

THE COURTS.

The Teanapee Railroad in Litigation—Interesting Reminiscences of Maximilian, Comonfort and Juarez.

BUSINESS IN THE OTHER COURTS.

Admiralty Question as to Seamen's Wages—A Chowder-Sandwich Case—The Alleged Shooting by James McDermott—Decisions.

Charles D. Myers, who had been indicted some time since by the United States Circuit Grand Jury, on a charge of removing whiskey in barrels that were not properly stamped, was arrested yesterday on a bench warrant and held to bail.

Ten boxes of cigars, alleged to have been smuggled and found in the possession of Charles Stahl and Charles Walton, were condemned yesterday in the United States District Court.

Yesterday Thomas Hourks, an able seaman, belonging to the English steamer Corinth, one of a line plying between New York and the West India Islands, appeared before Commissioner Shields, and made a complaint that the mate of that steamer, Mr. Eaton, had struck him twice without cause and knocked him down once. Hourks also stated that he had made this complaint to the British Consul, but that the latter declared he was tired listening to such cases, and that the complainant, if he was aggrieved, must go to a lawyer.

Commissioner Shields said that, as the alleged assault had taken place on an English ship, he could not interfere in the matter. On Monday a freeman named Delany, belonging to the steamer Etna, of the same line, complained that the chief engineer had badly beaten him and put him in irons several hours without cause. He also stated that he had spoken to the British Consul, and that the Consul informed him he could not interfere. These statements, however, are *ex parte*, and require corroboration. For the reason above stated, Commissioner Shields told Delany that he was powerless in the matter.

THE TEANAPEE RAILROAD.

Interesting Chapter from the See-Saw Game for the Grant-Memories of Comonfort, Maximilian and Juarez—A Suit for \$50,000 Personal Services and How It Came About.

In 1857 various capitalists of New Orleans obtained from President Comonfort, of the Mexican Republic, in consideration of their constructing a ship canal or railroad across the Isthmus of Teanapee, a valuable grant of lands, together with the exclusive use for a term of years of the canal or railroad, whichever they might elect to construct. To carry out the scheme a company, known as the Teanapee Company, was organized, with \$100,000 capital. The first thing which, under the terms of the grant, the work was to have been accomplished passed without any having been done. President Juarez, on application, extended the time, however, to 1862, and confirmed the original grant. A proposition was subsequently made to sell the grant to Northern capitalists; but this proposed arrangement was interfered with by a change in the government, the reins of which meanwhile having passed into the hands of Maximilian, and Juarez being a fugitive and seeking a secure hiding place among the fastnesses of the mountains. In 1864 Mr. Marshall O. Roberts agreed, it is said, provided he could get a legal assignment of the grant validly confirmed, to take it, organize a new company with \$100,000 capital, construct the canal or railroad, and project being now wholly left out of the scheme and out of the stock of the new company, thus organized—and to pay to the Teanapee Company the sum of \$50,000. As it was then thought, however, that Maximilian had established on a firm basis the new Empire, his aid was sought, and he was considered necessary. Meanwhile Mr. John P. O'Sullivan had already obtained from the Mexican government the grant of a steamship company, the Chevalier, which was considered necessary. Mr. O'Sullivan was the proper person to obtain the necessary confirmation of the grant, and he accordingly secured it. Mr. O'Sullivan agreed to go to Mexico and interview Maximilian on the matter. Mr. Roberts, on his return, promised to pay the expenses and, if successful, to pay him \$50,000 for his services or stock of the new company to this amount.

COURT OF GENERAL SESSIONS.

The Case of James McDermott—The Accused Promptly Acquitted.

Before Recorder Hackett. The greater portion of the day was occupied in the trial of an indictment against Mr. James McDermott, upon a complaint of Patrick R. Burns, who charges that the accused fired a loaded pistol at him with intent to kill. The occurrence took place at John McDonough's billiard saloon, on the 29th of January. It appeared from the testimony of the complainant, who was a private detective, and from other witnesses, that on the day in question the parties accidentally met at the saloon, and that McDermott, who was accompanied by a friend, took a glass of water at him. McDonough prevented further trouble by requesting McDermott to accompany him to another part of the saloon. Burns followed them and attempted to seize McDermott, who, knowing that Burns had threatened his life, drew a pistol and fired at him. The jury rendered a verdict of "not guilty" without leaving their seats. The accused was surrounded by his friends and heartily congratulated upon his acquittal.

Ex-Sheriff Conklin Remanded Till Friday for Sentence.

William Conklin, convicted of stealing gold circlets from Burr S. Craits, was arraigned for sentence. Ex-Judge Cardozo made a motion for a new trial, claiming that the verdict was against the weight of evidence, and expressing the belief that the jury had been misled by the testimony of the witness. The Recorder will pass sentence.

John Mauer, who was charged with stealing a bale of cotton wool from the firm of Sherman & Co., on the 17th of January, pleaded guilty to the minor grade of larceny.

John Beck, indicted for stealing a watch valued at \$25, from the person of Mrs. J. J. Bennett, No. 275 Delancey street, in June last, was convicted of petty larceny.

