THE M'ENERY LEGISLATURE

Marshal Packard on the Mechanics' Institute Order.

TESTIMONY OF MR. J. R. BECKWITH.

Durell Finds a Precedent in an Order of Lord Bacon.

In the HERALD of yesterday we presented the testimony of Mr. E. C. Billings on Judge Darell's famous order suppressing the McEnery Legislature. The following is the evidence of Marshai S. B. Packard, President Grant's brother-in-law, on the same subject :-

the same subject:—
Question. Are you holding any official position?
Answer. I am United States Marshal for the district of Louisians; I was appointed in April, 1869, and have held it ever since.

Q. You were United States Marshal on the 18th of December, 1872? A. Yes, sir.

Q. State whether or not, as Marshal, an order was placed in your hands, under which the seizure of the Mechanics' Institute building was made in the case of Kellogg vs. Warmoth and others. A Yes, sir; I seized the building under that order.

Q. is that the original paper? (Paper nanded witness.) A Yes, sir; that is the paper that was delivered to me on the evening of the 5th of December, and executed the same night.

Q. flave you made any return of that to the Court? A. No formal return.

Q. is there any reason why that was not returned? A. No more than that the paper was mislaid in the office; I supposed, until inquiry was made, that it had been returned.

Q. Were you present

WHEN THE ORDER WAS DRAWN UP?

A. Yes, Sir.

Q. who, beside yourself and Judge Durell, was

A. Yes, sir.

Q. Who, beside yourself and Judge Durell, was present at the time that the order was drawn?

A. The two solicitors, Mr. Billings and Mr. Beckwith, and one or two of my deputies; this paper is in the handwriting of my deputy, Mr. T. W. De Kiyne.

Q. State the circumstances of the issuing of that order?

A. About nine o'clock that evening Judge Burell sent to my office for me to come to his room; his room was at the corner of Bourbon and Custom House streets; I went to his room with Mr.

House streets; I went to his room with Mr. De Klyne.

Q. When you reached his room who was there?

A. I think there was no one in the room at the time; if any one was there it was some person who had been left there as a sort of guard to prevent assassination; I had sent one or two persons there to guard the hallway, as there were great lears that Juage Durell would be assassinated; when I get to the room be told me that he wanted me to send for Mr. Billings and Mr. Heckwith; that he proposed Issuing an order for the occupation of the Institute building, which is the State House; I sent some one of the men for them; they came very soon and he told them the same thing; they set about preparing the order, after consuiting over the matter; the Judge, I think, dictated the order, and Mr. Billings sat at the table writing it; that is my recollection; of course I may be in error on some minor points; after it was completed my deputy, Mr. De Klyne, sat down and made a cleau copy of the order, to which the Judge attached his signature; it was then handed to me, and I immediately sat about to execute the order, which I did by caking on General Emory for a detachment of troops, and occupied the building that same night.

Q. Had you received any information before this time—at the time you went to his room a that night—that any such order was to be issued, or any action of that kind was contemplated? A. No, sir; I had no knowledge of that kind until I arrived at the room.

Q. How long were you there at the room? A. I

the room.

Q. How long were you there at the room? A. I am unable to say; propably an hour.

Q. How long were you there at the room? A. I am unable to say; probably an hour, possibly an hour and a half; lieft as soon as the order was placed in my hands, and I did not return.

Q. Did Judge Durell make any statement to you there as to who had instigated the proceedings? A. No. My information was that it was his own motion; I thought that none of the solicitors had instigated it, as they expressed some surprise when informed about it; I think they asked the judge if he had considered the matter; the judge said that he had, and he was determined on it.

If WAS ALL ON HIS OWN MOTION;
We had no knowledge of anything of the kind about the Custom House or about our political headquarters, and I saw Governor Kellogg that evening, and he knew nothing about it, so I presume it was with the Judge himself; if any one suggested it to him I do not know it.

Q. Are you intimately acquainted with Judge Dureil? A. Yes, sir.

Q. Often about the Court? A. Yes; I meet him socially, but not very frequently.

Q. State what was his condition that night as to sobriety. A. Perfectly sober, so far as there was any apparent indication; there was no evidence of anything to drink about the room, that I saw at all, and am quite certain that he had not been out of his room; it was not saw for him to go out unattended, and I think he has toid me since that he dined that day in his room alone.

Q. Is this paper a part of the order? (Paper

I shink he has told me since that he dined that day in his room alone.

Q. Is this paper a part of the order? (Paper handed witness.) A. Yes, sir.

Q. Tuat came into your hands along with the order? A. Yes, sir.

Q. What was the official character of those persons that by this order were to be prevented from assembling in the Institute building? A. They are the individuals that compose what was known as the McEnery Legislature; it was not, as I understood it, the purpose of the order to interfere with the egrees or ingress of persons who had been elected to the Legislature, or who occupied offices of the State government; on the contrary, the judge's verbal order to me was not to interiere with them, and he said that the object of the with them, and he said that the object of the order was to hold the building so that if us wished to issue orders thereafter he could get into the building; he thought the Govornor might barricade it so as to prevent access, as he had done before, and prevent the entry of deputy marshals.

Q. That he gave you in addition to this order?

A. Yes, sir. n, and he said that the of

A. Yes, sir.
Q. There were returns of election in the building which the Court wanted to control? A. Yes, sir.
Q. Who are those persons who are mentioned in this paper attached to this order—what official capacity? A. Members of the Senate and House of Representatives, as returned by the Witz-De Feriet returning board, promulgated by Governor warmoth.

Feriet returning board, promulgated by Governor Warmoth.

Q. You say, pursuant to this order, you did take possession of the institute? A. Yes.

Q. I will ask you whether or not on the day succeeding the issuance of this order it was understood that these parties would assemble in Mechanics' institute building as a Legislature? A. A large number of these persons on this ist were also returnable by the other Returning Board, but I do not know what was understood with reference to the matter, for we had no knowledge at the time with the would be done; the fact is, they did not attempt to assemble, that is, those who were not returned by the Lynch Board did not attempt to assemble there.

assemble there.

