THE COURTS.

THE CHATHAM SQUARE MURDER

Second Day of the Trial of Michael Nixon for the Murder of Charles M. Phyfer—Opening for the Prosecution and Examination of Witnesses Who Saw the Tragedy—The Order of Red Men.

THE CASE OF STOKES.

A Writ of Certiorari Granted by Judge Brady—Filing of the Judgment and Other Documents—Final Preparations for the Appeal.

BUSINESS IN THE OTHER COURTS.

The three additional jurymen required for the trial of Michael Nixon, for the alleged murder of Charles M. Phyfer, in Chatham square, in January last, were obtained yesterday morning in the court of Oyer and Terminer. After this the case was opened by the prosecution, and the examination of witness followed. The trial will be resumed this morning, and it is thought all the remaining testimony will be given to-day. Meantime Judge Brady ordered the jury to be kept together till the close of the trial.

A writ of *certiorari* in the case of Edward S. Stokes was granted yesterday by Judge Brady, in the Court of Oyer and Terminer. The object of the writ is to allow all matters outside the judgment record in regard to which the counsel of Stokes claim the latter should be amended, to be carried before the Court of Appeals. The judgment in the case and, by the way, the largest ever filed in the Supreme Court in this district, was filed yesterday in the County Clerk's office. Various other documents were also filed at the same time.

The Court of Appeals is getting through its heavy calendar with the most commendable alacrity. They yesterday presented a large batch of decisions, and expect to follow this with a second list in a few days. It is thought they will be able to finish their session here next week.

In the United States District Court yesterday, in the case of Cyrus Whitney and Timothy W. Skinner vs. the ferryboat Sunswick, her engine, &c., Judge Blatchford rendered his decision. The libel had been filed to recover damages for a collision, and the Judge decided that it must be dismissed, with costs.

Yesterday the trial of the case of Simon Donan and Christopher Flood, who are indicted for having conspired to defraud the government out of the tax on 5,000 gallons of distilled spirits, manufactured at the Spring Valley Distillery, Rockland county, was resumed in the United States Circuit Court before Judge Benedict and a jury. The case is still on, and will be resumed to-morrow morning.

Yesterday Oscar F. Wainwright was brought before Commissioner Shields on a charge of having given straw bail in a case in which the government officials are at present making a thorough examination. It is charged that the accused, for the purpose of qualifying as bail, swore he owned a house in Broome street, which house, upon investigation, turned out to be the property for the last fifty years of a member of one of our old Knickerbocker families. The defendant was committed in default of $5,000 bail.

Yesterday a man named Otto Haars, who claims to have invented a process of photography which will do away with engraving, was brought before Commissioner Shields on a charge of having in his possession a plate for the printing of ten cent currency stamps. The accused states that he had no intention whatever of going into the counterfeit business, but that, as soon as he produced the plate in question he showed it to the National Bank Note Company as a specimen of what he could do in the art which he claims to have newly discovered. Mr. Haars was admitted to bail in the sum of $1,000. The government officials are satisfied that he has acted honestly in the transaction.

Hiram F. Cooper and Frederick E. T. Randolph were yesterday fined $250 each in the United States Circuit Court by Judge Blatchford for not having attended when summoned to appear as jurors.

The distillery of James Higgins, 412 East Twenty-fifth street, which had been seized some time ago, was condemned by default yesterday in the United States District Court.

Judge Benedict will not sit to-day in the United States Circuit Court for this district, matters in the Eastern district demanding his presence there. To-morrow he resumes his duties in this district.

THE NIXON-PHYFER TRAGEDY.

Completion of the Jury—Opening Address for the People—Examination of Witnesses for the Prosecution—Details of the Shooting—Flight and Arrest of Nixon—The Mysterious "Order of Red Men."

The trial of Michael Nixon for the alleged murder of Charles M. Phyfer in January last, in Chatham square, was resumed yesterday morning before Judge Brady in the Court of Oyer and Terminer. As on the day previous, the court room was densely crowded—that kind of a crowd always present at murder trials, but where it comes from a profound mystery to everybody—a crowd that seems to feast with gourmand delight on the tragic recitals incidental to murder trials. The prisoner was brought into Court promptly on the opening of Court, accompanied by his little girl, whom he held in his lap, as on the first day of the trial. He was accompanied yesterday by his wife, bearing in her arms a nursing infant. There was no change in his demeanor, the same seeming apathetic doggedness and sullen taciturnity characterizing him as when first arraigned for trial. In striking contrast with him was the sleek rotundity and jovial, ruddy countenance of Mr. William F. Howe, his counsel, who, confessedly capable as he is of conducting a criminal case, is evidently utterly incapable of looking on the gloomy side of even the forlornest hope. Beside the latter sat his associate counsel, Mr. Abe H. Hummell, busily employed in taking notes of the proceedings. The prosecuting counsel, as on the opening day, were District Attorney Phelps (who, terribly and earnestly severe as he is in bringing offenders against the law to punishment, has a face all radiant with the sunshine of kindly charity and humor) and his associates, Assistant District Attorneys Russell and Lyons.

