant Hall with any fraudulent making up of such accounts or either of them, or with any or either of the arrangements testified to have existed between the witnesses Garvey, Davidson and Keyser, and either of the co-defendants,

OR WATSON OR WOODWARD.

Ninth—No such wilful or corrupt intent is established by the resolution, or legally inferrible therefrom.

Tenth—By the resolution there was in law no delegation or surrender of any of the duties to be exercised by the Mayor as a member of the Board of Audit.

Eleventh—It was competent for the Mayor, under the authority vested in him by the statute, construed in connection with the existing provisions of law, to determine upon the nature, extent and efficacy of the evidence which he would receive for the purpose of enabling him to certify or audit the claims which might be presented to him as a member of the Board of Audit for action.

Twelfth—In requiring evidence that bills had been acted upon and approved by the Board of Supervisors, consisting of certificates of its president and clerk, the auditors sought the production of proof which, in the exercise of their discretion, they had a right to consider and act upon; and unless the defendant (Hall), in receiving such proof and acting upon the same as aforesaid, knew or was informed that such certification was false and that such bills had not been so approved he had a right to give such weight to these certificates of approval as he saw fit, in

AUDITING AND CERTIFYING THE SAID BILLS.

Thirteenth—That the evil intent or wilfulness by which are to be judged those acts of the defendant which are set up in the indictment must be such as existed and were fixed at the time such acts were done, and therefore no evidence can be considered by the jury of other acts or any declaration of defendant done or made subsequent to the consummation of defendant's acts as a member of the Commission of Audit, disconnected with the acts specified in the indictment.

Fourteenth—There is no allegation in the indictment of

ANY CONSPIRACY OR CONCERT OF ACTION

between the defendant and his associates in the Commission of Audit, and therefore the jury cannot consider any proposition to the effect that the defendant is responsible for the wrongful acts of such associates, should the jury believe there is any evidence of any such wrongful acts.

Fifteenth—That innocence and doing right are to be presumed on behalf of the defendant, who was a public officer in discharge of his duties, and that, therefore, it is the first duty of the prosecution to overthrow such presumption beyond all reasonable doubt.

Sixteenth—The burden of establishing knowledge in the Mayor of the fraudulent and fictitious character of the accounts is upon the people, and unless the jury are satisfied beyond a reasonable doubt that he had such knowledge their duty is to acquit.

Seventeenth—If the jury from the whole case find, as a fact, that the Mayor was not apprised of the fraudulent or false character of the claims

THEY MUST ACQUIT.

Eighteenth—If the jury, upon the whole evidence, entertain any reasonable doubt of the charges against the defendant it is their duty to acquit.

Nineteenth—That inasmuch as the evidence indisputably establishes that when the claims set up in the indictment reached the Mayor for his consideration and action as a member of the Board of Audit they purported to be sanctioned by the Board of Supervisors as

VALID COUNTY CLAIMS

and to have been audited as valid county claims by the Finance Department; the defendant had evidence that the claims were county liabilities incurred prior to the passage of the Audit act and to have been found due, and that if defendant in good faith and without evil intent received such evidence and acted on it without evil intent it is the duty of the jury to acquit.

Twentieth—That if the jury believe from the testimony of Garvey, or from any part thereof, that he is guilty of moral turpitude or crime in any act of his as testified by him, then he stands

LEGALLY IMPEACHED,

and his whole testimony or any part thereof should be rejected by the jury.

Twenty-first—That any act, conversation or declaration of the defendant in reference to the alleged present of silver or to the warrant for the work of the witness Garvey on the Reservoir in 1871, is irrelevant, and must be disregarded and discarded by the jury.

Twenty-second—That, in considering the guilt or innocence of the defendant upon any of the charges contained in the indictment, the jury must exclude from their consideration all evidence relative to the warrant for work done on the Reservoir in 1871, and the conversation relative thereto in said year testified to by the witness Garvey.

Twenty-third—That there cannot be conviction under any of the Statutory Counts because special provision has been made by the law creating the office of Mayor for the punishment of each and every official delinquency of the Mayor by impeachment and that the charges in the indictment are proper subjects for impeachment.

MR. BUCKLEY'S CLOSING ADDRESS.

Mr. Buckley then addressed the Court on these requests to charge. He read the thirty-eighth section of the statute published in the HERALD yesterday, making a wilful neglect of duty in a public officer a misdemeanor, and stated that the penalty on conviction was a fine and imprisonment, or either, in the discretion of the Court. After referring to the various counts of the indictment he called the attention of the Court to the fact, that prior to the passing of the Board of Audit bill the Comptroller had absolute control over city claims. The county claims were under the control of the Board of Supervisors, and that Board had for many years been free, by special legislation, from the consequences of any court action being brought against them. The charges against the defendant included county claims on what the Board of Supervisors had proved and audited; and it was important in this connection to remember that a large number of claims were outstanding before the bill appointing the Board of Audit became a law. All the checks signed by Mr. Hall bore the signature of the proper officers of this Board. It was admitted in the opening by Mr. Peckham that the prosecution did not suppose or believe that one dollar of this money had ever stained the pockets of Mr. Hall. The prosecution had not in his judgment sustained the allegation that Mr. Hall knew anything of the fraudulent character of these warrants. Mr. Buckley here quoted a number of legal authorities as to the character of the intention that constituted criminality. He cited from Bishop's criminal law to the effect that the criminal mind was the essence of the crime, without which it could not exist. In support of this doctrine he cited 7 Howard, 131 (Wilkes vs. Dinsman), an action by a marine for illegal detention and punishment by a commanding officer, in which this principle was maintained, and in which a definition of "wilful" is cited from an English case that it is an act done "contrary to the person's conviction." In 23 New Hampshire this precise point was raised in an indictment against the Overseers of the Poor. Judgment was arrested in that case, because there was no evidence of criminal intent. A case in 3d Lansing, page 74, holds that where the law provided that the office of certain railroad commissioners, if they wilfully neglected to perform their duties, their office should become vacant, no new appointment was authorized except in the case of non-feasance. He then proceeded to discuss Mayor Munro's case in 3 Denio, and The People vs. Brooks in 1 Denio, which he presumed would be cited by the other side. In these cases there was a refusal to do a direct physical act. In the last case it was a refusal to administer an oath, a mere ministerial act. A similar action would have been a refusal by the Mayor to sign these certificates; not for any reason, but for his mere pleasure.