Hugh J. McLaughlin, charged with burglariously entering the premises of Thomas McIntire, No. 411 West Fifty-fourth street, and stealing \$10 worth of papers, pleaded guilty to petty larceny.

André Burt, charged with larceny on a charge of stealing \$35 from Thomas Gregg, on the 4th of February, the evidence for the prosecution being insufficient to sustain the allegation.

Discharge of the Jury.

The Grand Jury came into court and presented their last batch of indictments, and the foreman having announced that they had finished the business before them, the Recorder discharged them from further attendance.

WORLDVILLE POLICE COURT.

A Countryman in the Hands of Thieves. John McDevitt, of Tremont, Westchester county, while in this city on Monday night, strolled into a liquor store on the corner of Fourteenth street and Third avenue to have a drink. While there he got acquainted with a rascal named William Bennett, who, before they separated, it is alleged, stole from him his gold watch and chain, in all valued at \$150. Officer Conroy, of the Eighteenth precinct, arrested Bennett in front of the store, but found upon him only the watch, which he claims was stolen by another person. Bennett, who was evicted from the store, was committed to jail.

Joseph Reilly and Thomas Henderson were held for trial on a charge of attempting to steal cereal gratings.

On the 19th of the Nineteenth precinct, in arresting Michael O'Brien, who cut over the eye by a blow from the prisoner, O'Brien, who was evicted from the store, was committed to jail.

SUPREME COURT—SPECIAL TERM.

Decisions. Hanford vs. Gale.—Accounting ordered and referred to William H. Leonard to state or account. New Jersey Mutual Life Insurance Company vs. Conklin, et al.—Judgment for plaintiff for foreclosure and sale and referred to J. S. Lawrence to sell and convey, with allowance of \$500.

SUPREME COURT—CHAMBERS.

Decisions. Beamont vs. Beaumont—Report confirmed and judgment of divorce granted. Fug v. Bredt—Motion denied. Griff and Swinerton—Order granted.

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PROSECUTORS: Learned vs. Fitzgerald; Horsman vs. McMillen; Donnell vs. Heilman—Motions granted. Fug v. Bredt—Motion denied. Griff and Swinerton—Order granted.

Richard J. Ludo, et al.—Extra allowance of \$200 granted. Mutual Life Insurance Company vs. Glass et al. (two cases); Young vs. Solomon; Castro vs. Castro; in the matter of the application of Brooks, et al.; Streeter vs. McGuinness—Memorandums. Fug v. Bredt—Motion denied. Griff and Swinerton—Order granted.

BROOKLYN COURTS.

Supreme Court—Special Term. Trying to Oust a Receiver. Before Judge Gilbert. An application was made yesterday for the removal of Andrew J. Smith, as receiver of the Manhattan Insurance Company of New York. The allegations against the receiver were that he had permitted the funds under his control to remain in the Brooklyn Trust Company, notwithstanding that some of its officers were charged with embezzlement.

The receiver denied the truth of these charges, and asserted that he had been guided in all his actions by what he deemed to be right. Judge Gilbert sustained him, and declined to grant an application on the ground that there was no evidence to justify the removal.

Decisions.

John vs. Kelly.—Motion for defendant on demurrer, with costs. Laffer vs. Small.—Motion to compel plaintiff to pay costs personally. No costs. National Bank of Orange County vs. DeLisser.—Motion to vacate order of reference denied on plaintiff's application to take evidence of defendants in New York.

COURT OF APPEALS.

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MANSLAUGHTER TRIAL ENDED.

Summing Up by Counsel and the Charge to the Jury. A Verdict of Guilty of Manslaughter in the Third Degree.

SENTENCE DEFERRED TILL TO-MORROW.

The general impression that the trial in the Court of Oyer and Terminer of John E. Simmons, for the alleged murder of Nicolas W. Duryea, would be concluded yesterday proved to be correct. In such anticipation the court room was at an early hour densely crowded, while a greater crowd than on any previous day thronged the outer hall and vestibule. The prisoner showed the same unconcern, and was accompanied, as heretofore, by his wife, child and brothers.

After Judge Brady had taken his seat on the Bench and the counsel on both sides had shown their readiness to go on the day's work began.

MORE HEARING TESTIMONY.

The day's proceedings opened with the calling by the prosecution of more witnesses in rebuttal. Augustus C. Fisher was first called. He testified that from a pretty long acquaintance he knew that Duryea was quiet, respectable and peaceable man. Francis Jenkins, Dr. Nelson Tucker, William H. Little and Eliza Crowell testified to the same thing.

All these witnesses were closely cross-examined, but they could only testify as to Duryea's general character, and to not having seen him drunk.

Dr. James Brownlee, of Port Richmond, had known Duryea for the three years prior to his death; all who knew him regarded him, so far as witness knew, as one of the best men in the community.

His cross-examination witness said he did not know that Duryea led two very different lives—one at home and the other abroad.

Nicholas Van Pelt, President of the Village of Port Richmond, said that Duryea was a good citizen, and at his home while at Port Richmond. None of these witnesses had ever heard Duryea's character discussed. Talbot Butler, livery stable keeper at Port Richmond, and Abraham Lafarge, a grocer there, gave similar testimony.

