# THE COURTS.

## THE STOKES TRIAL—TWELFTH DAY.

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### The Theory of the Two Pistols Still Pressed—Commodore Vanderbilt on the Stand.

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### A Man Who Claims to Have Been Elected Comptroller at the Last Election—He Asserts His Legal Rights and Invokes the Protection of the Court.

## BUSINESS IN THE OTHER COURTS.

### Summaries—Swearing In of a New United States District Attorney—Personnel of the Office—Assignment of Supreme Court Judges for 1873—Decisions.

In the Stokes trial yesterday a new witness appeared on the scene, and, as his testimony proved, a most important one for the interests of the defence. He swore, in substance, that he was passing the main entrance to the hotel an instant preceding the tragedy, and hastened, with others, to the private staircase. He succeeded in getting to the landing, half way up the stairs, and observed a lady who was in advance of him pick up something white and shining, which she subsequently held above her head and which he then distinctly saw was a small silver-mounted pistol, with ivory butt and elaborate in finish. The description he gave of the weapon coincided exactly with that given by the parlor man, De Corley. The lady ascended the stairs rapidly and disappeared on reaching the top. Mr. Fullerton, for the prosecution, subjected the witness to a rigid and exhaustive cross-examination but failed to impeach his testimony in any one essential particular. Mrs. Williams, the cousin of Josie Mansfield, also gave some important testimony regarding the frequently uttered threats of Fisk against the prisoner in the abode of Mrs. Mansfield, under peculiar circumstances. Jennie Turner, a domestic in the Morse family, was also called, but, owing to the lateness of the hour, did not go upon the stand. She will be examined on Thursday morning, to which day the case is adjourned.

Oliver S. Dawson has been arrested by Deputy Marshal Kehoe, on a charge of having put his name on an alleged fraudulent bond in reference to the bonding of a canal boat. Dawson has been committed by Commissioner Osborn, in default of bail, for examination.

Yesterday James Hughes was charged, before Commissioner Shields, with having stolen a quantity of mail bags from the Post Office. The accused waived an examination, and was discharged on his own recognizance by consent of the District Attorney. It is probable that Hughes will be used as a witness against several parties who have been held for a similar offence.

Judge Leonard, of the Supreme Court, yesterday rendered his decision upon the recent application on behalf of the Commissioners of Docks for a writ of mandamus against the Comptroller, compelling him to pay over to them $500,000, the residue of proceeds from the sale of dock bonds still in his possession. He decides that the case was not technically before the Court, and therefore denies the application, but with privilege to renew the same without prejudice. The probability is that the opening of the new year will witness a renewal of this legal warfare, and that the Dock Commissioners this time will strive to get their case regularly before the Court, and thus prevent another defeat on a mere technical ground. An abstract of Judge Leonard's opinion in the case will be found in our law columns.

There seems a bare possibility of the members of the Board of Audit being punished for disobeying a peremptory writ of mandamus granted by Judge Ingraham, of the Supreme Court, directing them to audit and allow the salary of John T. Baker, one of the clerks in the Finance Department, under ex-Comptroller Connolly. They have till the 8th instant to comply with the mandamus or else have an attachment issue against them, in which case, unless furnishing bail, there will be no other alternative than being lodged in jail. Judge Leonard, of the Supreme Court, gave yesterday a decision to this effect. The points of his opinion embodying this decision will be found elsewhere.

The girl Lizzie Dugan, aged fifteen, concerning whose custody there has been a protracted legal controversy in the Courts between her mother, Mrs. Emma J. Dugan, and Mrs. Jennie A. Rittner, was yesterday, by order of Judge Leonard, of the Supreme Court, assigned to the care of Mrs. Sarah Chamberlain, sister of the first wife of Mr. Dugan, to whom she was indentured till she is eighteen. This ends this part of the controversy. The civil suit growing out of the alleged assault by Mr. Dugan on Mr. Rittner, from the effects of which the latter is said to be paralytic and his recovery doubtful, is still pending.

## THE STOKES TRIAL.

### Proceedings Yesterday.

The Court opened at the usual hour, and the case for the defence was at once resumed.

The first witness called was

PETER J. ROTHWELL,

a porter at the Grand Central Hotel at the time of the shooting. He testified that he, with Mr. Crockett, looked everywhere for the pistol, after the shots were fired, but could not find it.

Mr. Dos Passos then read the proceedings in the Coroner's inquest, which occupied a great part of the morning.

Commodore Vanderbilt was then examined in regard to Fisk's character as to temper, &c. The Commodore said he had found Mr. Fisk a most unscrupulous man, and believed he would not scruple at anything to accomplish his designs.

The next witness called was

SENATOR DIVEN.

His opinion of Fisk's character was not materially different from that given by Commodore Vanderbilt, and he also spoke of Mr. Fisk's marital infidelities and his connection with Josephine Mansfield. He said he had never known Fisk to use personal violence to any one, and never heard of his doing so; he had heard that Mr. Eaton had been waylaid, and that Fisk's name was mixed up in the affair. The witness said that aside from Mr. Fisk's business relations he had a good many followers in his pleasures, but he knew nothing in particular except that Mansfield and Montaland rode with Fisk in his carriage.