By Mr. Eldredge—Q. Was there any day fixed by the law that these people were expected to assemble? A. The governor had issued a proclammation convening the legislature in extra session, the oth of December, following the date of this

Order.
Q. How long did you hold possession of the building under that order? A. Until Governor Kellorg was inaugurated.
Q. What was the date? A. In January, about the second Monday.
Q. Has that order been rescinded, as you know of? A. Of record I think not, although I do not know.

the second Monday.

Q. Has that order been rescinded, as you know off A. Of record I think not, although I do not know.

Q. Were there any further orders of the Court to you? A. Yos; I applied to the Court for permission to remove my officers from there, and it gave me verbal permission to do so. When I removed my officers I also removed the posse of troops.

Q. When you left Judge Durell's office, on this occasion, where did you go? A. I went to the St. Louis Hotel; I went to see General Emory.

Q. You say you took possession of the building under this order? A. I did.

Q. What did you do? A. I went to the St. Louis Hotel and made a KRUISITION ON GENERAL EMORY for a company of troops, and an arrangement was made at once, and a staff officer was sent with my deputy to give the necessary directions for the deputy. After that was arranged at the St. Louis Hotel the deputy went to get the troops.

Q. Was that a part of the order of Judge Durell?

A. No, sir; he had nothing to do with that.

Q. Did you and he talk over the manner in which you were to take possession? A. I do not recollect that he gave any instructions about the matter.

Q. Did he and you talk over the manner in which you were to execute the order? A. From recollection I could not say, but very likely I did, because I intended to use troops.

Q. Did he and you talk over the fact that you were to make a requisition for troops? A. I cannot say whether I did or not; I think it very probable I did.

Q. In what form did you make a requisition for troops? A. In the usual form; that I requested a large number of troops for the purpose of adding my deputy in executing the process in my hands.

Q. Have you a copy of the requisition? A. I may have on my letter book; but, as it was made in haste, I may not have preserved a copy.

Q. Was it a requisition in your own name as warshal? A. Yes, sir; signed by me as Marshal.

Q. You had a personal interview with General Emory? A. Yes, sir.

Q. What time the orders of the Deputy Marshal? A. I think Colone De Klyne; I

the building.

Q. What time did you have this interview with

Q. Did the member of his staf go with you? A. No. sir; I went home from the hotel.
Q. Was your deputy with you at the time you made the requisition? A. Yes, sir.
Q. And the member of his staff went with your deputy? A. Yes, sir.
Q. Do you know at what time they took possession of the building? A. It was, I think, between twelve and two o'clock; the precise hour I am unable to state. twelve and two o'clock; the precise hour I am unable to state.

Q. Did they go escorted by a company of United States troops? A. I have no knowledge of that.
Q. When did you next see the building? A. I cannot say. Possibly I may have gone up some time the following day; I am not certain.
Q. Was the building then in the possession of your deputy? A. I'es, sir.
Q. Were the United States troops there? A. Yes, sir. I had information all the time of what was going on at the building.
Q. Do you know, as a matter of fact, whether the troops accompanied your deputy when they took possession of the building? A. I do not know. I have no doubt that they did or came very soon after.

after.
Q. Where was your deputy to go to get the troops? A. My understanding was that they were to go to the Mobile and Ohio Railroad depot, and the General said there were some troops on the way from Florida, and were expected that night. They went to the depot and found them there and took a detachment right from the depot to the Institute.

Q. How many soldiers accompanied them? A. I do not know. do not know.

Q. How many were there when you went there?

A. I think it was an artillery company; I think there was a company, possibly there might have been a part of two companies; I should think 150 men; there might be more and there might be less.

Q. Did they have their artillery with them?

A. No, sir; they were armed as imantry, I believe.

Q. Did they have smed as injuntry, I believe.

Q. Who was occupying the building at the time your deputy took possession? A. The Governor and State officers.

Q. What officers? A. Warmoth.

Q. What officers? A. The secretary of State had an office there; I think at that time it was General Herron.

d. what cheers? A. The secretary of state had an office there; I think at that time it was General Herron.

R. What cles? A. Lieutenant Governor Pinchback had a room in the building; I think the Returning Board that was named in this proclamation were using some one of the rooms in the building.

Q. Which Returning Board was that? A. The wilts De Ferret Keturning Board was that? A. The wilts De Ferret Keturning Board.

Q. Were these person there at the time your deputy took possession? A. My deputy made a report of the occupation, and he stated that there was no one there but watchmen or policemen; they were policemen acting as watchmen for the building; how many were there I do not know.

Q. You did not understand whether any of these persons, claiming to be officers of the State, were in the building at the time? A. I understand that there were none at the time? A. I understand that there were none at the time; some of thom called some time alterward.

Q. Did your deputy take possession of such documents as were in the building? A. No, sar; he took possession of nothing; he simply occupled the building without interiering with anything.

Q. Were those persons allowed to go in and out? A. Yes, sir; that was his instructions, and he reported that he did not interiere with them.

Q. Did they continue in the building? A. Yes, sir; some time alterward.

Q. How long did they remain there? A. They remained until after the impeachment of the Governor.

Q. When was that? A. The 9th of December,

remained until after the impeachment of the de-ernor.
Q. When was that? A. The 9th of December, when the Legislature mee; then Governor Pinch-back occupied the Executive office and he re-mained there until Governor Kellogg was inaugu-

when the Legislature met; then Governor Finchback occupied the Executive office and he remained there until Governor Kellogg was maugurased.

Q. Were they not instructed by Judge Durell to take possession of the returns? A. No, sir.

Q. Did you have any conversation with him; about them? A. None that I recollect of; I have stated to the best of my recollection the only instructions I received.