Counsel, in closing, said that that would be the last opportunity for his addressing the Court in this case, and he would say a few words as to the facts. The result of this trial was of the greatest importance, not only to those who held high office, like that which the defendant held, but also to those who were in a kind of quasi-public office, where they were in trust of large sums of money. It was very important that this class of citizens should know what the consequences of an error of judgment might be. So long as we were constituted as we are, human nature would necessarily be fallible, and errors would be committed that might be disastrous to humanity. An illustration of this was found in the case of Schuyler and the New Haven railroad frauds; and also in the celebrated case in the mother country (England), where Watson, a director of the Bank of England, was implicated in the fraudulent issue of Exchequer bonds, which was afterwards discovered to be a mistaken confidence in the probity of his nephew.

At the close of this address the Court took a recess for thirty minutes.

THE PROSECUTION'S INSTRUCTION TO CHARGE.

Mr. Peckham, after the recess, rising, said:—

I will submit in the first place, following the example of the counsel for the defendant, requests on the part of the prosecution to the Court to charge in this case.

First—We request Your Honor to charge that if the jury believe from the evidence that the defendant was Mayor of the city of New York in April 1870, and thereafter, and that he accepted the office or charge committed to him with the Comptroller and then President of the Board of Supervisors, that then the defendant was bound to give his personal attention to the duties thereof, and could not delegate them either to the County Auditor or any other person.

Second—That the functions imposed by section 4 of the tax levy of 1870 were judicial in their character; that to perform them all the persons named must have met; that if the defendant wilfully neglected so to meet and audit the liabilities against the county embraced in the indictment the offence charged would be complete.

Third—That the auditing under the act required a personal examination of the amounts or claims presented, and required the personal judgment of the defendant upon evidence presented the auditors, and if the defendant wilfully neglected to give such personal attention and to form such personal judgment, it was a neglect of official duty and he must be convicted.

Fourth—That delegating such examination to another and acting on his report that he had audited the claim at a certain sum was not a performance of the duty imposed by the statute, and that the certifying of claims, in order that they might be paid on such a report and without other examination or investigation would be a neglect of duty.

Fifth—That to authorize a conviction on the first three counts on any Keyser, Garvey or Davidson item it is not necessary that the prosecution should show the defendant to have acted corruptly, or to have known that either or both of his co-auditors were acting corruptly. It is sufficient if the prosecution show a wilful neglect to perform the duties required by the act.

Sixth—That if the defendant intentionally neglected to perform the duties imposed by the act with reference to the items charged in the indictment, he must be convicted, notwithstanding he acted in the belief that he could delegate to others the duties imposed on him by the act; that ignorance of the law is not excuse.

Seventh—That if the jury believe from the evidence that the defendant certified to the claims mentioned in the indictment without having honestly made up his mind that they were just and honest claims, and with a belief that such claims were unjust, extravagant, false and fictitious, so that by means of such certificate the claims were paid, that then the defendant may be convicted on the fourth count on each item as to which the jury believe from the evidence the defendant so acted.

Eighth—If the defendant certified that the bills were audited, and the bills were paid by means of such certificate, when, in fact, they were false and fraudulent and had not been audited, this would be such misconduct in office as to constitute an indictable offence at common law.

CONCURRENCE AND COURTESY ALL ROUND.

Mr. Peckham, concluding, said:—Now, Your Honor, I think I have gone over all the authorities and cited all the legal opinions that, in my judgment and to the extent of my reading and experience, are necessary to sustain the prosecution on the four counts of the indictment relied upon for a verdict in the case. I beg to say here that I entirely concur with Mr. Buckley, counsel on the other side, who addressed the Court from their view of the case, with regard to the effect this case and its determination will have on the public mind and the effect it will have on the defendant himself.

Mr. Stoughton—Does my learned brother say so?

Mr. Peckham—I do say so.

Mr. Stoughton—You have changed your views somewhat, then, since your opening.

Mr. Peckham—I hope I expressed great satisfaction in my opening, so far as I could possibly make my view of the case satisfactory to the gentlemen for the defence.

Mr. Stoughton—I appreciate the courteous conducting of the case on the part of the prosecution.