Horace F. Clark was next called, but did not answer.

JOHN F. BARRETT

was the next witness called, and testified that he was at the Grand Central Hotel when the conversation about the testimony of the boys was brought up, and saw Mr. Powers, Mr. Morgan and Captain Byrnes, and heard Powers say he was sorry that any difference in their testimony had occurred.

B. S. JESTER,

a master builder, was next called, and testified that he was passing the Grand Central Hotel at the time of the shooting, and heard some one say that Fisk was shot; immediately entered the hotel, and saw a lady standing in the hallway with a pistol in her hand. (What remarks she made were ruled out by the Court.) The lady immediately after started to go up stairs, and the witness then had a tilt at arms with Mr. Beach in regard to some technical point; but the witness got the best of it, and Beach said he would give it up. After the witness saw the lady go up stairs, he, with a friend, went up town.

Beach again began the contest, and asked witness if he knew how the lady was dressed? He said he did not know, but believed she had a hat on, but did know whether she had a shawl on or not. In answer to the question as to whether he knew anything about

THE PREVAILING FASHION OF LADIES' DRESSES,

witness said he was not a dry goods merchant or a milliner. Witness was then asked if he saw the lady's face as she went up stairs. He said he did not. He was then asked if he saw her bustle. He (the witness) was a modest man and said he knew nothing about bustles, but saw the lady's back if that was what counsel meant; heard no conversation in regard to the matter, except the remark made by some one that the pistol held by the lady was the one that shot Fisk; never knew Fisk and never saw him that he knew of, unless it was at the time of the shooting; heard the lady say, "Oh, dear!" or "Oh, my!" or something of the kind when she picked up the pistol. (Here counsel showed a pistol, but the witness did not recognize it as the one he saw at the hotel and that he was told Fisk had been shot with). The pistol he saw was a bright one; he should say it was a silver-plated one; when witness left the hotel people were helping Fisk up stairs; witness was solicited to come on the stand by Mr. Townsend, as he had spoken to a Mr. Little about the fact that he was at the hotel at the time of the shooting, and supposed Mr. Little told Mr. Townsend that he (the witness) knew something of the facts of the case; he got the note from Mr. Townsend last month, requesting him to attend as a witness.

HORACE F. CLARK

was the next witness called, the former witness being excused for a while to accommodate Mr. Clark, who was in a hurry to go. Mr. Clark said he first heard of Fisk in 1867, and had known him from that time up to his death. Mr. Clark was himself a railroad man, being connected with six or eight railroads; did not know Fisk well enough to speak of his personal character; believed him to be a most reckless man.

MR. JESTER

was called again, but his further testimony was unimportant, and the same scene of badgering between him and Beach was enacted over again. Mr. Tremain then took the witness in hand for a few minutes, but elicited nothing new. A few questions were also put by the jury, when the Court took a half hour recess.

### After Recess.

TESTIMONY OF W. F. G. SHANKS.

William F. G. Shanks, city editor of the *Tribune*, sworn—I have known the prisoner for about a year; I remember his coming to the office some time in the middle of December, 1871; we walked out, down town, and also on Cortlandt street.

State what occurred during your walking with the prisoner.

Mr. Beach objected to the witness stating any such thing.

Mr. Tremain stated that he proposed to show that Stokes had told the witness that they were followed by two men, and that the witness and Stokes watched the movements of the two men dogging their footsteps, and finally entered a carriage to baffle them.

Mr. Dos Passos contended that the defence had laid the foundation for the introduction of such evidence, and that therefore it was perfectly competent.

THE COURT EXCLUDED ALL THAT CLASS OF EVIDENCE

except Fisk could be directly connected with it by proof.

Mr. Dos Passos continued to argue the question of the legality of such evidence at this stage of the proceedings, on the ground that it was for the jury to consider the state of the prisoner's mind prior to and at the time of the shooting.

The Court excluded the testimony and an exception was taken.

Q. Did you see a pistol in the possession of Stokes at that time? A. I did.

Mr. Tremain said that he offered to show by Mr.

DONOVAN B. EATON

that about midnight, when approaching his house, in this city, after he had ceased to be counsel for the Erie Railway, that he was attacked and beaten, and his life despaired of. Mr. Tremain said that he understood the Court would not permit that evidence to be taken, and he stated his offer during the absence of Mr. Eaton, with the consent of the opposing counsel, so that he could have the benefit of an exception.

EDWARD H. STOKES,

the father of the prisoner, was next put on the stand:—

I reside in Forty-sixth street; I have resided in this city about ten or eleven years; I am seventy-three years of age; in the last six or eight years I have seen my son on an average about once a week; I recollect his being at my house confined by illness six or eight months before the shooting; I recollect another occasion, a year before the tragedy, when he was arrested at the instance of Fisk; at the time he was at my house he sent his brother to the Hoffman House for his pistol; during the time he was at my house he seemed to be considerably excited; he seemed worried about Fisk and not having his pistol with him.