Q. Did you not say that it was expected that you should find the returns there? A. I stated that the returns were there, and it was expected that we should get them so that they could be under the control of the Court in wanted.

Q. In what way were you controlling them? A. The Court had ordered the Governor to bring the returns into Court and he had not obeyed these orders up to that time.

Q. What did the Count expect you to do with these returns? A. Nothing whatever; he gave me no instructions in regard to the returns.

Q. You stated that the Judge gave you verbal orders not to inter ere with the Legislature going in there? A. No, sir; I did not state that; he said only not to interier with the State officers; there was no Legislature meeting there at that time.

Q. What instructions, if any, in addition to those in the order, were given you about the removal of persons there? A. None at all.

Q. Then all that he said relating to those State officers was independent of the order you have mentioned? A. It was all embraced in the written order upon which he gave me verbal directions.

Q. What instructions, if any, dad he give you about persons claiming to be elected to the Legislature? A. I have no recollection of any; I can state what mistructions, and any, dad he give you about the concern which he gave me verbal directions in the order when the order were elected to the Legislature? A. I have no recollection of any; I can state what my impressions were entitled to pass in and out? A. I have no recollection of any; I can state what my impressions were entitled to pass in and out? A. I have no recollection of any; I ca

HOLD POSSESSION OF THE BUILDING under that order? A. Until alter the inauguration of Governor Kellogg.
Q. Give us the date? A. I cannot tell the date that the troops were withdrawn.
Q. Did the United States troops remain there in possession with your deputy during that time. A.

Q. Did the United States troops remain there in possession with your deputy during that time. A. They did.

Q. Subject to the command of the deputy all the timer A. Yes, sir; they were quartered in the lott of the building, with a guard down by tife door; the guard stood there with the deputy marshal, down by the door; after the first day or two there was no attention paid to who went in or out.

Q. Die any person apply for admission to the building who was refused? A. I understood that Governor Warmoth, when he first applied, was refused, at least until the deputy was called, and as soon as he was called he passed the Governor in; I also understand that General McMillan was stopped at the door when the building was first occupied; he was Senator at the time and he was detained at the door until the deputy arrived, when he was admitted; I recollect these circumstances because it has been called to my attention in the examination last winter; I recollect none others.

Q. Was there any effort of those persons who

others.

Q. Was there any effort of those persons who claimed to be counted in by Warmoth and his Board to assemble in that building after you took possession? A. Yes, sir; some of them went there; they were returned by the Wiltz-De Feriet Board, but they were men who were also returned by the Lynch Board.

Q. Did any that were returned by Warmoth alone apply for admission? A. None to my knowledge.

dine apply for admission? A. None to my knowledge.

Q. Have you any information of that kind from your deputy? A. None at all.

Q. Were any members of the Legislature permitted to assemble during the time you held the building? A. The Legislature assembled on the eth. Q. What Legislature was that? A. The state Legislature; the Legislature known as the Kellogg Legislature as distinguished from the other.

Q. Where did they assemble? A. The members of the House assembled in the hall on the second floor and the members of the Senate in the hall on the first floor.

Q. Did they sit during the time the building was in possession of United States troops? A. Yes, sir.

Q. Were the doors guarded by United States troops at the time? A. There were troopsin sight; they were standing on either side of the door, but not interfering with the ingress or egress of the people.

not interfering with the ingress or egress of the people.

Q. Was the general public allowed to go in and out? A. Yes, sir; so lar as they wanted to.

Q. Were no distinctions made? A. Not to my knowledge.

Q. What doors were guarded by the soldiers? A. The iront doors of the main entrance.

Q. Did that front door open immediately into the legislative hall? A. No. sir; it opened into a passageway; that passageway, or a continuation of it, went to the door of the Senate Chamber; then upon either side of the passageway, a few leet from the door, were stairs which led up to the hall of the House of Representatives.

Q. Were there any soldiers inside of the build-

either side of the passageway, a few feet from the door, were stairs which led up to the hall of the House of Representatives.

Q. Were there any soldiers inside of the building? A. Yes, ar; on either side of the stairway.

Q. Did they pass up and down going to and from their quarters? A. Yes, sir; they went up the same stairway that the memoers of the House went up; but they did not pass through the hall of the Senate.

Q. Don't you know from Judge Durell that it was understood between you and him that the Warmoth Legislature was not to be permitted to assemble there? A. I had no understanding of that kind at all.

Q. Was not that the purpose of this proceeding—to prevent that Legislature from assembling? A. If it was I did not understand it so, for at the time of the issuance of the order we had no expectation of the Legislature assembling as they did atterward; as I have stated, my impression was that the purpose of the Court in occupying the building was to have it so as they could get at it.

Q. Did he tell you that was the purpose? A. I cannot say that he said that in woras; that was the impression left on my mind; perhaps he may have said it in so many words.

Q. Was that impression from what he said? A. The impression was from what I learned while in the room.

Q. Did the Judge say anything that gave you

The impression was from what I learned while in the room.

Q. Did the Judge say anything that gave you that impression? A. I cannot recall any conversation with reference to it at all.

Q. Have you any reason to believe that the Judge told you anything that led you to infer that was the object? A. I have a recellection that when the order was being drawn, in a conversation with some one in the room, that the Judge in insisting upon issuing the order, stated that his purpose was to occupy the building, and that at once, for fear that warmoth would garrison and barricade the building, so that his officers could not get in and make a service; for if he issued an order which required an officer to go into the building and serve it upon the Governor he might be denied admission and it would cause bloodshed.

Q. That the Judge stated? A. I recollect something of that kind being stated in the room.

cupy it immediately in this manner, and not to wast until the Court opened in the morning; and it impressed ne, for he himself must have had some information which led him to believe that warmots intended to barricade the building at once, which accounted for the haste in issuing the order; all that was said about the object of the order and purpose of it was while it was being drawn.

drawn.