Mr. Peckham—Then we are all agreed in being exceedingly courteous on both sides. (Laughter.) I will, however, call the attention of the Court to this phase of the indictment—that it charges a trivial offence, as it were, a charge of official neglect of certain duties. But at the same time the statute attaches great importance to the proper fulfilment of these duties. It is in this case of the highest importance, in arriving at a decision and construction of the statute, that the Court should let the public know, and let all know and understand not only the requirements that are made by the statute, but what official duties and responsibilities are imposed upon those accepting office. It is important to know whether men, without committing an offence, accept official duties and then take it on themselves to neglect to perform those duties. This is, perhaps, the only great, important point in this case. It is important because it necessarily involves the question whether the public are to be protected by the enforcement of those duties on the part of those who contract to perform them, or whether the public have no protection, and that the man whom they may elect to office for the faithful discharge of those duties can delegate them to others wholly without responsibility to the public.

Mr. Stoughton—I believe Mr. Tremain intends to sum up for the prosecution.

Mr. Peckham—Yes; I don't think our duty would be discharged otherwise.

The Court then adjourned till this morning.

THE CASE OF BOSS TWEED.

He Will Be Brought Into Court To-Day and Required to Prepare for a Speedy Trial.

In anticipation of the immediate termination of the trial of Mayor Hall, the District Attorney and his associates representing the State Attorney General have determined to bring Tweed into Court to-day, and then to fix with Judge Brady upon an early day for his trial in the Court of Oyer and Terminer. The prosecution are alive to the necessity of putting the ex-Boss on trial, as the public sentiment is not satisfied with the effort to make a sacrifice of Mayor Hall for misfeasance in office, while the principal alleged actor in the stupendous frauds against the city government goes unwhipt of justice.

THE INDICTED ASSISTANT ALDERMEN.

Isaac Robinson and Edward Costello Indicted for Bribery—They are Bailed in $5,000 Each to Appear for Trial—Spicy Developments.

Immediately after a recess of thirty minutes had been ordered by the Court in Mayor Hall's trial, at one o'clock, Sheriff Brennan introduced to Judge Brady, in the Court of Oyer and Terminer, Assistant Aldermen Isaac Robinson and Edward Costello, who were in custody of the Sheriff on an indictment found by the Grand Jury on the previous day for bribery.

HISTORY OF THE CASE.

It seems that there was an ordinance pending before the Board of Assistant Aldermen to prohibit the running of freight cars in the day time over Fourth avenue, the Bowery and Centre street below Twenty-seventh street, and that the defendants went to the President of the New Haven Railroad Company and demanded from him, as a consideration for defeating the ordinance, the sum of $7,500.

Judge Brady took the indictments from Mr. Sparks, Clerk of the Court, and glanced over them.

Mr. Robinson—I should like to know on what charge I have been arrested?

Judge Brady—It is for bribery, and a very serious offence.

Mr. Robinson—I should like to have a copy of the indictment and the names of the witnesses.

District Attorney Garvin—I will give the defendant a copy of the indictment and also the names of the witnesses.

Mr. Robinson—I want to know what amount of bail will be taken?

Judge Brady fixed the bail at $5,000 for each defendant.

Both defendants left the Court in custody, and subsequently gave bail, William Colligan and Bernard Costello becoming their sureties in $5,000 each.

INTERVIEW WITH ROBINSON.

After bail had been given Mr. Robinson gave the following particulars concerning his indictment:—

During the month of March last Mr. Edward Van Ranst came to Assistant Alderman Costello and myself and stated that Mr. James H. Hoyt, Superintendent of the New Haven Railroad, sent us his compliments and would like to have an interview. Taking no heed of the invitation, I allowed several days to elapse, when a messenger from Mr. Hoyt waited upon us and asked us to come up to Forty-second street depot. In accordance with his wishes we went up there and saw Mr. Hoyt. He told us that he

WANTED US TO DEFEAT THE RESOLUTION

prohibiting the running of the freight cars of the New Haven Railroad during daytime through Centre street, the Bowery and Fourth avenue. He gave as his reasons for asking this that the New Haven Railroad was a democratic railroad company; that Mr. Bishop, President of the road, was a democratic member of Congress; that he was always at Albany attending to affairs of the railroad during the session of the Legislature; that he was

A FIRST RATE FELLOW;

knew well how to do business with members of legislative bodies, and always took plenty of money with him. Mr. Hoyt concluded by saying that he wished particularly that we should see Mr. Bishop, to which I replied that if he wanted to see us we could always be found at the City Hall. In reply to this he said Mr. Bishop's time was so very valuable that he could not say if he would be able to get down town to the Aldermanic rooms. To oblige him I consented to meet him, but no time was fixed for an interview. Shortly after this we received the following letter from Mr. Hoyt:—

Mr. Robinson then gave the reporter the following letter to copy:—

LETTER FROM SUPERINTENDENT HOYT.

GENERAL SUPERINTENDENT'S OFFICE,
NEW YORK AND NEW HAVEN RAILROAD COMPANY,
NEW YORK, March 26, 1872.

MESSRS. ISAAC ROBINSON and EDWARD COSTELLO:—

GENTLEMEN—I wrote to Mr. Bishop relative to seeing you as early as possible, and not later than Thursday A. M. He arrived in the city Monday night on Boston train and left yesterday morning for Albany. I did not see him, but he got my letter and telegraphed me this morning that he will see you at his office to-morrow (Thursday) morning, at ten o'clock. Yours, &c.