MRS. NANCY STOKES

was next sworn—I am the mother of the prisoner; I recollect what my husband, the previous witness, testified to as to the illness of my son; I also saw his pistol at that time; he had it under his pillow; he seemed easily agitated and excited when conversing about Mr. Fisk.

TESTIMONY OF HORACE STOKES.

I am the only brother of the prisoner; my age is twenty-one; I went to the Hoffman House and got my brother's pistol from the clerk of the Hoffman House, at the request of the prisoner; when I first heard of the shooting of Fisk I was at the Grand Central Hotel with Mr. Bailey; I met him as I was going down Broadway, near the New York Hotel; he was coming up, and we walked down together; as we reached the Grand Central Hotel I heard of what had occurred.

The witness here described what he saw at the hotel, and his visiting the station house after the arrest of his brother.

He was cross-examined at some length, but nothing very material was elicited.

THOMAS STAPLETON,

sworn—I am a liquor dealer; at the time of the shooting of Fisk I was a keeper of the Penitentiary; I was on Broadway, near the entrance of the Grand Central Hotel, at the time of the shooting; I was going up town; there were about eight or nine persons looking in the ladies' entrance when I got there; as I reached the main entrance a boy ran out and said that Jim Fisk had been shot; I went in with a party, among whom was a lady; she ascended the private staircase and I observed her pick up a pistol; she was in advance of the rest of us when she picked up the weapon; she continued upward, taking the pistol with her; I was not acquainted with Stokes at the time and never saw him before; about the 14th or 15th of this month I wrote him a note acquainting him with what I saw on that day.

On cross-examination the witness stated he held his position for about two years; he was discharged for political reasons; nothing else that he was aware of. Mr. Fullerton severely examined the witness, but failed to make anything out of him. He was handed Stokes' pistol, but said that it was a different one that the lady picked up; the latter was silver-mounted, one barrel, ivory handle and all white; he had an opportunity of seeing, as the lady held it up in her hand, at the same time exclaiming, "Oh, my!"

MARIETTA WILLIAMS,

cousin to Miss Mansfield, was the next witness called on the stand. On the 6th of January last she resided in Twenty-third street; she had often heard Fisk make threats against the prisoner; she had heard Fisk make threats about the middle of December; Fisk called one night in December upon Miss Mansfield and said that as she would not acquiesce in certain things she must take the consequences, and there would be bloodshed in the affair; he then threatened Stokes' life; this threat was communicated to the prisoner a few days after by the witness and Miss Mansfield; she had often seen Fisk have a pistol in the house in Twenty-third street; he used to take it out and place it on the table;

HE CARRIED MORE THAN ONE PISTOL;

during the Black Friday excitement and the Susquehanna war he carried three pistols; remember the meeting of Fisk and Stokes at the house of Miss Mansfield, when Fisk told the prisoner that he was going to get rid of him by having him railroaded to State Prison; further, that when people crossed his path he always got them out of the way;

CROSS-EXAMINED.

I now live in Twenty-first street; I don't know the number of the house; never noticed it; I was born in Boston, and have been married; I first went to live with Miss Mansfield in 1869; prior to that I was residing in Boston with my mother; this was in Lawrence street; I don't know the number; I don't know whether my husband is living or dead; have not seen him for the last two years; I was married in Boston; I don't know whether Fisk and Miss Mansfield cohabited together as man and wife; they occupied the second story front apartment; I never was present, I'm sure, when anything of the kind took place; I got a divorce from my husband; he was in Mr. Fisk's employ, in the Erie Railway office; I did see Fisk in Boston; yes, he paid the expenses of the house in that city; I recollect Fisk taking out his pistol on many occasions; he said distinctly that he would shoot Stokes; Miss Mansfield went to Europe last October, and is now in Paris; I determined to remain in the house with Miss Mansfield, with my husband, after I suspected that Fisk was intimate with her, because she thought it would look better, I bearing a good name.

Upon the conclusion of Mrs. Williams' evidence the Court was adjourned till Thursday morning.

## THE DOCK COMMISSIONERS.

### Proceeds of the Sale of Dock Bonds—Shall the Comptroller or Dock Commissioners Have the Disbursing of the Funds?—Application for a Mandamus Against the Comptroller Denied on Technical Ground.