COMPLETING THE JURY.

At the close of the first day's proceedings only nine jurymen had been obtained. To make up the required complement, for which an extra panel of 100 had been ordered, did not prove as facile and expeditious a task as was imagined. Mr. Howe, in questioning the candidates for the jury box, looked exclusively after the interest of his client, and, if there was a peg upon which to hang a doubt, sagaciously availed himself of it.

"I have formed a hypothetical opinion as to the guilt of the prisoner," said one.

"Coming events cast their shadows before," answered Mr. Howe, and he had the person set aside.

"Have you formed an opinion as to the guilt of the prisoner?" he asked another.

"I believe him guilty," was the answer; "from the accounts I read in the papers."

"Could that opinion be removed by evidence?"

"It would take considerable evidence."

"Then you believe the prisoner guilty of an offence, and that he ought to be punished?"

"Certainly."

"You would take your seat in the jury box believing him to be guilty?"

"Yes, sir."

Judge Brady came to the man's rescue, and said that the mind was like a camera, subject to impressions, but which could be easily removed. He added that it was hardly possible to get intelligent men in the jury box now a days, because of opinions formed from reading the papers, but an intelligent and conscientious man should lay aside all such print impressions and give his verdict solely on the evidence. Mr. Howe pressed his point and the juror was set aside.

It took three hours to get the three jurymen. The following are the names of the jury as completed:—Simon Goldenberg, John A. Linscott, Garrett D. Clark, James S. Schell, Richard Sweetman, Charles J. Stewart, Frederick W. Jackson, Alpheus A. Courter, Abram F. Pruyn, Phineas L. Cooper, George B. Share and John Dewhurst.

OPENING THE CASE.

The jury having been completed, Mr. Russell proceeded to open the case for the prosecution. He commenced by saying that as all the gentlemen sworn as jurors had stated they had perused newspaper accounts of the killing of Phyfer, they were, perhaps, fully as conversant with the case as he was himself. In his judgment the present case was one of the utmost importance—the most important, he considered, of all the homicide cases that have been brought, or that are to be brought, before a jury, although the parties to the tragedy were comparatively obscure personages, both the deceased and the prisoner belonging to the laboring class. It was lamentable, but undeniably true, that in New York city the species of crime most prevalent was that most in vogue among barbarians and in barbarous countries. The present case, from its peculiar circumstances, he repeated, was one of not doubtful consequence. Things have come to such a pass in this metropolis that respectable citizens, with hand raised against no man and with no man's hands raised against them, do not know at what corner of a street they may be shot down ruthlessly by any prowling ruffian who chose to take it in his head to do so by way of pastime. It is this class of crime and the brutal class of criminals that there is a necessity to repress, and he considered himself justified in saying that, as far as the able and dignified Judge on the bench and the District Attorney's department were concerned, every effort would be made to lessen the risk of the respectable portion of the city of being slaughtered. He looked upon this trial as something more than the trial of the man Nixon. He looked upon it, indeed, as the trial of that grand institution handed down by our fathers—the system of trial by jury. If the twelve men acting as arbiters of the fate of the prisoner considered him guilty of murder in the first degree, after listening to all the testimony, he hoped they would have the courage to say so, and be the means of punishing the culprit as he deserved. In conclusion he recited the facts of the killing as they expected to prove them, and urged them not to allow their sympathies to override their judgment. While they would naturally sympathize with the wife and children of the prisoner they must not forget the bereaved wife of the deceased and her four fatherless children. He asked them to lay aside every other consideration but their solemn oaths and decide the case on the evidence alone.

TESTIMONY FOR THE PROSECUTION.

At the conclusion of Mr. Russell's opening the Court took a recess for half an hour, and on reassembling the examination of witnesses for the prosecution began.

Frederick Clouse, receiving teller of the Bowery Savings Bank, was first called to the witness stand and testified as follows:—About twenty minutes to six P. M. on the 21st of January last I left the bank and got on a Second avenue car, which, having stopped for a few minutes, I got off, and, looking ahead, saw another car in front; a pistol was then fired and I saw Phyfer fall; on running up to him I saw him lying on his back, his arms extended; a white and gray horse stood near by, its harness consisting of collar and traces; I felt the pulse of deceased, and discovered that he was not dead; Phyfer was then carried to the sidewalk; he had nothing in his hands; blood trickled from a wound on his nose; he never uttered a word after he fell; I and some others procured a shutter, on which the dead man was carried to the station; I said to Nixon that he had not been hit, and Nixon said no, but that he would have been if he had not shot Pyyfer, and that he did it to protect himself.

Cross-examination—I was some distance away from where the shooting took place, and cannot swear positively to the identity of the accused.