Q. You are sure that his attention was called to the fact that it would be better to issue this order in open court than to issue it exparte? A. I am as certain as I can be when I cannot repeat the conversation; the impression is on my mind that it was activities. as certain as I can be when I cannot repeat the conversation; the impression is on my mind that it was said.

Q. And that too, by the solicitors for the prosecution? A. The presumption is that it was; they were engaged with the Judge in draiting the order. Q. Now, when you abandoned the possession of the building under this order by what authority did you do so? A. I saw the Judge in reference to the matter and learned from him that he had a coolection, and I got his verbal permission to do so. Q. Where did you see him? A. My recollection is that it was in his chambers, at the court house. Q. What day? A. I cannot recollect the time; it was somewhere about the 13th of January; how long after we took possession of the building I am unable to state; the officer in command of the detachment came to my office and stated that he had left his wife in Florida, and they sad just made arrangements there for housekeeping, and some domestic affairs there needed his attention, and he asked that, if I had no objection, he would like to be relieved and return to Florida; he said that General amory believed that there was no occasion for the troops being there further; I went to the Judge in Chambers to get his orders.

Q. What conversation did you have with him? A. I asked him if there was any objection to my relieving the Marshal and his lorce from the State House, which I was still occupying under his order; he stated that there was none; then I recalled the debuty.

Q. There was nothing in the court directing the

deputy.

Q. There was nothing in the court directing the williarswal?

A. No. are withdrawal? A. No. sir.

Q. The order was not rescinded? A. Not to my knowledge.

Q. The order was not rescinded? A. Not to my knowledge.
Q. And you have kept the order ever since in your possession until you brought it here to-day? A. Yes, sir; a copy of the order was in the record, for I had a transcript made for the Attorney General; copies of it were made the same day, but the original order happened to be missial among the papers on the desk of my deputy, and I did not know where it was overlocked.
Q. Have you ever made any return of your dofings under that order of the Court? A. No, sir.
Q. While the troops remained there in possession of the building, did you have any interviews with Judge Durell? A. I do not recollect of any; I, of course, saw him frequently.
Q. Did the inquire of you what you were doing and how you had executed the order? A. No, sir.
Q. Did you not inform him of what you had done under the order? A. I may have possibly informed him afterward to what extent the order was carried out.
Q. Did you or did you not? A. I do not remember doing it.
Q. Did you at any time inform him that you had

Was carried out.
Q. Did you or did you not? A. I do not remember doing it.
Q. Did you at any time inform him that you had withdrawn from the possession of the building?
A. I have no recollection of it.
Q. Were you at any time remonstrated with by any citizens or others for holding possession of the building? A. No: I do not retnember having any remonstrance made to me with reference to the matter at all; I saw in the newspapers articles criticising me—in democratic newspapers.
Q. But no appeal was made to you personally as Marshal? A. No, sir; almost as soon as the building was occupied I at once took measures to put the troops where they would be out of the way of all the officers who had offices in the building, and instructed the deputy not to interiere with them.
Q. Would you have had any difficulty in executing that order without procuring troops? A. I could not have executed it without; Governor Warmoth resisted everything except superior lorce.

Q. But you say there was nobody there but watchmen? A. There were policemen there acting as watchmen of the building.
Q. By what authority did you assume to make requisition for troops? A. I had a process in my hands and was unable to execute it with the force of my office.

hands and was anable to execute it with the lorce of my office.

Q. Did you make any effort to execute it? A. I was well awars that I could not execute it.

Q. Did you make any effort to procure a posse comitatus of citizens? A. No, sir.

Q. You sent in the first instance for troops? A. By law the troops can be used by the Marsnal lor enforcing an order without making any call upon the posse comitatus.

By Mr. Wilson—Q. I understand you to say that Governor Warmoth had issued a proclamation cahing an extra session of the Legislature for the 9th of December, 1872? A. That is my recollection.

tion.
Q. Do you know whether the parties who had been declared to be elected by the De Feriet Board did afterward attempt to assemble as a legislative body; and, it so, where was it they sought to assemble or did assemble? A. I only know it from

Q. Where was that 7 A. They had their sessions at the Odd Fellows' Hail; the first time, I believe, at Lyceum Hall.
Q. Do you know whether injunctions were

Q. Do you know whether injunctions were served upon members or reputed members of that body, individually, as they went there? A. In this case there was a restraining order Issued against a great many persons; it was given to the deputy to serve; the manner of the service, the time of service, I have no knowledge of, except by reference to the returns.

Q. This particular order of which we have spoken was not then served upon the individual members of that body that assembled at Lyceum Hall; A. I think they first assembled at Lyceum Hall; A. I think they first assembled at Lyceum Hall; he deputies, when this restraining order was first placed in their hands, went about the city to find the persons mentioned in the order and make service on them; what particular day they served it leannot say; I can say that one of my deputies told me that he served several about the City Hall on Monday morning—the morning that the Legislature convened; I recollect the circumstance that one person, when he was handed the paper, tore it up with some remark derogatory to the United States Court.

THE TESTIMONY OF MR. BECKWITH. As a still further description of the scene on the night when the order was issued, we print a part of the testimony of Mr. J. R. Beckwith, who was of counsel with Billings and Bart in the case:—
Q. Who drew the bill in the Kellogg case? A. I

Q. Who drew the bill in the Kellogg case? A. I did.

Q. What was the first step taken in that case after the bill had been prepared? A. It was sworn to by Mr. Kellogg; I took the bill to Judge Durell, in his room adjacent to the courtroom, and submitted it to him.

Q. Was it in that proceeding the Mechanics' Institute building was seized by the United States marshal? A. I hardly know, sir; I never saw the order after it was signed; I do not know in which case that order was issued.

Q. What connection, it any, did you have in the issuance of that order? A. I stated the matter fully in my testimony before the Committee on Privileges and Elections of the United States Senate, last winter, when my recollection was more fresh than it is now.