For some time, as is well known, there has been a sharp legal controversy between the Dock Commissioners and the Comptroller on the subject as to which shall have control of the funds of the Dock Department, accruing from the sale of dock bonds. The Comptroller has remaining in his hands $500,000 of this fund, and the Dock Commissioners required of the Comptroller to pay over to them the entire sum in bulk instead of delivering it by the piecemeal to suit his convenience, as thus far has been done with the remainder of the sum. Mr. Green, believing himself fully empowered to exercise supreme control of the financial part of the city government, would not hand the fund over to the Dock Commissioners pursuant to their requisition, the same being countersigned, moreover, by the Commissioners of the Sinking Fund. The result was an application before Judge Leonard, of the Supreme Court, for a writ of mandamus directing the Comptroller to honor this requisition. The case and the lengthy argument of opposing counsel were fully reported in the HERALD at the time. Judge Leonard yesterday gave his decision upon the application. It will be seen that he denies the same, but wholly on technical ground. We give below all the material points in the

OPINION OF JUDGE LEONARD.

The Department of Docks is invested with very extensive power to contract debt on behalf of the city of New York in purchasing material for the construction of docks and in employing labor in erecting wharves, piers, &c., and in clearing slips and basins, and in acquiring dock property, &c. The Commissioners are not called upon by law to consult with the Comptroller, except in his capacity, *ex officio*, as a member of the Sinking Fund, in respect to any of the plans, contracts or expenditures of their department. The Commissioners have the entire control of the dock property of the city, including the leasing and collecting the revenue to be derived therefrom. For the purpose of meeting the very large expenditures which the Commissioners are authorized to make in the execution of the powers conferred upon them by section 99 of the charter of 1870, as amended by chapter 574 of the laws of 1871, section 6, the Comptroller, on the direction of the Commissioners of the Sinking Fund, is directed to issue bonds of the city of New York not exceeding $3,000,000 in any one year nor to be sold at a price less than par, and the proceeds, when sold, are to be deposited in the treasury of the said city. The money is to be drawn out and paid by the Comptroller for the objects and purposes provided in the said amended section * * * upon the requisition of the said Board of the Department of Docks, countersigned by the Commissioners of the Sinking Fund. The Comptroller has issued and sold $1,000,000 of the dock bonds, under the direction of the Commissioners of the Sinking Fund, given to him in November, 1871. He has paid to the Department of Docks two several sums of $250,000, and the said department has made a requisition upon the said Comptroller, countersigned by the Commissioners of the Sinking Fund, for the remaining $500,000 in bulk, but have made

NO STATEMENT OF THE OBJECTS AND PURPOSES

for which that amount is required. * * * It is required by section 39 that all money drawn from the city treasury shall be upon vouchers for the expenditure thereof, examined and allowed by the Auditor, approved by the Comptroller and filed in his office. * * * The Comptroller cannot properly pay to the Auditor on a debt contracted by the Department of Docks. He is to pay on the requisition of that department, countersigned by the Commissioners of the Sinking Fund. He must, as the law requires, have this particular voucher for the money raised on the dock bonds before it can be drawn from the treasury according to law. * * * The requisition which has been made is not accompanied by any certificate, statement or vouchers for the "objects or purposes" for which the sum mentioned is required. The Department of Docks is not, therefore, technically correctly before the Court, and on that ground only the application for a peremptory mandamus is denied without prejudice to a future motion.

## THE BOARD OF AUDIT CONTEMPT CASE.

### Disobeying a Peremptory Writ of Mandamus—Legal Subterfuges That Did Not Work—The Board Must Come Up to the Scratch and Obey the Writ or an Attachment be Issued Against the Members.

It is unnecessary to repeat in detail, they having already been given in the HERALD, the facts connected with the application of John T. Baker, once on a time clerk in the Finance Department under the regime of ex-Comptroller Connolly, for a month's salary. The Board of Audit would allow only one half the amount claimed. Baker, like Mr. Baker, insisted on a whole loaf or none. Application was accordingly made at Supreme Court Chambers for a peremptory writ of mandamus directing the Board of Audit to audit and allow his claim. His application was granted, the writ of peremptory mandamus was served on each member of the Board, and they paid no more attention to it than to so much waste paper. Upon this state of facts the Court was importuned to maintain its dignity and punish the members of the Board for contempt of court in disobeying its order. Application to this effect was made before Judge Leonard, of the Supreme Court. At this stage of the proceedings a counter motion was made by the counsel for the Board and various technical objections interposed to prevent the matter coming to a decisive issue. Judge Leonard having heard the argument and having had the papers for examination several days in his hands, rendered his decision in the case yesterday. The leading points of this decision are given below:—

JUDGE LEONARD'S OPINION.