Patrick Brady sworn:—I am a driver on the Second Avenue Railroad; about ten minutes to six P. M., January 21, I was driving my car up town; I saw a man in a wagon going toward Division street, and at the same time one on horseback; neither appeared to be moving; as I got further up I saw the man in the wagon raise up, pull a pistol from his pocket with his left hand, and fire at the man on the horse; the man firing jumped out of his wagon a moment and looked at the man he had shot, and then jumped back into his wagon, and, giving his horse a cut, drove away; I saw the man fall from the horse; people cried out, "Arrest that man;" to the best of my opinion the prisoner is the man, but I will not swear positively.

Cross-examination—I saw a whiffletree on the horse; the man who fired the pistol I am sure fired with his left hand; the man who was shot was on the side of the man in the wagon; they were close together.

Re-direct—I heard no words; I saw the man on the horse do nothing.

To a juror—The whiffletree was either on the horse's shoulder or hanging by the harness.

John Long sworn—I am a conductor on the Second Avenue Railroad; I was on the same car as Brady; the first thing I saw was the man lying down; the car had stopped, and I got off to see what the matter was and saw the man lying down; I did not go up to where the man was; I saw the horse; I did not notice any whiffletree; I was about twenty feet away; I saw a man drive away in a wagon.

John McKeon, sworn—I am an expressman in the employ of the New York and Boston Express Company; on the night of the shooting I came down Division street, and as I neared Chatham square I heard a shot fired; I saw a man lying on the ground and a crowd about him; I saw a man in a small wagon; people cried out, "Arrest that man;" the man drove in the direction of the New Bowery; he went into a lager beer saloon; I told a policeman what had happened, and then went back to where the deceased lay; I saw a whiffletree lying on the ground by the man; I did not notice any number or name on the wagon.

Cross-examined—The whiffletree was a large one.

To the Judge—There was nothing attached to the whiffletree that I saw.

James Reilly, sworn—I was in Chatham square on the night of the shooting; I did not see the shooting; I heard the report of a pistol; when I heard the firing I turned around to see what the matter was; I saw a man drive away in a wagon; I did not see his face; I knew Nixon by sight; I knew the wagon; I ran about a hundred yards after the wagon and then I went back to where the shooting was; after the wagon stopped I saw Nixon at the horse's head; I recognize the prisoner as the man I saw get out of the wagon.

Cross-examination—I am a hack driver and know a whiffletree; I saw one near where the deceased lay; it was about three and a half feet long and had three hooks, one on each end and one in the centre.

Redirect—I went within twelve feet of where the dead man lay; the dead man had then been placed on the sidewalk; the whiffletree was lying in the centre of the Bleecker street track; I did not see any one pick it up.

John G. Craig, sworn—I am an officer of the Fourth precinct; on the night of the shooting I was in the vicinity of Chatham square; I reached the scene of the shooting a few minutes after it occurred; I went through a crowd and found a man lying, on and Officer McGrath brought up a light express wagon; I had seen the wagon before; the man who was shot was taken to the Park Hospital; I saw no horse or whiffletree.

John E. Power, sworn—I am an officer of the Fourth precinct; I reached the scene of the shooting some three or four minutes after it happened; the man who had been shot was lying on a shutter opposite No. 6 Chatham square; a boy was holding a horse and said it belonged to the dead man; I saw a whiffletree; it was put into a wagon; the whiffletree produced is a *fac-simile* of the one I saw that night.

George Van Buskirk, sworn—I am an officer of the Third precinct, but in July last belonged to the Fourth precinct; I arrested the prisoner; I went first to John Inman's lager beer saloon and then to the Bowery, and from there to Nixon's residence; Nixon was sitting by the stove; I told him that I came to arrest him; Nixon said, "Yes, I shot the man, but he struck at me;" Officer Fitzsimmons was with me; Nixon said at the station house, "I shot the man, because he threatened to strike me;" I asked him where the pistol was; he said, "Go to Maria, and she will give it to you;" Maria was his wife; I went and got the pistol, and the one produced is the pistol she gave me; it was not loaded; the deceased was taken to the Park Hospital; the wound was at the corner of the left eye; I did not see the whiffletree till two or three days afterwards.

Mr. Howe moved that the evidence of the witness as to the pistol be stricken out. He insisted that there was no evidence that this was the pistol used by the prisoner.

Judge Brady said that there was some evidence, as Nixon told the officer to go to Maria and get the pistol and she gave him this one. He could not strike out the evidence without the consent of the District Attorney.

Mr. Phelps objected to the evidence being stricken out.

Mr. Howe excepted and was given the benefit of the exception.

Nathan Fitzsimmons, of the Fourth precinct, was the next witness. He said that the first he saw of the deceased was in the back room of the station house; he was alive but unconscious.

Cross-examined—Nixon told the captain, "I shot the man, but he first hit at me."

Captain Ullman, of the Fourth precinct, testified that on the night of the shooting a young man named Lawer came into the station house and said that a man had been shot in Chatham square. He sent some officers to examine into the facts of the case. Shortly afterwards Phyfer was brought into the station house and immediately was taken to the Park Hospital. When Nixon was brought in he told me, "I shot the man." I asked him, "Why did you shoot him?" and he said, "The man threatened to strike me with a whiffletree."