JAS. H. HOYT.

I went to see Mr. Bishop at the time appointed, and the subject of the resolution before the Board of Assistant Aldermen was discussed, but I left without making any promise as to how I would vote; when the resolution came up Mr. Costello and myself voted against its adoption; the indictment does not say that I received one cent; I look upon the whole affair as

A MALICIOUS PLOT,

devised for political purposes, as I am at the present moment a candidate for Alderman; the alleged black mailing mentioned in the indictment took place last March, and is now brought up just before election time to hurt my chances; all that I have told you will be confirmed by Mr. Costello; what I have now stated is the truth, and nothing but the truth.

No day has as yet been fixed for the trial of the accused, but it will, no doubt, be brought on without delay.

CHARGE OF FALSE REGISTRATION.

The Case of Francis P. Healy—He is Confined in Ludlow Street Jail.

In the case of the United States vs. Francis P. Healy the further hearing of the case of the defendant, who is charged with having falsely registered his name as a voter at 258 Mott street, was resumed yesterday before Commissioner Davenport.

General Davies and Mr. De Kay appeared for the prosecution, and Mr. Healy, who is a lawyer, defended himself.

Mr. De Kay asked Mr. Healy if his witnesses were in attendance.

Mr. Healy—No; they have been served irregularly, and I suppose they have taken advantage of it.

Commissioner Davenport—Are you ready to go on?

Mr. Healy—No; I understand my witnesses are not present. They have been served irregularly; but whether regularly or irregularly, I must invoke the aid of the Court in enforcing their attendance.

Mr. De Kay—How do you mean served irregularly?

Mr. Healy—The summonses were given to second parties to serve them on the persons to whom they were addressed.

Mr. De Kay—The summonses were given to Mr. Dowley, an efficient marshal, to serve for the defendant. I gave him the names and told him to be particularly careful to serve the papers on the parties. There can be no mistake; I have seen no return to the summonses. I want to finish this case this morning.

Mr. Healy—Let the person who served the summonses come here, and I will interrogate him. I have no doubt the Marshal has done his duty, but I want to see how it is.

Mr. De Kay—Did you ask to have a Mrs. Woods summoned?

Mr. Healy—Yes.

E. C. Abbott, a Deputy Marshal, here stated, in reply to a question from the Court, that he was with Mr. Dowley when the latter was serving the summonses in question. Mr. Abbott said he recollected some of the names of the persons who were summoned as witnesses. Some of the persons whose names were on the back of the original summonses were personally served, and where the parties could not be served personally the summonses were given to parties who knew them for the purpose of effecting the service.

General Davies—Have you no one who can serve subpœnas for you?

Mr. Healy—I do not want to assume the responsibility of it.

John E. Dowley, Deputy Marshal, stated that he had personally served summonses on two witnesses for the defendant, Anne McGill and Thomas Ryan, and three witnesses, named Woods, Griffin and Harrington, had been served by leaving the summonses at their residence.

Mr. Healy said the point he wished to sustain depended on the testimony of these witnesses and he must have them in attendance. He did not want to let the case go by default, and if there had been *laches* on the part of the Marshal in serving the papers—

General Davies—There is no *laches* on the part of the Marshal.

Mr. Healy—I can prove my residence there if I have witnesses. Some of those witnesses do not like to take an oath, thinking it would prevent them from gaining salvation if they were otherwise fit for it. I would like to have this examination before the election.

After some further discussion in reference to the non-attendance of the witnesses for the defence, the District Attorney, at the request of the defendant, said he would issue new summonses for the witnesses who had not been personally served and attachments against those who had been personally summoned.

The defendant observed that, confined as he was in Ludlow Street Jail under $5,000, he could not go around to serve those papers.

The case was on the point of being adjourned, when

Thomas Ryan, one of the witnesses for the defence, made his appearance. Being sworn he testified that he was in the liquor business at 258 Mott street; has known the defendant, Francis P. Healy, about eighteen months; during fifteen months of that time have known him to reside at 258 Mott street, in the same building in which witness' store is situated; Healy lived there with the old lady, Mrs. McKenna; he lived there on Saturday last, at the time of his arrest.

In cross-examination General Davies put a question as to whether or not the defendant paid rent at 258 Mott street. Defendant objected to this, and said it made no matter whether he paid rent or not, so long as he resided at the place. The Commissioner allowed the question and the defendant excepted. The witness replied that defendant paid a little once in a while to the old woman, Mrs. McKenna—one or two dollars a week. He paid whenever he was able.

Mrs. McGill was next called for the defence. At first she declined to be sworn, stating that she did not like to take an oath. She said she would tell the truth, but could not take the oath. The Commissioner proceeded to administer the oath, and, having pronounced all the words of it, he told the witness to "kiss the book." She said she "would not kiss the book."

Mr. Healy—Mrs. McGill, where do you reside?

General Davies—One moment; the witness is not sworn.

The Commissioner—She cannot be examined until she is sworn.

Finally the witness kissed the book, and testified that she frequently visited the house of Mrs. McKenna, who was her stepmother; has known Francis P. Healy for about fifteen months; during that time he had stopped with Mrs. McKenna at 258 Mott street; witness lived at 260 Mott street.