The gentlemen composing the Board of Apportionment and Audit have duties to perform for the public, and I am not disposed to consider that any intentional contempt of the Court has been intended by the neglect which has occurred in obeying the peremptory writ of mandamus heretofore issued. The proceeding by attachment as for a contempt is the only remedy whereby the process can be enforced in case of an omission to perform its directions. Accidental defaults obtained against public officers should not be held with severity upon it appearing that the interest of the public requires that a hearing should be had. It appears in this case that the notice papers were duly served, and there is no denial of that fact. An affidavit that no alternative mandamus was served is not sufficient. It is not alleged by the relator that an alternative writ was obtained or served. The proceeding was commenced in June last by the service of petition and notice of motion for a peremptory writ of mandamus and not an alternative one. Hence the affidavit that no alternative writ was served is immaterial. It now appears by affidavit on the part of the relator in his moving papers that other similar motions were pending in July last, when this was reached, involving the same questions of law and fact, and it was then agreed between the counsel for the relator and the counsel for the respondent that one of the motions only should be argued and that the others should abide the result; that under that agreement the case on the relation of Grant was argued in July, and afterwards decided by Judge Pratt, before whom it was heard, against the respondents, unless they made a further return on or before the 7th of August ensuing; that the respondents wholly failed to make any additional return, and that the order for

A PEREMPTORY MANDAMUS

was entered after service of a copy of the proposed order and notice of settlement. These facts are not denied. * * * I think the length of time which has elapsed since the peremptory writ was granted, the want of any evidence that the facts now sought to be presented were not well known to the respondents when the motion was heard in the case of Grant and the order for peremptory writ was settled, require that the motion for leave to open the default or for an issue upon an alternative writ should be denied, and that the writ of attachment, bailable in $250 as to each of the Commissioners, should issue, unless the terms of the peremptory writ of mandamus are complied with by the 8th of January next.

## CLAIM FOR THE COMPTROLLERSHIP.

### Mr. Gillen and the Votes He Received for Comptroller at the Last Election—He Asks for a Mandamus Against the Board of Canvassers Directing Them to Give Him a Certificate of Election.

John Gillen, a citizen of the Twenty-first ward, claims to be the legally elected Comptroller of New York. He bases this claim upon the allegation that he was elected to this important office at the last election. The Board of Canvassers, however, it appears, view the matter in a different light, and will not give him a certificate of election. Mr. Gillan has "gone to law," as the saying is, with a view to substantiate the verity of his claim. His preliminary step was an application yesterday, before Judge Ingraham, at Supreme Court, Chambers, for a mandamus to compel the Board of Canvassers to canvass the vote for Comptroller. He based the application upon a statement made in an affidavit of his own, that at the last election he voted for himself as Comptroller, and that this vote was sufficient to elect him, there being no opposition. Mr. Gillen, though no lawyer, urged his own case with most perthacious, not to say very eloquent zeal. He contended that last November was the proper time for electing a Comptroller.

"If you have legal rights," said Judge Ingraham—with that gravity for which he is remarkable, but evidently laughing in his sleeve, as the phrase goes, and regarding the proceeding as a huge joke—"it is certainly the duty of the Court to protect you in these rights."

"Legal rights I certainly have," continued Mr. Gillen, with solemn earnestness. "Mr. Connolly was re-elected in the same way, and so was Mayor Hall. I swear to my vote; but there were, I am told, some fifteen hundred others given for me, and yet the Board of Canvassers have taken no account of the votes."

"You must get before the Court regularly," interposed Judge Ingraham, "before I can take legal cognizance of your application."

"In what respect am I not regular?" asked Mr. Gillen.

"You must give notice to the Board of Canvassers of the application, so that it may appear and defend itself."

"So you cannot regard my application now?"

"No, sir."

"Well, sir, I will employ a lawyer, and the Board shall be duly notified, and I will know the reason why I am not returned as the legally elected Comptroller of New York."

Upon this announcement and the underlying hint of carrying the war into Warsaw, Mr. Gillen took up his papers and his hat and withdrew. The host of lawyers thronging the court room at the time were much amused at this threatened attempt to oust from his snug berth the present custodian of the city exchequer.

## BUSINESS IN THE OTHER COURTS.

### Swearing In of Mr. George Bliss, United States District Attorney—The Staff of the Office.

Yesterday Mr. George Bliss, Jr., the newly appointed United States District Attorney for the Southern district of New York, was sworn into office before Judge Woodruff. The oaths—including the "iron-clad" and the usual oath to support the constitution—were administered to Mr. Bliss by Mr. R. E. Stilwell, Deputy Clerk of the United States Circuit Court. Judge Noah Davis, the late incumbent of the office, goes, by election, to the bench of the Supreme Court of this city, and brings with him to that position the respect and esteem of all parties.

The staff of the District Attorney's office consisted up to yesterday of the following gentlemen:—General H. E. Davies, Mr. Thomas Simons, Mr. A. H. Purdy, Mr. George S. Sedgwick, Mr. L. W. Emerson, Mr. Sidney S. DeKay, Mr. Nicholas F. Hayes, Mr. Henry Donne, Mr. William Blaikie and Mr. Charles Marsac. Of these only four will remain under the new management. These are Mr. Simons, Mr. Hayes, Mr. Purdy and Mr. Donne. Appointments to fill up the places of the other officials will be made in a day or two. Mr. Simons is a faithful and valuable officer, connected with the District Attorney's office for several years. He is a studious lawyer, well posted in federal enactments, and has been frequently and successfully engaged in the trial of important internal revenue cases in Court.