Peter Brown, a driver on the Third Avenue Railroad, testified that on the night of the shooting his car reached Chatham square at 5:49 P. M.; he heard a report of a pistol, and saw a man drive off in a wagon; he went over and looked at the man who was shot; he saw a whiffletree; it was lying across the man's neck; he did not notice a horse; he then hurried back to his car; his car was moving when he heard the firing; he put on the brake and tied the lines before he left the car.

Mr. Phelps showed to the jury a diagram of the scene of the shooting and the relative position of the streets and parties, and then Mr. W. Pecan was called as a witness. He had known Charles M. Phyfer three years; he saw him after his death at the Park Hospital; this was on the 22d of January.

"You belong to the order of Red Men, do you not?" asked Mr. Howe, on cross-examination.

"I am very proud to say I do," answered the witness.

"That's all," said Mr. Howe.

The above ended the testimony taken yesterday. Judge Brady told the jury that he regretted it very much on their account, but he deemed it his duty to keep them together. He thought, furthermore, that it was best for their interests that he should take this course. This was a capital case, and in the present feverish condition of the public mind as regards such cases it was much better for their own reputation that they should be kept together till the close of the trial. He promised they should be as comfortably provided for as possible. With these few remarks from Judge Brady the Court adjourned till half-past ten o'clock this morning.

THE CASE OF STOKES.

A Writ of Certiorari Granted—Filing the Judgment Record—Twenty Days Allowed the District Attorney to Answer.

Stokes' counsel are not allowing the grass to grow under their feet. Yesterday, directly on the opening of the Court of Oyer and Terminer, Mr. Dos Passos applied to Judge Brady for a writ of *certiorari* in the case of Edward S. Stokes. The application was made pursuant to the suggestion of Judge Brady on the previous day, when he announced his decision denying the motion to amend the judgment record, and giving it as his opinion that the subject should be brought in this way before the Court of Appeals, having competent jurisdiction to review all questions outside the judgment record. The application was granted.

The judgment in the case of Stokes was also filed yesterday in the County Clerk's office, by Mr. John Sparks, the Clerk of the Court of Oyer and Terminer. It is the largest record ever filed in the Supreme Court, and has taken the entire time of one man to copy it since February 23. This was done in accordance with the writ of error issued by Judge Davis to the Court of Oyer and Terminer to return the judgment record and bill of exceptions to the General Term. Mr. Dos Passos also filed in the County Clerk's office what are known in common law as "special assignments and errors in fact." These assignments contain statements in detail of the grounds on which counsel relies for a reversion of the judgment in this case, independent of the reasons stated in the bill of exceptions.

The District Attorney has been ordered to answer these allegations within twenty days. Concluding the list of documents filed were the allegations of a denunciation of the record. The practice adopted in this case, it is said, has not been resorted to for more than fifty years.

BUSINESS IN THE OTHER COURTS.

COURT OF APPEALS.

Important Question in a Divorce Suit.

Before Chief Justice Church and all the Associate Justices.

It is unnecessary to state that before a tribunal like the Court of Appeals, the questions under consideration being exclusively dry questions of law, very little occurs of public interest. The Court, however, since its brief session in this city has gone through an almost unprecedented number of cases, and yesterday handed to the Clerk a batch of decisions, which will be found below. Meantime a portion of yesterday was occupied in arguing a very nice point of law in connection with a divorce suit. In April, 1869, John Pitts, it appears, brought an action against Rachel Ann Pitts, his wife, for divorce, on the ground of alleged adultery. Pending this suit an action was brought for the partition of the estate of John Pitts, the elder, deceased, in which the parties to the previous action were both interested. Partition was denied, and Mrs. Pitts refused to release her right of dower, the same being secured by a mortgage on the property partition. In October, 1871, the referee in the divorce action reported, among other things, that the defendant had committed one of the acts of adultery charged; but that the plaintiff had subsequently cohabited with her, and therefore directed a dismissal of the complaint. This report was confirmed and judgment entered thereon. In September, 1872, Mrs. Pitts procured, *ex parte*, an order directing the collection and payment to her of the moneys due on the above-mentioned mortgage. Mr. Pitts moved to vacate this order, on the ground that the respondent had been convicted of adultery, and to have the mortgage assigned to him. In November last this motion was denied by Judge Fancher, delivering an opinion. Mr. Pitts thereupon appealed to the General Term, by whom said order was, in January last, affirmed. From this order of affirmance John Pitts appealed to this Court. The case was argued at considerable length on both sides, after which the Court took the papers, reserving its decision.

Decisions.

The following is the list of decisions referred to above:—

The People, appellants, vs. W. C. Stephens et al., respondents.—Appeal dismissed with costs.

Alice E. Dutton, administratrix, appellant, vs. Philip Willner, respondent.—Judgment reversed and new trial granted, costs to abide the event.

Philip S. Justice, respondent, vs. W. B. Lang, appellant.—Judgment reversed and new trial granted, costs to abide the event.