The case was then adjourned until this morning, for the purpose of securing the attendance of the remaining witness for defence, the Commissioner intimating that he understood the government would have one or two witnesses in rebuttal.

MANDAMUS AGAINST THE BOARD OF AUDIT AND APPORTIONMENT.

The Salaries and Allowance of Officers and Attendants in the Court of Oyer and Terminer to be Paid.

Some time since application was made to Judge Leonard, of the Supreme Court, for a mandamus against the Board of Audit and Apportionment to audit and allow the claims of attendants at the Court of Oyer and Terminer, said attendants being appointees of the Sheriff. There were some ninety claimants, and their claims run back into 1871. The matter was argued at great length, Mr. Charles W. Brooke appearing on behalf of the claimants and Mr. Strahan in opposition. Judge Leonard yesterday rendered his decision in the case granting the application. The following is the

OPINION OF JUDGE LEONARD.

It appears without dispute that this claim was audited and allowed by the Board of Supervisors before the creation of the Board of Apportionment and Audit. The audit and allowance of the claim by the Supervisors was in the nature of a judicial act, and that Board could neither rescind nor review the judgment which they rendered, allowing the demand of the relator. This has been so held in reported cases by the Supreme Court. No authority has been given to the Board of Apportionment and Audit to entertain any such jurisdiction as a review or rescission of the action of the Supervisors. It is the duty of the Board of Apportionment and Audit to receive the action of the Supervisors in the matter as conclusive, and to audit and allow the demand at the sum so allowed by the Supervisors. The writ of mandamus is granted, with costs.

THE LORD GORDON CASE.

A Fresh Chapter in the Swindling Operations of the So-Called Lord Gordon, of Greeley-Gould Notoriety.

In the multiplicity of constantly recurring exciting events, the case of the pseudo Lord Gordon has been almost forgotten. While other events have, however, thrust him thus from the public memory, the records of his doings, or rather doing Jay Gould, Horace Greeley and others, as carefully chronicled in the daily papers at the time, have found their way into the columns of foreign papers. Mr. Thomas Smith, one of the firm of Marshall & Sons, jewellers, 78 George street, Edinburgh, read one of these accounts. He at once made up his mind from the circumstances of the case that this Lord Gordon, who, according to the published accounts, had played the *rôle* of swindler here with such success, was none other than a swindler who had cheated them and other tradesmen "in Edinburgh town" out of their goods under the aristocratic name of

LORD GLENCAIRN.

He wrote to Messrs. Compton and Root, Gould's, attorneys, in regard to the matter, and after some correspondence obtained and sent to them a photograph of Lord Glencairn. This likeness of their Lord Glencairn proved to be a perfect picture of our Lord Gordon. Upon this fact developing itself Messrs. Compton and Root at once sent a cable telegram asking Mr. Smith to come here and give his testimony as to the antecedent career of Lord Glencairn in Great Britain. He responded at once, and came over in the steamship Batavia on her last trip. Upon his arrival Mr. Smith set himself diligently at work to discover the whereabouts of Gordon-Glencairn, but without any success. Messrs. Gould's counsel were quite as anxious to find Gordon as Mr. Smith, and with this view deferred the examination of the latter until yesterday, when he was taken before Judge Fancher, of the Supreme Court, and examined *de bene esse*. There were present at the examination ex-Judge Fullerton and Elihu Root, of this city, and General Collis, of Philadelphia. The testimony of Mr. Smith was as follows:—

MR. SMITH'S TESTIMONY.

Q. When was the person calling himself Lord Glencairn introduced to you? A. During the year 1869; a clergyman named Simpson introduced him to our firm by this name; this clergyman lived in Glenisla, Forfarshire, Scotland, and represented Lord Glencairn to be a landowner of great wealth, who wanted something in our line of business; he said that Lord Glencairn had been hunting near his (Mr. Simpson's) place.

Q. Did Lord Glencairn open an account with you? A. I am sorry to say that he did and that the account ran up to some three hundred pounds sterling; in making his purchases he evinced great

FASTIDIOUSNESS OF TASTE

as to the articles selected, frequently making it necessary to have the foreman take his orders directly; he represented to the firm that he was possessed of immense wealth, not only in Scotland, but in England and Ireland as well; his estates in Scotland, he said, were in Ayrshire, and those in England in Northamptonshire, but the locality of those in Ireland he (witness) had forgotten; he stated that Mr. Howard Patterson, of 57 Lincoln's Inn, London, was his solicitor and attended to his business; subsequently Lord Glencairn, as it turned out, sought to make purchases of a Mr. Keller, a diamond dealer in London, and referred to our firm as one with whom he had been dealing for many years; Mr. Keller wrote to us to make inquiries in the matter; this excited the suspicions of the firm, as instead of having been dealing for years he had only been dealing for months; after receiving this letter I went by the next train to London, called at Mr. Patterson's chambers and desired to see Lord Glencairn; the statement was that His Lordship was not in; the floor was strewn with game, however, which His Lordship had shot, and while we were talking

LORD GLENCAIRN'S TIGER

passed in; I saw on a table a hat I knew belonged to His Lordship; I took a seat and expressed my determination to see Lord Glencairn before he left.