Sidney F. Rawson, District Attorney of Richmond county, knew Duryea well and knew him as a good citizen; had heard him spoken of by others as to his peaceable character, but could not remember particularly the conversations. He had heard Mr. Jewett and others canvass Mr. Duryea's character and speak well of him.

George D. Allen, of No. 67 Liberty street, was called to show that Duryea had business there on the evening of his death; but the testimony was not intended to show that Duryea had business at Simmons' office, at No. 67 Liberty street.

Mr. Rawson was recalled and testified that he had sometimes seen Duryea under the influence of liquor, and that he was not then quarrelsome.

The above closed the testimony, and when the fact was announced there was a general sigh of relief all around.

SUMMING UP FOR THE DEFENCE.

Mr. Graham now proceeded to sum up for the defence. He began by calling the attention of the jurors to the fact that they were in the grave position of arbiters of human life or human liberty. They were to pass upon the question of the sacred right of self-defence. It had not been for a reckless desperado's attack on the defendant the defendant would not now be awaiting their judgment.

For Simmons not to have resisted in the way he did would have been to prove false to his duty to himself, to his wife and to his family. It was too much to expect that he would commit virtual suicide by submitting himself to the arbitrary power of his bitter enemy. The question in this case was, "Was the homicide justifiable?"

It would not need an atrocious assault to justify a homicide; any first assault, even with the fist, intended apparently to severely injure, justifies a defence that may result in death. Men furiously assaulted are not to be expected to nicely discriminate as to their exact danger. If appearances warrant a belief of imminent danger a defence resulting in death would be justifiable. A man assaulted with an imitation sword or pistol, or an unloaded pistol, has the legal right to resist to the death, if he believes he is being assaulted with a real and dangerous weapon. Knowing the character of the man who was his bitter enemy, had reason to believe that Duryea had a deadly weapon, and had then furiously assaulted him, Duryea had broken the peace, and Simmons had no choice but to defend himself from the deadly assault of Duryea in the best way he could. If the jury had an abiding conviction that the evidence of the truth of this charge against Simmons they must give him the benefit of a doubt as to his guilt, and acquit him. The weight, there could not be shown prominently, of the evidence of the truth of this charge against Simmons they must give him the benefit of a doubt as to his guilt, and acquit him.

It was not necessary for the jury to believe that Duryea had a deadly weapon, and had then furiously assaulted him, Duryea had broken the peace, and Simmons had no choice but to defend himself from the deadly assault of Duryea in the best way he could. If the jury had an abiding conviction that the evidence of the truth of this charge against Simmons they must give him the benefit of a doubt as to his guilt, and acquit him.

The jury returned a verdict of guilty of manslaughter in the third degree.

THE VERDICT.

"Have you agreed, gentlemen, on a verdict?" he first asked.

"We have," answered promptly the foreman, and then, after another interrogatory from Mr. Sparks, the verdict was pronounced as follows: "The defendant is guilty of manslaughter in the third degree."

The announcement of the verdict was taken with quietness, knowing his crutches in his hands, betrayed no emotion.

The jury were first requested to hearken to their verdict, as rendered, when Mr. Fellows asked that the sentence be deferred till Thursday morning, and to this time an adjournment of the Court was ordered.

There was some further discussion on this point, and it was finally decided by Judge Brady that the sentence till Thursday morning, and to this time an adjournment of the Court was ordered.

COMMISSIONERS OF EMIGRATION.

Transfer of the Banking Business—The Deficit—Re-Election of the President of the Board—Mr. Lynch on the Commutation Tax—Proposition to Discharge Officers and to Cut Down Salaries Voted Down.

The Commissioners of Emigration met at Castle Garden yesterday afternoon, Mr. Quintard presiding. It was resolved to transfer the account of the commission from the Merchants' National Bank to the Metropolitan National Bank, the former having refused the commission a loan of \$25,000, which the Metropolitan Bank advanced on application. An election for the office of President of the Board was then gone into, and Mr. Hurbit was re-elected by a vote of seven to one.

Mr. Hurbit's taking the chair he briefly returned thanks for the honor conferred upon him, and then drew the attention of the Commissioners to an article which had appeared in a morning paper containing misstatements as to the deficit of the treasury of the commission. The truth was that the commission had a deficit of \$25,000, which had been repaid by the Metropolitan National Bank, and actually owed \$65,000 besides, which there was no money to meet.

There was then taken up the question of executive session, but Mr. Lynch claimed the privilege of explaining the position he took when before the Commission on Navigation at Albany on the 8th inst. in regard to the commutation tax.

Mr. Lynch entered into an explanation of the relations of the steamship companies bear toward the Government, and the large amounts of money by the services rendered to emigration by the Emigration Commission. He said that the "memorial" of the shipowners did not contain a single line of proper information, and that the article which had appeared in a morning paper containing misstatements as to the deficit of the treasury of the commission. The truth was that the commission had a deficit of \$25,000, which had been repaid by the Metropolitan National Bank, and actually owed \$65,000 besides, which there was no money to meet.

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