Stephen B. Holmes, respondent, vs. Edward N. Mead et al., appellants.—Judgment reversed, and judgment declaring that testamentary trustees are not entitled, without costs to either party. Judgment to be settled by Judge Allen.

John S. Prouty, respondent, vs. The Lake Shore and Southern Michigan Railroad Company, Appellants—Order reversed, with costs.

John M. Moran et al., respondents, vs. George L. Chase, appellant—Judgment modified by striking out the provision relating to the claim of the Doty's, and, as thus modified, affirmed with costs.

The First National Bank of Jersey City, appellants, vs. James L. Leich, respondent; Annie Tatten, administratrix, respondent, vs. James L. Phipps et al., appellants; Aaron A. Degraw, respondent, vs. James H. Elmore, appellant—Judgment affirmed, with costs.

John Whitaker, administrator, et al., appellants, vs. May A. Whitaker, administratrix, respondent—Judgment of Supreme Court and decree of Surrogate reversed and proceedings remitted, with directions to the Surrogate to disallow the claim of respondent for the note of the intestate claimed by her, without costs to either party.

Mary Ann Hatch, executrix, appellant, vs. John W. Hatch, executor, respondent.—Judgment modified so as to give the widow the property allowed by statute, and, as modified, affirmed, without costs to either party. Judgment to be settled by Judge Grow.

William H. H. Hyde, receiver, respondent, vs. John S. Vanslyise, appellant.—Judgment reversed and new trial granted, costs to abide the event.

The People ex rel. Peter L. Williamson, appellant, vs. James W. McKinney, respondent.—Order affirmed and judgment ordered for the defendant, and that the relator was duly elected to the office of collector, and that upon taking the oath of office required by law he will be entitled to take and hold the office for the remainder of the term for which he was elected, and without costs to either party as against the other.

Henry Suydam, respondent, vs. John Smith, appellant; Jerome L. Berger, respondent, vs. The Same, appellant; John C. Berger, respondent, vs. The Same, appellant; Charles McCrony, respondent, vs. The Same, appellant; William R. Hageman, respondent, vs. The Same, appellant; Patrick McLoughlin, respondent, vs. The Same, appellant; William Kowenhoven, respondent, vs. The Same, appellant; Garret L. Kowenhoven, respondent, vs. The Same, appellant; Andrew J. Ryder, respondent, vs. John Sunte Toilgather, appellant; James Gascoigne vs. The Same, appellant; James Brettle, respondent, vs. The Same, appellant; Oliver Ryder, respondent, vs. The Same, appellant; William J. Ryder, respondent, vs. The Same, appellant; Dittmas Coe, respondent, vs. The Same, appellant; Abram Voorhies, respondent, vs. The Same, appellant.—Judgments affirmed with costs.

George W. Metcalf, respondent, vs. Josiah H. Baker, appellant.—Order affirmed, with costs.

Benjamin Sheaman, appellant, vs. Joseph L. Strauss, respondent.—Appeal dismissed, with costs.

Amasa O. Miller, appellant, vs. James R. Adams, respondent.—Judgment affirmed, with costs.

Noody vs. The Same, appellant.—Dismissed, without costs.

Edward Day et al., respondent, vs. Hiram Pool, appellant.—Order granting new trial affirmed and judgment absolute for plaintiff.

William Newman, respondent, vs. Elias Frost, appellant.—Judgment affirmed, with costs.

In re the petition of Frederick W. Ward to vacate assessment order served as to assessment for widening Prospect avenue, and for reversal of the assessment for paving and grading street from Fifth avenue to Ninth avenue, John F. McKnight, respondent, vs. Charles Devlin, appellant.—Judgment reversed and new trial granted, costs to abide the event.

Maria J. Myers, executrix, appellant, vs. Juan C. DeMien, respondent.—Judgment affirmed with costs.

Mary O. H. Stoneman, respondent, vs. The Erie Railroad Company, appellant.—Same decision.

Robert H. Drake, individually and as administrator, appellant, vs. Fanny Gilmore et al., respondents; The People ex rel. Alexander Oswald and another, respondents, vs. Thomas Taylor et al., Assessors, appellants; John Mosher, respondent, vs. Charles M. Randall, executor, &c., appellant.—Judgments affirmed with costs.

SUPREME COURT—CHAMBERS.

Josh Hart's Libel Suits Against the Sunday Mercury.

Before Judge Fancher.

Mention has already been made in the HERALD of the four suits brought for alleged libel against the proprietors of the *Sunday Mercury* by the well known theatrical manager, Josh Hart. The matter came before this Court yesterday on an interlocutory motion. The defendants' counsel protested against any action in the case, inasmuch as he insisted a settlement had been made with Mr. Hart, and it was alleged that the matter was only kept alive because, as was understood, the counsel on the other side had not been paid his fees. The opposing lawyer most emphatically denied these statements. After quite a discussion the Judge postponed the case till next Monday, so as to allow the plaintiff's counsel to submit affidavits as to the alleged settlement.