Mr. Donne, like Mr. Simons, has been an attaché of the office for the past eight years. His department is mostly confined to the preparation of Custom House cases, and it is entirely unnecessary to say that he has been always attentive, faithful and efficient in the discharge of his duties.

Mr. A. H. Purdy has been entrusted with the prosecution of criminal trials in court and examinations of a criminal character before the United States Commissioners. He prosecutes offenders with vigor and displays a good deal of tact before a jury when denouncing criminals to justice. He is to remain as one of the assistants of the new District Attorney, and he cannot, in the position he now holds, confer a greater benefit on the community than by a continued effort to make bold offenders feel that they are not superior to the law, but that the law is above them.

Mr. Nicholas P. Hayes has charge of Custom House bond suits. He is constantly and faithfully at his post, and his attention and politeness to those who have business to transact with him will be readily admitted by all who have had matters to attend to in the office. Mr. Hayes has been five years engaged in this department, and it is no praise of him to say that his duties have been performed in the most thoroughly conscientious manner.

With respect to the officials who retire—General Davies and Messrs. Sedgwick, Emerson, De Kay and Blaikie—they carry with them the good wishes of those who have had official relations with them. General Davies is one of those men who endeavor to temper justice with mercy, and he may look back to his official career with the satisfaction of being one of the most popular principal assistants who have occupied the same place in many years.

SUPREME COURT.

### Assignment of Judges for 1873.

GENERAL TERMS.—First Monday of January, March, May and October, to be continued into February, April, May and November, if necessary. Judge Ingraham presiding. Justices Brady and ——. Justice Fancher in February in place of Justice Brady.

SPECIAL TERMS FOR ENUMERATED MOTIONS.—February, Justice Barrett; March, Justice Davis; May, Justice Van Brunt; October, Justice Fancher; December, Justice Davis.

CHAMBERS AND SPECIAL TERMS FOR NON-ENUMERATED MOTIONS.—January, Justice Barrett; February, Justice Davis; March, Justice Fancher; April, Justice Barrett; May, Justice Fancher; June, Justice Ingraham; July, Justice ——; August, Justice Davis; September, Justice Fancher; October, Justice Davis; November, Justice Barrett; December, Justice Brady.

CIRCUIT COURTS AND OYER AND TERMINER.—January, adjourned Oyer and Terminer and Circuit, Justice Davis; Part 1, Circuit, Justice Fancher; adjourned Part 2, Circuit, Justice Van Brunt. February, Oyer and Terminer and Circuit, Justice Brady; Part 2, Circuit, Justice Van Brunt. March, Part 1, Circuit, Justice Barrett; Part 2, Circuit, Justice Van Brunt. April, Part 1, Circuit, Justice Fancher; adjourned Part 2, Circuit, Justice Van Buunt. May, Oyer and Terminer and Circuit, Justice Davis; Part 2, Circuit, Justice Barrett. June, Part 1, Circuit, Justice Barrett; adjourned Part 2, Circuit, Justice Van Brunt. October, Oyer and Terminer and Circuit, Justice Barrett; Part 2, Circuit, Justice Van Brunt. November, Part 1, Circuit, Justice Davis; adjourned Part 2, Circuit, Justice Van Brunt. December, Oyer and Terminer and Circuit, Justice Ingraham; Part 2, Circuit, Justice Van Brunt; adjourned Part 1, Circuit, Justice Barrett.

SUPREME COURT—GENERAL TERM.

### Decisions.

Before Judges Ingraham, Brady and Leonard.

This Court met yesterday, Justices Ingraham, Brady and Leonard on the bench, to wind up the business of the year. Giving decisions comprised all the business transacted.

John Crolins et al. vs. Sarah Stark et al.—Decree reversed and trial ordered at the Circuit.

Ella S. Herbert et al. vs. Aron P. Smith.—Order affirmed, with costs.

In the Matter of the Fire Commissioners for Mandamus.—Order affirmed, with costs.

Wise et al. vs. Rittenberg et al.—Order reversed, with costs, and costs awarded to defendant from service of amended answer.

Dougherty et al. vs. Dougherty.—Decree of Surrogate reversed as to allowance to P. A. Dougherty and case sent back to Surrogate for further decree. Costs to abide event.

Ann Eliza Cooper, Executrix, vs. Fulton et al.—Order reversed, with costs.

Dempsey vs. Seymour, Executrix, &c.—Decree of Surrogate affirmed, with costs.

The People vs. Van Nort.—Order reversed and order granted directing mandamus to issue.

Miller vs. Loel et al.—Order reversed, with costs.

SUPREME COURT—CHAMBERS.

### Decisions.

By Judge Leonard.

Collins vs. Buddensich et al.—Motion denied, with $10 costs of opposing.

Kinsted et al. vs. Orange and Alexandria Railroad Company.—The application is denied except on the terms originally granted.

The People, &c., Crosby, vs. Andrew H. Green.—The writ of mandamus must be granted, with $10 costs of this motion.