Q. Well, did you see him? A. Mr. Patterson went up stairs and very shortly I was invited into an elegantly furnished room, designated as His Lordship's reception room; His Lordship was sitting at a writing table; he received me very graciously and referred me at once to Mr. Patterson; the latter represented his client as

WORTH ONE HUNDRED THOUSAND DOLLARS,

and recommended me not to displease him, as otherwise I would lose a good customer; finally Patterson said such articles as were on hand Lord Glencairn would return and give a check for the balance, but if he (witness) would accept it he would guarantee payment of the full amount by the 25th of March, 1870.

Q. Did you accept the proposition? A. Yes, but the promised payment was not made; soon after a clerk of Mr. Patterson came to our place in Edinburgh, saying that he had been sent to inquire if Lord Glencairn had been there; this clerk said that Lord Glencairn had left London, saying that he was going to Scotland for a few days, but had not returned; I went to London, and found Mr. Patterson perfectly frantic.

Q. What made him frantic? A. He said that Lord Glencairn had

GOT INTO HIM TO THE EXTENT OF FIVE THOUSAND POUNDS.

and that out of this sum he obtained £800 only the previous day; Patterson said that Lord Glencairn had ruined him and at the same time offered to return some of the goods which Lord Glencairn had presented to his (Mr. Patterson's) family, if he would be released from his guarantee; this was accepted, leaving a balance of £131 still due on the account.

Q. Did Lord Glencairn swindle other parties? A. Plenty of them.

Q. Of what amount do you suppose? A. Of £10,000 at least—that is to say, in Edinburgh and London; he referred to the Duke of Hamilton and Marquis of Hastings as being nearly allied to him.

Q. Were inquiries ever made of these parties regarding him? A. Yes, and they both pronounced him

AN IMPOSTOR;

Lord Glencairn's "tiger" wore a cockade, which indicated that his employer was in the government service; he told witness that his mother was a very gay woman, but a more worthy man than his father never lived; he never heard him say that his father was a duke; he never heard him breathe the name Gordon, and he never heard the names Count, Dr. Crous or Baron Thurl mentioned until he saw them in the testimony published in the proceedings in this city; in 1868 Lord Glencairn was known in Scotland as Herbert Hamilton; since his flight from London in March, 1870, or as far as can be ascertained, Lord Glencairn has never showed himself again either in England, Scotland or Ireland; he left at Mr. Patterson's chambers a tin box with the name "Right Honorable H. Glencairn" on it; in it was a full Highland dress, which he (witness) took to Edinburgh and delivered over to the makers, who had never been paid for it; he brought the slippers with him. (The slippers were produced, and a very elaborate pair they were, the material being patent leather, highly ornamented and having massive silver buckles.) He did not know where Lord Glencairn is now; Lord Glencairn boasted of his having an elegant Durdan vase with the

LIKENESS OF THE FIRST NAPOLEON'S MOTHER

on it; he said that the present Napoleon heard of it and sent to him to see it; that he sent it to the French Court by a special commissioner, with the instruction that he was not to let it out of his presence, and that the Emperor offered £10,000 sterling for it, which he refused; he offered to loan it to their firm to place on exhibition; on another occasion Lord Glencairn asked him how old his son was, and, having been answered "Twenty years," said, "I well remember when I was that age; my father called me into the breakfast room and said, 'Herbert, my son, you have reached the brightest period of life; you know how bright your prospects are; deny yourself nothing that your fancy or desires crave, but never do anything you would be ashamed to have me know;' this would be my advice to your son."

The witness produced a number of letters received by his firm and others, signed Glencairn, which he swore were in Glencairn's handwriting. A large number of letters, written by Lord Gordon to Jay Gould, was shown to the witness and sworn by him to be also in Lord Glencairn's handwriting. It was evident that the Glencairn and Gordon letters were in the same handwriting. Witness produced a photograph of Lord Glencairn which he had obtained in England. It was immediately recognized by all present as the picture of Gordon. There were several residents of this city present who had known Mr. Smith in Scotland, and spoke of him as a person of the highest respectability.

The examination will be resumed at ten o'clock this morning.

BUSINESS IN THE OTHER COURTS.

UNITED STATES COMMISSIONERS' COURT.

The Alleged Whiskey Ring Frauds—Abandonment of the Prosecution and Discharge of the Accused.

Before Commissioner Shields.

The United States vs. Lewis Samuels and Others.—The defendant has been charged, on the complaint of one Strauss, with having conspired with others to defraud the government out of the duty on ten barrels of whiskey manufactured in 1866, at a distillery in Eighth street, in this city. The case has been several times called up for hearing and adjourned. Yesterday, however, the prosecution abandoned it.

Mr. Pierrepont, Mr. Rollins and Mr. Harland appeared as counsel for the defence, and Mr. De Kay and ex-Recorder Smith for the government. Mr. Smith said in this case he was counsel for the complainant (Strauss). He brought Strauss to the District Attorney's office, and there Strauss made a complaint against the defendant, charging him with the offence mentioned in the affidavit. After the complaint was made and the warrant was issued his attention was called to certain matters in the case which at first had escaped his notice. Upon investigation he was satisfied that the government could not sustain the charge that had been made. Having been instrumental in having the charge preferred he deemed it his duty to state the fact to the Court, and he did so as a matter of justice to the defendants. He now left the matter with the government.

Mr. De Kay—I am directed by the District Attorney to state that he has looked into the case and coincides with Mr. Smith. I, therefore, ask a dismissal of the case.