THE OLD WINTER ESTATE SUIT AGAIN.

This suit, which has already been before the Courts for ten years, gives no indication of diminished vitality. The case came into Court yesterday on a motion to remove the present receive and partition the estate. Mr. Henry E. Knox, on behalf of the receiver, stoutly and ably resisted the motion. The Court took the papers, reserving its decision.

Decisions.

John Michels vs. Ernestine Michels.—Report confirmed, judgment of divorce granted and custody of children awarded to plaintiff.

In the Matter of the Petition of Rector, &c., of Church of Atonement, &c.—Petition granted.

SUPERIOR COURT—SPECIAL TERM.

Decisions.

By Judge Van Vorst.

Louis Barth vs. Mary Barth.—Judgment of divorce in favor of plaintiff.

Hilger et al. vs. Oxenham.—Motion granted.

Shoffner vs. Cook.—Order denying motion.

Bishop et al. vs. Garcia.—Order denying motion to vacate judgment.

Rock vs. McRichard.—Order granting motion.

Cleary vs. Donohue et al.—Plaintiff is entitled to lien on check in the hands of guardian for Philip Hines for proportion of costs and expenses of suit. Injunction to continue until paid.

Cochrane vs. Harnett.—Order denying motion, without costs.

National State Bank of Elizabeth vs. Salmon.—Order that plaintiff file security for costs.

Dodge et al. vs. Nell.—Order denying judgment docket.

Leavitt vs. Mallory et al.—Order of reference.

By Judge Curtis.

Stuart vs. The Third Avenue Railroad Company.—Motion for a settlement of case denied, without prejudice to defendants renewing motion, and without cost to either party.

By Judge Sedgwick.

Gillroy et al. vs. Coburn et. al.—An order of reference that James E. Coburn and Zerlina Coburn account for the proceeds of the houses should be entered.

MARINE COURT—GENERAL TERM.

Death of an Old and Respected Member of the Bar.

An old and highly respected member of the Bar of New York passed away yesterday and has taken himself and his cause to the great tribunal before whom all men are to be judged. Frederick H. B. Bryan, whose stalwart form and kindly face were a feature in the United States and State Courts of this city for the last forty years, died yesterday from some injuries accidentally received a week or two ago. Deceased had a history known only to few. He had, years ago, before casting his lines for life in this country, served in a high rank in the British army. His career at the Bar here was a struggle, but an honorable one, and few men, even to the manner born, have of late years passed away leaving behind kindlier memories than Mr. Bryan.

In the Marine Court, General Term, Chief Justice Shea and Judges Curtis and Spaulding holding Court, an adjournment was had in respect to the memory of the deceased. Judge Shea, in brief but feeling terms, spoke of the great worth of the deceased and his claims for such a recognition by the younger practitioners at the Bar, many of whom were yet unborn when Mr. Bryan began his legal career. Directing that the proceedings should be entered on the records, the Court adjourned.

MARINE COURT—SPECIAL TERM.

Before Judge Joachimsen.

At the opening of the Court yesterday morning it was moved by Mr. Stephenson and seconded by Mr. Yennt that the Court adjourn in respect to the memory of the late Mr. Bryan.

Judge Joachimsen said he had known the deceased for thirty-five years. Throughout that long period he had never known a man who, with the like culture, professional ability and recognized talents, had devoted himself so solely and unselfishly to the discharge of the duties of his profession and the interests of his clients as Mr. Bryan. Poor in the worldly acceptation of the term as deceased was, he will prove a serious loss to many a poor client whose cause he would have espoused and whose poverty may withhold others more worldly-minded from adopting a similar course Judge Joachimsen then adjourned the Court.

COURT OF GENERAL SESSIONS.

Some Minor Cases of Larceny—Tribute to the Memory of the Late Hugh Maxwell—Remarks of District Attorney Rollins, Mr. A. Oakey Hall and the City Judge.

Before Judge Sutherland.

In this Court yesterday Henry Heim was tried upon an indictment for misdemeanor, which charged him with compounding a larceny. It appeared that the accused kept a tailoring establishment, and that a man named John Mahoney procured a suit of clothes valued at $30, which a friend of his paid Mrs. Heim for on the same day. There was really nothing in the case, and the jury rendered a verdict of not guilty without leaving their seats.

Henry Wilson was tried and convicted of stealing on one day last month from the Grand Central depot a satchel containing clothing valued at $32, the property of Isaac Sommers. There were mitigating circumstances in the case, and the Judge modified the punishment to one year's imprisonment in the State Prison.

Charles Relyea, charged with stealing a horse on the 19th of February, valued at $25, and owned by Luke Fitzgerald, pleaded guilty to petit larceny, and was sent to the Penitentiary for six months.

James Lynch, indicted for burglariously entering the stable of Lawrence J. Moore, 277 Spring street, on the 10th of December, pleaded guilty to petit larceny, he having stolen an overcoat valued at $25. Two months in the Penitentiary was the sentence.