In the Matter of the Application of Eliza Jenkins et al.—Application denied without prejudice to any suit or action for the relief of the petitioners.

Frederick Stoltz vs. Emma Stoltz.—Report of referee confirmed and judgment of divorce granted.

George Philippi vs. Goliah Wolff.—Case settled.

By Judge Brady.

In the Matter of the Writ of Habeas Corpus for the Discharge of Samuel F. Schaffer.—Writ dismissed.

SUPERIOR COURT—SPECIAL TERM.

### Decisions.

By Judge Monell.

Joseph N. Burnham vs. Charles Murray et al.—Motion for leave to set up release in law denied. The judgment may be alleged in mitigation of damages.

Edward Lacomte vs. Anton Marbert.—Referred back to same referee with instructions.

Titus B. Eldridge vs. Samuel C. Reed et al.—Special judgment disallowed.

Kate Egelius vs. George Egelius.—I require the testimony in this case.

Eugene Finch vs. Emil Jurth.—So much of motion as requires defence to be separated granted; other parts denied.

Seth W. Hale vs. The Europa National Bank.—Order granted.

By Judge Sedgwick.

James O'Brien, Sheriff, vs. Richard O'Neil.—Judgment for plaintiff.

Edward Haight vs. George Quackenbush et al.—Motion denied, with $10 costs.

COURT OF COMMON PLEAS—SPECIAL TERM.

### Decisions.

By Judge Larremore.

Jones vs. Wood.—Ordered that report of referee be set aside and that references be procured on three days' notice.

Wilcox vs. Robinson.—Case dismissed.

Stignel vs. Stignel.—Papers incomplete.

Powell vs. Barthilot.—Motion denied.

Adams vs. Page.—Judgment ordered for plaintiff, with allowance of two and a half per cent.

Smedberg vs. Page.—Same.

Wills. vs. Page.—Same.

COURT OF SPECIAL SESSIONS.

### Mrs. Dice, the Confidence Woman.

Before Judges Hogan, Scott and Bixby.

The now famous Mrs. Dice, or, as she claims to be, Mrs. Abbie Medora Diaz, was brought up yesterday morning charged with defrauding the proprietors of Earle's Hotel of the amount of a board bill.

Gouverneur K. Lansing, Clerk of the Hotel, took the stand and testified that the defendant had represented herself as the authoress of the "William Henry Letters," a work published by the Messrs. Osgood, of Boston, and also as a regular contributor to *Hearth and Home*. Trusting to her statements, she was allowed to run up a bill to the amount of some $32, whereupon she left.

Counsellor Hummel appeared for the defence and said:—Your Honor, I ask for the discharge of the prisoner on the ground of the unconstitutionality of the "Hotel act," as decided by Judge Barnard December 28, 1871, in rendering which decision he took occasion to observe that it was monstrous, infamous and a blot on our statute books." The three Judges, after a brief conference, decided, out of respect to the edict of the Supreme Court, to discharge the prisoner.

Mrs. Dice, alias Diaz, who is a fine-looking woman, and was plainly but neatly dressed, then bowed her acknowledgments to the Court and withdrew.

## NEW YORK CITY.

Rev. J. P. Newman, D. D., chaplain of the United States Senate, will lecture at Association Hall on Thursday evening, January 2, on "Greenland's Icy Mountains." Dr. Newman accompanied the Hall Arctic Expedition, and has embodied his experiences in this lecture, which is entirely new and of great interest.

Next Friday, January 3, being the ninth anniversary of the death of the late Most Rev. Archbishop Hughes, a solemn high mass of requiem will be celebrated in the Cathedral, at ten o'clock A. M., for the repose of his soul and the souls of the deceased prelates of the diocese. The clergy of the city are invited to attend.

The Sanitary Committee reports 445 deaths during the past week, against 527 for the week previous, and 558 for the corresponding week of last year. It is also below the average for the past five years, which is 454.8. One hundred and eighty nine of the deaths reported were of children under five years of age. The great number of deaths occurred from pulmonary affections. Twenty were caused by violence, of which three were suicides.

The Chamber of Commerce will be asked, at its meeting on Thursday next, January 2, to take action on the bills pending in Congress in reference to immigration and the canals of this State; also to memorialize the Legislature for the restoration of the harbor lines, as established in 1857, and the stoppage of the Sound steamers above Corlear's Hook, on the East River, and the regular Albany boats above Fourteenth street, on the North River.

Commissioner Van Nort, of the Department of Public Works, reports the receipts from water rents for the year ending December 31, 1872, at $1,365,647, being an increase of $158,458 over the receipts for the year 1871, when the cost of collecting these water rents, including salaries of officers, water police and laborers, was $106,375, against $69,147 for 1872, showing a reduction in expenses of $37,227, and making a total difference in receipts and expenditures for 1872 of $195,685.