The case was dismissed accordingly.

NATURALIZATION IN THE UNITED STATES COURTS.

From the 9th of September to the 26th inst. 315 persons have been naturalized as citizens in the United States Courts of this city.

SUPREME COURT—CHAMBERS.

Decisions.

By Judge Barrett.

Thomas Hope vs. Charles E. Lawrence et al.—Case and amendments settled.

Albert S. Gallup et al, vs. Samuel M. Lederer.—Same.

By Judge Ingraham.

Davis et al. vs. Silsby, Jr., et al.—Motion granted.

COURT OF COMMON PLEAS—SPECIAL TERM.

Decisions.

By Judge Robinson.

Luft vs. Graham et al.—Motion to set aside default denied, with $10 costs.

Connolly vs. Read.—Motion to set aside case for defendant's examination on supplementary proceeding granted, with $10, to be set up against judgment.

Ernst vs. Ten Eyck.—Order of arrest denied.

Corbett vs. Hausman.—Warrant under non-imprisonment act denied.

JEFFERSON MARKET POLICE COURT.

Robbery in a Jewelry Store—Large Draft on a Gentleman's Wardrobe—Pocketbook Snatching.

Henry Marshall and James Williams were brought up charged with stealing a quantity of jewelry from the store of Richard Elias, 611 Broadway. The evidence showed that the prisoners entered the place together on Monday evening, and Marshall was observed to take a number of shirt studs from a tray on the counter and put them in his pocket. When charged with the offence he hastily threw them on the floor. An officer was sent for and they were taken to the station house. The property was valued at $61. They were held to await the action of the Grand Jury.

Alexander White and Joseph Townsend, two negro boys, were charged with stealing clothing to the amount of $241 from the wardrobe of Peter Dewitt, in a boarding house on West Fourteenth street. It was shown that White, who was employed in the house, was in the habit of taking the clothing and carrying it to pawn shops, in company with Townsend. They were committed in default of bail.

John Clark attempted to snatch a pocketbook from the hands of Mrs. Alice Burke, on the street, but failed, and was captured by a policeman and taken to the station house. He was committed for trial.

BROOKLYN COURTS.

CITY COURT—GENERAL TERM.

The Homan-Earle Breach of Promise Case.

Before Judges Thompson and McCue.

Last October Roxcellena Homan, a lady about thirty years of age, sued Alexander Earle for $20,000 damages for an alleged breach of promise, and got a verdict of $15,000. Mr. Earle, who is commonly known in Brooklyn as "the man that looks like Beecher" (and he certainly bears a striking facial resemblance to that eminent divine), is a prominent member of the church, and the case excited great public interest at the time of the trial. The allegation was that he proposed to Miss Homan, was accepted, and then transferred his affections to another lady whom he married.

Mr. Earle appealed to the general term of the City Court for a new trial, and the case was argued yesterday. His counsel asked for a reversal of the judgment and a new trial, on the grounds that the verdict was unwarranted by the plaintiff's own evidence, that it was irreconcilable with a number of wholly undisputed facts, and that it was contrary to the clear weight and preponderance of the evidence. Counsel held that Judge Neilson (who presided at the trial) erred in declining to grant a non-suit at the close of the case for plaintiff. For the purposes of a motion for a non-suit the facts adduced by the plaintiff were admitted to be true, and it was purely a question of law for the Court to decide, and not a question of fact for the jury whether or not the existence of a contract to marry had been proven, and whether plaintiff had been justified in drawing the inference she had drawn. He held there was no express promise on either side.

Counsel for Miss Homan said there was no date alleged as to the making of the contract, and the jury was at liberty to infer when it was made. He asserted that the verdict was not excessive, for Miss Homan had a right to expect that her station in life was to be very much raised; that she would not be compelled to work daily for a mere pittance, and that she was to be placed entirely above want during life. Such men as Mr. Earle were not plenty, and it might so happen that she would never again have such an advantageous opportunity. Counsel held that a marriage contract did exist.

The question in this case is whether a promise of marriage can be implied from the circumstances. Decision reserved.

COURT OF SESSIONS.

Trial of the "Silver Gang."

Before Judge Moore and Associates.

Michael O'Brien and Thomas Brown, two of the gang of alleged burglars known as the "Silver Gang," were acquitted of the charge of having broken into and robbed Mr. Graves' residence, No. 176 Washington street. Yesterday O'Brien and Peter Weir, another member of this gang, were tried for robbing the house of Edward Emmersen, in Second place. The chief testimony against them, as in the other case, was that of the informer, Higgins, and that of Captain Ferry, who recovered the stolen property. Counsellor Greata, for the defence, appealed to the jury not to convict the prisoners on the testimony of a self-confessed thief like Higgins, who had ill-feeling against them. The jury, however, did convict them, and they were remanded for sentence.

Discharged.

Michael Kelly, Michael Hunnan, Ellen Pryer, Margaret Sterling and Honora Ghegan, who were charged with receiving property stolen by the Silver Gang, were discharged, the Court having no jurisdiction. The alleged offences were committed in New York.

Michael Doll, indicted on the charge of setting fire to the premises 85 Bushwick avenue in August last, was acquitted.

BROOKLYN COURT CALENDAR.