Q. The statement that you made then, and afterward published by the committee, is substantially correct, is it not? A. I never read the report; I presume that it is.

Q. Did you make any application to the Judge to issue any such order in that case? A. None.

Q. Who was associated with you on the part of Mr. Kellogg? A. My impression is that my name appears as the only solicitor and counsel in the bill; but a short time after the bill was filed Mr. William H. Hunt and Mr. Hillings was associated with me.

Q. Did you, or either of those gentlemen whom

appears as the only solicitor and counsel in the bil; but a short time after the bill was filed Mr. William H. Hunt and Mr. Billings was associated witu me.

Q. Did you, or either of those gentlemen whom you have named, with your knowledge, make any application to Judge Durell for such an order, or for any order in reference to the seizure of the Mechanics' Institute building? A. I did not.

"Q. When did you first know that such an order was to be issued, or that any order was to be issued. Please state all the circumstances, and also state the time of day or night it occurred. A. Some time in the night; my recollection is that it was about to o'clock, or in that vicinity—I know I was about to o'clock, or in that vicinity—I know I was about to o'clock, or in that vicinity—I know I was about to o'clock, or in that vicinity—I know I was about to o'clock, or in that vicinity—I know I was about to o'clock, or in that vicinity—I know I was about to o'clock, or in that vicinity—I know I was about to o'clock, or in that vicinity—I know I was about to o'clock, or in that vicinity—I know I was about to o'clock, or in that vicinity—I know I was an act of some importance. I then, as soon as I got on my clothes, went to Judge Durell's asoon, and my recollection is that on my way there I met Mr. Billings. I asked him what was the matter or occasion of calling us out at that time of night, I think he answered me that he did uot know; at lenst I got no idea irom him as to what was the matter, and I supposed that It was something growing out of Judge Durell's apprehension of personal danger, which was great. I reached his room and found there Judge Durell, Mr. De Klyne, Mr. Packard, and, I suppose, some half dozen other people, who, I concluded, were a sort of body guard that had been posted about there to relieve Judge Durell saked me to look at an order that he had made and to make some suggestions about it; a rough draught of the order, which was substandally the one I have seen printed since, was lying on the table; I do,n

he stated the fact that

LORD BACON MADE SOME SUCH ORDER,
or took some such action, while chancelor.
Q. How long were you there that evening? A. I
do not think I was there ten minutes; I will state
in this connection that when I leit aome person
was engaged in copying the order; the original
draught of the order was in rather an illegible
hand.

Q. Did you leave before Mr. Billings did ? A. I could not tell you.

Q. Was anything said as to who had suggested the issuance of such an order? A. Nothing; I had been orging in the court proceedings against the defendants to the bill for contempt; stating as a reason that the order ought to be literally chlered, and I propounded interrogatories to the defendants, and had some trouble to get answers, and I never could get the matter heard; it was constituted in the contemporary of the cont

defendants, and had some trouble to get answers, and I nev rould get the matter heard; it was constantly postponed.

Q. Did you have a personal interview with the Judge after you went in the room aside from the other? A. No, sir; no other than the one i have detailed.

Q. Did you notice Judge Durell's condition that night? A. He was then, as he had been for some seven or cight days, under a state of considerable excitement. My impression then was the same which it had been for several days—that he was laboring under bodily fear. The times were very serious then I suppose I received from ten to twelve threatening letters, and it was said in some of them that if I appeared on Canal street, I would be shot in ten minutes. I used to take my overcost and start immediately for Canal street, and did not meet with any difficulty. It was a horrible state of public excitement, and men were apparently encouraging violence that should have known better.

Q.—What was his condition as to sobriety that night? A.—I haven't any idea that he was intoxicated at that time. In his conversation with me he was perfectly clear. He is a man of very powerful memory. I remember in that conv reation with me he alineded to some matter that had been published in the newspapers, wherein it was alleged that he siyled himself the "vicegerent of Almighty God," and he complained that the journals misrepresented what he had said. He also referred to some letter of Lord Bacon upon the conduct of Judges, and in his conversation with me he appeared pericetly clear and lucid, although he seemed very much excited, as he had been for ten days past.

DURELL AND NORTON

Management of the Bankruptcy Business in Louisiana.

Norton Keeps All the Proceeds of Bankruptcy Sales for Fees-A Complete Analysis of His Methods of Doing Business.

NEW ORLEANS, Feb. 17, 1874. That extortion has been practised to an enormous extent in the United States District Court at New Orleans, the Congressional committee lately in session in this city must be well satisfied of, o at all events, that "just cause" for preferring artishown. The forty-flith section of the Bankrupt act makes extortion a criminal offence. It reads as

And be it further enacted, That if any judge, register clerk, marshal, me-sanger, assignee, or any other office of the several courts of bankruptcy shall, for anything done or pratended to be done under this act, or under color of doing anything thereunder, willully demand of take, or appoint, or allow any parson whatever to take for him or on his account or for or on account of any other person any fee, emolument, gratnity, sum of money, or anything of value whatever, other than is allowed by this act, o which shall be allowed under the authority thereof such person, when convicted thereof, shall intrict ampay the sum of not less than \$330, and not exceeding \$500, and be imprisoned not exceeding three years.

CHOICE OF ASSIGNEES.

Section 13 of the Bankrupt law of 1867 recognitions.