## HORSE NOTES.

The Magnolia Association have decided not to hold their Fall meeting as originally announced, but have decided to have a Spring meeting, beginning on the 14th of April, to continue four days. During the meeting the Turf Congress Stake will be run for. As the Louisiana Jockey Club, of New Orleans, have decided not to run their $20,000 race, the Congress Stake will be the most important race of the Spring meeting. It is anticipated that Lyttleton will be entered to represent Alabama.

During the year 1872 there were 1,923 races run in Great Britain and Ireland at various distances, as follows:—

| | |
|---|---|
| Half a mile and under | 188 |
| Over half a mile and under a mile | 1,032 |
| One mile | 264 |
| Over a mile and under two | 323 |
| Two miles and under three | 96 |
| Three miles and under four | 17 |
| Four miles | 3 |

*Bell's Life in London* of December 14 says:—"The American challenge issued by Colonel McDaniel has attracted no attention from racing men. Not the slightest likelihood exists of a proposal guarded by such absurd conditions being accepted. Moreover, I do not think there is any likelihood of a match taking place between the best horses of the two countries, unless some one treads in the footsteps of Mr. Ten Broeck, and meets the British cracks on their own ground."

While the race horses Standard Bearer, Prude and Whitehall were standing at the Watford station, *en route* for the Kingsbury December Meeting on December 11, a mail train came in collision with the horse boxes. Standard Bearer was so injured that he had to be destroyed immediately, while Prude and Whitehall were severely cut.

While Juniper was running in the Hunter's Cup at Kingsbury, on Thursday, December 12, he was killed by jumping on a fallen flagstaff, which ran far into his body. Mr. Reginald Herbert, who was riding him, received a severe shaking and suffers from a broken nose. Mr. Herbert was offered a large sum for the horse a few days before the accident.

## THE O'HARE MURDER.

### Post-Mortem Examination—Fearful Brutality—Scalding a Dying Man.

Late yesterday afternoon Deputy Coroner Marsh made a post-mortem examination at 303 East Forty-sixth street, on the body of John O'Hare, the man who was killed early Christmas morning by blows on the head with a hatchet in the hands of John Fitzgibbons, a cobbler living in the same house. The examination showed that deceased received terrible fractures of the skull, with excessive laceration of the brain, which was done by the edge of the hatchet. A most shocking and brutal feature of the case is the fact that immediately after the fatal blows were inflicted Mrs. Fitzgibbons, wife of the prisoner, took a kettle of boiling water from the stove and dashed it over the body of the prostrate and dying man, scalding him most fearfully on the thighs, back and other portions of the body. Coroner Young, who has the case in charge, issued a warrant for the arrest and she will be held to await the result of the investigation, which takes place next Monday.

## SUSPICIOUS CASE.

Coroner Herrman yesterday afternoon received a note, signed James Morand, in which it was stated that William Nagel, a child, had died under suspicious circumstances, corner of 130th street and Fourth avenue. Mr. Morand stated that a prescription given had been filled at a drug store and the medicine administered to the child, two minutes after which death ensued. The father placed a small particle of the medicine on his tongue and experienced a severe burning sensation. The druggist being called upon with a portion of the medicine immediately changed it, substituting something else in its place, which induces Mr. Morand to believe that the first medicine put up was poison. In short the writer of the letter thinks the matter needs investigation, and due attention will be paid to it by the Coroner.

The Board of Health will withhold a certificate in the case for the present.

## WORK OF THE CORONERS.

Edward Flanagan, thirty-two years of age, who claimed to be a banker, fell while intoxicated and fractured his leg, after which an inebriated companion endeavored to assist him up stairs, at 25 Greenwich street, when both of them tumbled and fell to the bottom. This time Flanagan sustained a compound comminuted fracture of the same leg, and death was the result. Coroner Keenan was notified.

Coroner Keenan was yesterday notified to hold an inquest at the Morgue on the body of Edward Lynch, a laborer, late of 684 Water street, who died in Bellevue Hospital. On the 10th ultimo Lynch was found intoxicated, corner of Cherry and Jackson streets, suffering from a compound fracture of the thigh, and it is believed he received his injuries from an accident.

Charles Brown, a reputed gambler, single, twenty-nine years of age and born in New York, was taken to Bellevue Hospital, suffering from concussion of the spinal cord. Brown, who subsequently died, was found corner of Tenth street and Second avenue by Officer Beglin, of the Twenty-first precinct. Probably the injuries received by Brown were the result of an accidental fall. Coroner Keenan will investigate the case.

The remains of a child, apparently but a day or two old, were found by Officer Scallon, of the Fourteenth precinct, lying in the hallway of 14 Roosevelt street, his attention having been called to the fact by several persons living in the same house. None of them, however, seemed to know anything concerning the parentage of the infant. Coroner Keenan was notified to hold an inquest over the remains.

# OUR NEW RULERS.

### A List of the New Officials of the New Year, for the City, County and State.

### Common Council Changes and the Prospective President of the Board of Aldermen.

To-day the large number of the city and State officials elected at the November elections will enter upon