CITY COURT.—Nos. 312, 300, 85, 241, 303, 255, 334, 336, 523, 74, 94, 174, 181, 339, 340, 341, 342, 343, 345, 346, 347, 348, 349, 350, 351, 352, 354, 355, 356, 357.

MUNICIPAL AFFAIRS.

The Public Baths.

Commissioner Van Nort, of the Department of Public Works, reports that the number of bathers at the two public baths from October 1 to October 13 was 9,961, of whom 2,124 were females. The baths were closed for the season on the 13th inst., having been open since June 17—119 days—during which time they were visited by 531,149 bathers, of whom 118,229 were females. The largest number of bathers on any one day during the season was 10,671, on Thursday, August 12. The cost of maintaining and repairing the baths for the year 1872 will be $9,358 47; the city, therefore, pays less than two cents for every bather.

Hacks and Cart Licenses.

By direction of the Mayor Marshal Hart has extended the time for renewing the licenses of hacks, carts, express wagons and coalmen to October 31. This action is taken on account of the prevalence of hippozymosis.

Those Unfortunate Paintings.

The Sheriff's employés seem to entertain a special spite against the unfortunate celebrities whose features have been perpetuated on canvas in the Governor's Room of the City Hall. Whenever a judgment is rendered against the city for an amount that these paintings will cover Deputy Stevens or some of his equally valiant associates hies to the second story and seizes them in an execution. A great many times has this indignity been offered in the past and the Comptroller has been compelled to rescue them from public sale. On Monday Joel Stevens again seized them, this time on a judgment secured against the city by Edward Boyle for salary as a city officer. A keeper was put in charge, and yesterday Comptroller Green took the preliminary steps to satisfy the judgment and relieve the paintings from the clutches of the Sheriff. It is to be hoped that the Comptroller will in the future satisfy judgments as soon as found and spare the "feelings" of those gentlemen whose features adorn the walls of the Governor's Room.

Contracts for Public Works.

Commissioner Van Nort, of the Department of Public Works, reports that the following additional awards of contracts for public works have been made, proposals for which were opened on the 23d and 24th inst.:—

Building sewers in Eleventh avenue, between Fifty-second and Fifty-fourth streets, to M. H. Grossmeyer	$2,955
Building sewer in Fifty-fifth street, between avenue A and First avenue, to M. H. Grossmeyer	3,437
Regulating, grading, &c., 127th street, from Sixth to Eighth avenue, to John B. Nichol	7,804
Regulating, grading, &c., 128th street, from Sixth to Eighth avenue, to John B. Nichol	7,641

Payments by Comptroller.

Comptroller Green yesterday made the following payments:—

Department of Police—For pay of the force and expenses of department for October	$330,098
Laborers—Repairing cobble and stone block pavements to October 15	12,636
Laborers—Small pipes to October 15	2,338
Laborers—Laying 36 inch Croton mains, Mott and Canal streets, to October 15	6,497

The balance of rolls of small pipe men will be paid to-morrow to Kingsbridge.

THE NATIONAL GAME.

The Baltimores Defeat the Mutuals—Score 4 to 1.

The Baltimore and Mutual Clubs played another of their championship games yesterday afternoon, on the Union Grounds, Williamsburg. The attendance was small, owing probably to the fact that the means of reaching the place of playing were very limited, most of the horse cars having been withdrawn because of the "epizootic." The game was quite pleasant to look upon, but long before it was called, rumors were indulged in that it would not be decided upon the merits of the players, and these rumors seemed to assume some tangible shape when the Baltimores sold in the first pools two to one over the New York boys. Such odds were not at all warranted, but when $25 to "anything you could get" was offered in the same way, it was a little astonishing to the simple-minded. There are many things peculiar in the base ball world to a man with his eyes wide open, and yesterday's contest was just one of these peculiar things. The following is a summary of the game:—

BALTIMORE. Players.	R.	1B.	P.	A.	MUTUAL. Players.	R.	1B.	P.	A.
Hastings, c	1	1	8	0	Eggler, c. f	1	1	1	0
Pike, 2d b	1	1	1	2	Hatfield, 2d b	0	1	3	6
Radcliff, 3d b	0	0	2	2	Start, 1st b	0	0	8	0
Cary, s. s	0	1	2	4	Bechtel, r. f	0	0	1	0
Fisher, r. f	0	1	0	0	Hicks, c	0	1	5	1
Mills, 1st b	0	0	8	0	Peirce, s. s	0	0	1	4
Hall, c. f	0	1	1	0	McMullen, l. f	0	0	6	0
Matthews, p	1	0	0	1	Cummings, p	0	0	0	0
Yorke, l. f	1	0	5	0	Boyd, 3d b	0	0	2	2
Totals	4	5	27	9	Totals	1	3	27	13

INNINGS.

Clubs.	1st.	2d.	3d.	4th.	5th.	6th.	7th.	8th.	9th.	
Baltimore	0	0	0	0	0	3	1	0	0	—4
Mutual	1	0	0	0	0	0	0	0	0	—1

Runs earned—Mutuals, 1; Baltimores, 0.
Umpire—Swandell, Eckford Club.
Time of Game—One hour and thirty minutes.

National Game Notes.

To-day, on the Union grounds, the Baltimores and Mutuals play the last of their championship games. Who will be the favorites? On Thursday the Baltimores will play the Atlantics on the Capitoline grounds.