Archibald White, who on the 13th of March stole $2 20 from Samuel P. Russell, pleaded guilty. Certain facts in extenuation were mentioned to His Honor, which induced him to mitigate the punishment to ten days in the City Prison.

Forgery.

Abraham Berrick, jointly indicted with George Reese, pleaded guilty to forgery in the fourth degree. It seems that on the 13th of March the accused forged an order for three gross of Virginia leaf and one gross of Peach Blossom tobacco, purporting to have been signed by John Hines, 255 Greenwich street, which was presented at a tobacco factory in avenue D. The prisoner was remanded for sentence.

All the cases on the calendar having been disposed of, Assistant District Attorney Rollins rose and said that his attention had been called to the fact that Mr. Hugh Maxwell, an honored practioner at this bar, and who, for eight years, was District Attorney of the county, was dead. He (Mr. Rollins) moved that the following be placed upon the minutes of the Court:—

While the mortal remains of the late Hugh Maxwell await in this city burial rites the District Attorney and the practitioners in this court request that upon its minutes be entered a brief tribute to the memory of one who, from 1821 to 1829, was District Attorney. He was a firm, incorruptible, conscientious and zealous officer. His firmness was always subsidiary to justice and his zeal was ever tempered with mercy while public prosecutor. Many cases in the volumes of reports vindicate his learning as a lawyer, and there live many of his juniors who can attest to this generation his eloquence and skill as an advocate. These also remembered with pleasure his unvarying courtesy of manner as a gentleman and his genial sincerity of intercourse as a friend. At the ripe age of eighty-six years, and in the full possession of his intellectual faculties, cherishing classical learning, literary association and religious influences to his dying hour, Hugh Maxwell has passed into the second stage of life worthily lamented and honorably to be remembered.

Mr. A. Oakey Hall, representing the Bar, seconded the motion in a brief and elegant address. He said that it was most appropriate that His Honor, as an old District Attorney; that his friend on the other side of the Bar, as the District Attorney now, and himself, as one who had filled that office for nearly twelve years, should join in a tribute of respect to the memory of such an old officer. He (Mr. Hall) had heard His Honor say of a gentleman, "He was a man who, if he walked up Broadway, all the world would look at with respect and love." Such a man was Mr. Maxwell, and, old as he was, it was not long since he (the speaker) saw him in the streets attracting just the attention that was given to the friend of whom His Honor had once spoken. Though somewhat feeble, yet erect, with the head and hair of a patriarch, and intellectuality stamped upon every feature of his face.

Judge Sutherland, in granting the motion, remarked that he never had the pleasure of meeting Mr. Maxwell, but had heard a great deal of him. Not only had he a high reputation as a criminal lawyer, but was equally renowned as a civil lawyer. His Honor thought that the practice of noticing the death of persons who earned justly a high reputation in the legal profession was very appropriate, and to him there was something delightful in the idea of dying and knowing that one was not forgotton by his professional associates. Such notices of respect for the memory of deceased persons tended to encourage efforts for deserved fame in professional practice.

The Court then adjourned.

JEFFERSON MARKET POLICE COURT.

Highway Robbery.

At the Jefferson Market Police Court yesterday, before Justice Ledwith, Edward Murphy, of 448 West Sixteenth street, was charged with assaulting Charles Korn, of 126 Delancey street, while walking through Tenth avenue, knocking him down and robbing him of a quantity of combs, valued at $2 80. To this he pleaded guilty. He was also charged with snatching a carpet bag, containing clothing, from the possession of John North, 518 West Twenty-second street. He was committed to answer.

A young man named William Gott, said to be a member of the "West Side Gang," met Miss Annie McCaffal, of 326 Lexington avenue, while walking in Fifth avenue yesterday morning, and approaching her struck her a blow in the breast, at the same time snatching her pocket book from her hand. A cry was at once raised and the thief pursued and arrested. He was arraigned before Justice Ledwith, when he admitted the robbery and was locked up to answer.

Two brothers, named Ewing and Wilbur Dorsay, were charged with stealing clothing from various boarders in the house 94 Macdougal street, kept by M. E. Downey. They were remanded for further examination.

TOMBS POLICE COURT.

A Confidential Porter who Looks After the Interests of His Employer is Caught Purloining—Stealing Belgian Pavement—Another Complaint Against William P. Butler—Proceedings Before Judge Dowling.

John Rademacher has been in the employ of Sylvester Brush, furrier, at 429 Broome street, for the last three years. During this time Mr. Brush has missed quantities of valuable goods. He had the most implicit confidence in Rademacher, and commissioned him to look out for his interests and try and detect the thief. Rademacher was so energetic in his work that he discovered that nearly every clerk that was engaged by Mr. Brush within the last two years was dishonest, and one after another they got their discharge in consequence of Rademacher's disclosures.