Section 13 of the Bankrupt law of 1867 recog nizes it to be the right of the creditors, if they shall see fit, to choose one or more assignees. Indeed it makes it imperative upon them to choose, but as it was impossible to force the creditors to action, an alternative was provided:—"If no choice is made by the creditors the judge, or, it there be no opposing interest, the register, shall appoint one or more assignees." "All elections or ap-pointments of assignees shall be subject to the approval of the judge; and when in his judgment it is for any cause needful or expedient, he may appoint additional assignees or order a new election. It will be seen from these quotations of the law that the whole matter is at last in the hands of the Judge. It may be true that in Northern and Western cities, no judge would attempt to exercise any improper power or influence over creditors of bankrupts and their counsel, but it is also true that judges in some of the Southern States have availed themselves of the impoverished condition of those communities and their political affliations, not only to disregard the rights and feelings of parties before them, but to ride almost "roughshod" over them and practised under the color or law and through the power and induence of their office an oppression unparalleled in any part of the world. Wil-liam the Conqueror did not govern the English peo-ple more ruthlessly than Judge Durell and his favorites have trampled upon the rights and leelings of parties interested in these bankruptcy proceedings. Mr. Freeman, in his late remarkable history of the Norman Conquest, makes some observe tions pertinent to this delcussion. At page 37 of his fourth volume he says:-

"The process of confiscation is well worth study. ing. Almost every detail illustrates the way, in William's policy, wrong contrived to assume

legal process."

That is precisely what has been done in Judge Dureil's Court ever since he opened it in 1863. The proceedings in cases brought before him under the Confiscation act of Congress show that all kinds of advantage, exactions and extortions were practised for the sole benefit of Court officers, favorites and hangers on of the Court. To understan and fully comprehend how this was done one had to be on the spot and familiar with the history and character of the men engaged in carrying on these confiscation suits. It was necessary also to comprehend the conditions of society here-the transactions of the people in the past—to know the facts surrounding this business, to be enabled to form a correct idea of what was going on. In 1863, 1864 and 1865 there was no real estate market in New Orleans. The majority of the property owners and people of means were ab-sent in the Confederacy. Sales of confiscated property by the United States Marshal must necessarily have been for nominal prices, and the truth is that such was the fact. It has been asserted, and can easily be establis

shal must necessarily have been for nominal prices, and the truth is that such was the fact. It has been asserted, and can easily be established, that out of the millions of dollars' worth of real estate and personal property confiscated and sold by the United States authorities not one-fifth part of the value of the same ever went into the Treasury of the government. I know of properties sold in New Orleans for one-third of their value, and the price, if ever paid, was eaten up by costs and charges, and much of this property was purchased by officers of the Court or persons near the Court. It is not asserted that Judge Durel-personally ever purchased, directly or indirectly, any of this property; but it is asserted and is undeniable that he did nothing to secure the ends of justice, but made several men known to this community quite rich who before had been quite poor or in limited circumstances.

Sales in bankruptcy as conducted here are only another form of confiscation.

An analysis of the testimony and the law applicable to it enables me to say that no estate in bankruptcy, in Judge Durell's Court, has ever been administered on, under the law, solely by an assignee selected by the creditors. In each and every case where the creditors have elected an assignee under the provisions of the law, the official and general assignee of the Court, acting without the expressed consent of the creditors and without their solicitation, has been joined as their co-assignee by order of the Court and has had the chief administration of the estate and custody of the inude of the same. No bankruptcy administered by assignees with full power over the estate and inuds. The appointment of a general official assignee with full power over the estate and inuds. The appointment of a general official assignee, is an act of favoritism and an action of the Court not authorized by any of the provisions of the Court not almost the property appointed to himself the whole of the property appointed to himself the whole of the property acce

ment thereon in favor of the assignee, giving to parties in interest no opportunity to object to these applications. In these cases of sales of mortraged property at private sale Norton would represent to the Judge that it was mortgaged for mere than its value, and that he had had a great deal of trouble, that the creditors had no interest in this mod realized, and he (Norton) was therefore entitled to the whole sum as his compensation for making the sale. Mark, that these sales were made privately and not at public auction as all judicial sales ought to be, which gave him every opportunity to manage the business for his own benefit. Mark again, that Norton's averments in these ex part's petitions to Burel for compensation were never supported by vouchers or any evidence. They were mere naked statements of his own, supported, however, in some cases, by his affidavits, qualified by the precautionary measure of swearing not positively, but "to the best of his knowledge and belief.

Such proceedings are clearly illegal and unjust, and are opposed to the intent and spirit of the Bankrupt act, which recognizes and protects the rights of both debtor and creditor. Such enormous compensation to the General Assignee concusively proves a lavoritism towards him on the part of the Court which is culpable and exposes the Judge to the penaities of the forty-flith section of the Bankruptey act, and renders nim also habe to impeachment for misdemeanor. There is nothing in the Bankruptey act, and renders nim also habe to impeachment for misdemeanor. There is nothing in the Bankruptey act, and renders nim also habe to impeachment for misdemeanor. There is nothing in the Bankruptey act, and renders nim also habe to impeachment for misdemeanor. There is nothing in the Bankruptey act, and renders nim also habe to impeachment for misdemeanor. There is nothing in the Bankruptey act, and renders nim also habe ment thereon in favor of the assignee, giving to parties in interest no opportunity to object to

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unreasonable and extravagant allowances are not set forth at all in these accounts, but that in addition to them the General Assignce has charged and received large sums set down as costs and fees, which are excessive and exorbitant, and that very many of these charges are clearly fictitious, and never were incurred by the assignce. Further, that these charges generally absorb and swallow up the entire funds of the estate, leaving nothing for the creditors. The evidence given by many prominent members of the bar of New Orleans, before the Congressional committee establishes the facts—

prominent members of the bar of New Orleans, before the Congressional committee establishes the facts—
First—That a long and very close intimacy has existed between Judge Dureil, E. E. Norton and his lawyers—Billings and Hughes.

Second—That the orders of Judge Dureil in bankruptcy cases had the tendency and, consequently, the purpose of preventing inquiry in relation to the exorbitant charges of the General Assignee. Instead of opening wide the door of his Court to all complaints on this score, he steadily and rougaly shut the door to such complaints by orders and devices of various kinds.

Third—That very soon after this policy of the Court was manifested, and after many ineffectual attempts to counteract the extraordinary influence of Norton over the Judge and make opposition to his rapacity, parties to these bankruptcy proceedings came to the conclusion they had better make the best terms they could with Norton, and his accounts on file in the Court show that the attorney's fees charged from \$1,000 to \$500, in cases of magnitude from \$1,000 to \$500, in cases of magnitude from \$1,000 to \$5500, in cases of magnitude from \$1,000 to \$5500, in cases of magnitude from \$1,000 to \$5500. These services were mostly nominal, and the money was paid to silence opposition or for some other fraudulent or filegal purpose.

Fourth—That in one instance, at the beginning of Norton's administration, and in a case in which the assets realized the sum of \$3.555 84, the whole was swallowed up in costs, charges and lees, real and fictitions. It was divided out among Norton and his retailers thus:—

Small charges.

\$146.50

and his retainers thus:

Small charges.

\$146 50
Taking inventory and labor.

Three lawyers of the assignee.

United States Marshal, Clerk, Register and
Commissioner, fees.

Charge of auctioneer of the property.

627 26
Commissions of auctioneer, 25 per cent.

772 63
Norton's personal services.

1,080 19

ampies of the assignee's rapacity, but it is a "specimen brick," and the maxim applies—"Exuno disce omnes."

THE MASKED BURGLARS.

Sweeping Conviction and Sentence of the Outlaws-"Larry" Griffin and "Putsy" Conway Each Sentenced to Griffin and Twenty Years in the State Prison.

The trial of "Larry" Griffin, another member of

the masked band which in the dead of night broke nto and ransacked the residence of Miss Lydia H. Emmett, at New Rochelle, was commenced yesterday morning in the Court of Sessions at White Plains, Westchester county. There was no diminution in the numerous attendance which formed a and without the bar enclosure having been eagerly occupied long before the proceedings commenced. When the Court and counsel had been seated District Attorney Briggs arose and moved that the taken up, and suggested that the Court assign Colonel J. B. Fellows, who was present and was familiar with the case, to the defence of the prisoner. The counsel named then addressed the Court, explaining the misunderstanding which seemed to exist in regard to his professional rela-tions towards Dan Kelly, exonerating himself from any apparent remissness in not being present to delend that individual on Thursday, and concluded by saying that if the Court so wished he

to deiend that individual on Thursday, and concluded by saying that if the Court so wisned he would do the best he could for the prisoner at the bur. The court then, with the consent of Griffin, assigned Colonet Fellows to deiend him.

A few minutes only were consumed in the empanelling of a jury, the first twelve names drawn having proved mutually satisfactory to the opposing counsel. The evidence for the prosecution was tien rapidly presented, the prisoner's counsel dwelling very briefly on the cross-examination of each witness, who rehearsed the same conclusive statement as that given at the trials of Conway and Kelly. The identity of the accused as having been seen in the vicinity of Miss Emmett's house on the evening preceding the burglary of his having, with six or seven others, been lerried across Long island Sound on the following morning, and his subsequent passage to New York on the steamer Seawanaka, was testined to most positively by several witnesses. This closed the case on both sides, as the desence did not produce a solitary witness.

Knowing that he was engaged in a hopeless case Colonel Fellows disclaimed all intention of making a speech to the jury, and stated that he had a few requests to solicit of the Court to charge the jury must acquit; also, that if the jury were in doubt as to whether the prisoner committed either the burglary or the larceny with which he was charged in the indictment, they must give Griffin the benefit of such doubt and only convict him of the lesser offence.

When District Attorney Briggs had briefly sum-

ent to such doubt and only convict him of the lesser offence.

When District Attorney Briggs had briefly summarized the leading facts brought out in evidence against the accused the Court charged the jury, which, after an absence of about three minutes, came into Court and rendered a verdict of "guilty as charged in the indictment."

Previous to being sentenced Griffin, in answer to questions propounded by the clerk of the Court, said that he was thirty-one years old, born in Ireland, a stonecutter by trade, and refused to say whether he had or had not ever been in a State prison or penitentiary. Upon being asked by the Court whether he had anything to say why sentence should not be passed upon him, Griffin ejected a quantity of tobacco juice upon the new carpet and monchalantly replied in the negative, whereupon he was sentenced to be confined at hard labor in the State Prison for twenty years.

"Patsy" Conway, alias Conroy, was brought from the juil into Court during the day and sentenced to twenty years 'imprisonment at hard labor. The Court then adjourned until next Thursday, on which day the trial of the remaining "masked burgar," John Burns, alias "Billy" Woods, will take place.

WASHINGTON'S BIRTHDAY.

Which Day is the Legal Holiday-The

Law Stated.

There is some doubt existing in regard to whether next Monday, February 23, is to be a legal whether next Monday, February 23, is to be a legal-holiday or not. According to the statutes, the 22d day of February is designated as among the legal holidays. Chapter 370, of the Laws of New York for 1870, specifies that "when such holiday shall occur on Sunday, the following Monday shall be deemed a public holiday; and any bill of exchange, bank check, or promissory note, made after the passage of this act (April 23, 1870), which but for this act would fall due and payable on such Sunday or Monday, shall become due and payable on the day ioliowing such Sunday or Monday." This sets at rest a matter not well understood. NEW ENGLAND'S POOR.

Condition of the Operatives and Laborers in the Manufacturing Towns.

ACTIVITY IN THE MILLS.

Deserving Poverty in Lawrence, Mass.-The

Work of Relief-A Pitiful Case.