Last Wednesday a suspicious-looking bag was found packed with some sixty dollars' worth of furs and stowed away in an obscure part of the store. It was not removed at the time, but the next morning was looked for in vain. On Saturday a similar bag was found packed with $75 worth of furs. It was opened by one of Mr. Brush's sons. Determined to catch the culprit, Mr. Brush employed a man named Russell D. Wiley to watch the store on Saturday night. Wiley saw Mr. Brush lock the store and give the key to Rademacher. Some time afterwards he saw Rademacher return, unlock the store, go in and come out again with a bag in his hand. He watched him and saw him enter the house 327 Broome street and come out without the bag. Monday afternoon Rademacher was arrested, and he was arraigned before Judge Dowling in the Tombs Police Court yesterday morning. Mr. Sylvester Brush, his son, and Mr. Russell D. Wiley appeared to testify against him. It was alleged by Mr. Brush that when Rademacher was arrested he confessed to having stolen the goods, and also that he sold them to Levi P. Aaron, 327 Broome street, who knew that they were stolen. Aaron's premises were searched, and $135 worth of furs were there, which were identified by Mr. Brush as his property.

Both Rademacher and Aaron were brought up for examination in the afternoon, and Judge Dowling held them under $10,000 bail each to answer at General Sessions.

A Heavy Larceny.

Patrick McHugh, a stalwart-looking man, was arrested yesterday by Officer McAvoy, of the Sixth precinct, charged with stealing 300 stone blocks, used for paving the streets, and known as the Belgian pavement. Mr. Hugh Moore, of 261 Mulberry street, saw McHugh drive up his cart in front of his residence and take away a load of these blocks. He called the attention of Officer McAvoy, who, in behalf of the Corporation of the city of New York, made a complaint against McHugh. Judge Dowling held the prisoner under $300 bail to answer.

William P. Butler, who was held on Monday for examination on a charge of attempting to swindle Louis Schepp, of 180 Duane street, was identified yesterday as a party who had obtained $40 from Colgate & Co., of 55 John street, on a forged draft. On the 18th of November he went into the store of Mr. Colgate and represented himself as Mr. R. H. Reed, of the firm of B. N. Reed & Sons, Washington, D. C. He bought $175 worth of fancy soaps, which were subsequently shipped to Washington, and induced Mr. Colgate to advance him $40 on a sight draft on the house he was supposed to be connected with. The draft was sent to Washington, payment of which was refused and the draft was protested.

Judge Dowling, therefore, again remanded Butler for examination, which will come up to-morrow, at one o'clock.

COURT CALENDARS—THIS DAY.

COURT OF APPEALS.—Nos. 8, 9, 10, 42, 17½, 12, 5, 50.

SUPREME COURT—CHAMBERS—Held by Judge Fancher.—Nos. 242, 269, 271, 276, 283, 292.

COURT OF COMMON PLEAS—TRIAL TERM—Part 1—Held by Judge Larremore.—Adjourned for the term.

MARINE COURT—TRIAL TERM—Part 2—Held by Judge Curtis.—No. 1597.

MARINE COURT—GENERAL TERM.—Calendar continued.

CAPITAL PUNISHMENT IN OHIO.

COLUMBUS, April 1, 1873.

In the House this morning the bill to abolish capital punishment was defeated. Only twenty-nine votes were cast in its favor.

MARRIAGES AND DEATHS.

Married.

FOWNES—HABLEY.—On Wednesday, March 12, at Christ Church, Waterloo, near Liverpool, England, by the Venerable Archdeacon Jones, assisted by the Rev. T. M. Lester, M. A., HENRY, eldest son of Frederick Fownes, Esq., of South Town, Waterloo, to CARRIE, eldest daughter of William Habley, Esq., of Myrtle Bank, Waterloo Park.

Died.

ALLEN.—On Monday, March 31, 1873, after a short illness, MARTHA ALLEN, wife of the late Colonel William H. Allen, U. S. A., of Brooklyn.

Oswego and Port Jervis papers please copy.

BAILEY.—In Brooklyn, on Tuesday, April 1, MONTGOMERY J. BAILEY.

Due notice of the funeral will be given hereafter.

BARRAS.—Suddenly, at Coscob, Conn., on Monday, March 31, CHARLES M. BARRAS, aged 47 years.

The funeral will take place from Christ's (Episcopal) church, Greenwich, Conn., on Thursday, April 3, at ten o'clock A. M. Trains will leave Grand Central depot at eight o'clock A. M. Carriages will be in attendance on the arrival of the train at Greenwich.

BRYAN.—Suddenly, of disease of the heart, FREDERICK H. B. BRYAN.

Funeral will take place from his late residence, 177 Lexington avenue, at one o'clock P. M. on Wednesday, April 2. Friends of the deceased are invited to attend without further invitation.

CARPENTER.—On Tuesday, April 1, MARY CARPENTER, aged 20 years.

The friends of the family are requested to attend the funeral, on Thursday, April 3, at one o'clock, from her late residence, corner Fifty-seventh street and Eleventh avenue.

COLEMAN.—On Sunday, March 30, at the residence of his parents, 501 Grand street, Williamsburg, JAMES A. COLEMAN, of pneumonia, in the 29th year of his age.