LAWRENCE, Mass., Feb. 19, 1874. Lawrence is now one of the first manufacturing cities of the East, and was incorporated some timrty years ago at a time when business operations were commenced on a small scale, which have since considerably developed. There are as present over 10,000 operatives employed in the Lawrence cotton and woollen mills, and though at present there is not any increase in the demand for labor, there is the prospect of an abundance of work during the next two or

three months. There is also considerable distress in Lawrence, but it is almost entirely confinel to the laboring classes. Many of the mills have been putting in new labor saving machinery. which would naturally throw some out of work; but still the statistics do not show any important decrease in the number of hands employed. It appears that although many mills are turning out more goods with less labor, they are all the time increasing their capacity, and consequently require fresh hands to manage the new machinery,

The labor question in the East has of late been considerably agitated, and the labor reformers are going to make a hard fight in the State Legislature for a ten-hour law. The corporations, however, are prepared for this, and have so arranged their tariff of wages as to have it proportioned by the hour, so that in case of a reduction of time there would be a proportionate reduction of pay. At present these mills run sixty-two and a half hours per week, that is to say, eleven hours per day for five days and seven and a half hours on Saturday. The operatives go in to work at haif-past six, quit at twelve, commence again at one P. M. and quit at haif-past six P. M. On Saturdays they commence at half-past, six and quit at two P. M., which gives them the whole afternoon for shopping and marketing or whatever they may have to do. This arrangement appears to meet with the general approval of the operatives.

TABLE OF LABOR STATISTICS. The following table will show the labor employed

in January, 1873 and 1874 :--1874.
Women, Mien.
2,880 1,920
710 350
45 50
160 90
500 250
623 675
600 425

Totals......5,742 3,816

5,718 3,700

A BUSY ESTABLISHMENT. The Pacific Mills is, perhaps, the largest corporation of the kind in New England, and occupies thirty-five acres of ground, twenty-five of which are covered with machinery and ten with pulldings used as storehouses. They are at present running full time, sixty-two and a half nours per week, and turning out more goods than they ever did before. When all the other mills in last November made some reduction in their wages, the Pacific Mills were obliged to warn their hands to expect some work at three-quarter time they were never work at three-quarter time they were never forced to carry out the warning, and now state that in the last twenty years they have not stopped work ten days. This corporation pays out about \$44,000 per week in saiaries which are graded at eleven cents per hour to the females and lifteen cents per hour to the saiaries. They also take particular interest in the comfort of their hands, and have established a reading room and library for their especial benefit. The agent of the mills speaks with pride of the sanitary condition of the hands, and says that mortality does not average more than a haif per cent, and also that forty per cent of their employes own their own houses.

also that forty per cent of their employes own their own houses.

BRISK WORK IN THE MILLS.

The Everett Milks are running about the same force that they employed last year, but in December they found it necessary to decrease the payroil about ten per cent. Ins. Lawrence Woollen Company have made no reduction in their salary list, but are employing only three-fourths of the number of men on their books in January, 1873. The Lawrence Duck Company employ about 250 hands, and have made a reduction of about eight per cent in the wayes of the men in their employ. The women's salaries have been unfouched. At present this company is overrun with business and is working nights, thus making about ten hours per week additional time. This, of course, is a benefit to the operatives, as they are paid almost entirely by the nour or the piece. The Pemberton Cotton and Woollen Milis are running about 750 hands, which is a slight decrease on their muster roll for 1873. They have also taken about ten per cent off their pay roll, but anticipate place.

muster roli for 1873. They have also taken about ten per cent off their pay roli, but anticipate placing it on the old basis when business livens.

LABOR SAVING MACHINERY.

The Washington Cotton and Woollen Mills is the largest corporation of the kind in Lawrence after the Facific. They have not been doing very much lately, as they stopped work in November in order to put in some new labor-saving machinery. They are at present emiloying about 1,300 hands, which is over 1,000 under their usual complement. This will probably account for the appearance in Lowell and the neighboring manufacturing towns of a number of mill bands seeking for work.

which is over 1,000 under their usual complement. This will probably account for the appearance in Lowell and the neighboring manufacturing towns of a number of mill bands seeking for work.

The stoppage of work in these mills is more especially confined to the woollen department, and is to be mainly attributable to the panic. Large wholesale houses at that time were left with a heavy stock of goods on hand which they were unable to dispose of, and consequently the mills became crowded with goods when they found no market for, and had to stop work until business resumed its usual course. In November this corporation reduced the wages of their employes about twenty per cent. At present their cotton mill is running with new machinery that turns out the same amount of work as in 1873, and is operated with fitten hands less than were required last year. The Atlantic Cotton Mills is about the only corporation of the kind in Lowell that carries out the ten hour principle. They reduced their wages in January about ten per cent, and are now running full time, but with about seventy-five less than the number of hands they had employed last year. This is mainly owing to the new labor saving machinery, as they manufacture the same quantity of goods as they did last year.

THE DESERVING FOOR—A PITIFUL CASE.

There is a great deal of distress in Lawrence, notwithstanding ine comparative prosperity of the manufacturing interests, and when I entered the office, occupied jointly by the clerk of the Overseers of the Poor and the City Missionary I witnessed a case well deserving of charity. A mother was asking for clothing for her nine children, drawn up in line behind her, and ranging in age from about fifteen to four. It appears that ner husband is a paper and has been sent to the State Parm, out this woman is willing to work, and said, "Will feed them all if you will assist me with clothing and put some boots on their feet." Neither of the officials, however, had any boots to give away and the little once went barelooted out

A CASE OF DESTITUTION AT NEWPORT.

NEWPORT, R. I., Feb. 20, 1874. Mary O'Brien, who will be remembered by the readers of the Berald as the lady who was the victim of a brutal assault by a backman in New victim of a brutal assault by a backman in New York recently (the offender now serving a twenty years' sentence for the same), has arrived in this city in search of her relatives, whom she believes will give her a nome until she is able to find employment. In vain have the police been in search for her relatives, but up to to night have found no possible clew to their whereabouts, and the unfortunate girl will be obliged to night, as well as last night to be cared for at the police station. To add to her cup of serrow she has lost her trunk, in which were all her effects, and also the check to the same. Her case has awakened universal sympathy, and the Daily News, through its columns this afternoon, has solicited contributions to aid her in procuring money and clothes. Of these two important items she is destitute.