THE COURTS.

The Convicted Liquor Dealer—A Warning to Unlicensed Dealers.

BAIL DENIED TO CORONER CROKER.

Opera on Sunday Nights—The Injunction Against the Police Commissioners.

Bergh and the Stage Proprietors.

This being Thanksgiving Day, the federal courts and offices in this city will be closed. The State courts will also be closed.

The trial of William C. York, indicted for selling liquor without license, was yesterday set down for Monday in the Court of Oyer and Terminer.

In the United States District Court Mr. Bliss, District Attorney, has commenced suits against Ellen Rowe for the recovery of $2,000; Mary Watt, $15,000; Annie M. Bowe, $500, and Jane Eliza Ketcham, $200, being the amount of succession fees claimed by the government to be due by these individuals under the Revenue act of 1867, on property to which the defendants have succeeded.

THE CONVICTED LIQUOR DEALER.

Success having finally crowned the Excise Commissioners in their efforts to convict a liquor dealer of selling liquor without a license, and it being understood that Sigismund Schwab, the convicted party, would be arraigned yesterday morning in the Court of Oyer and Terminer for sentence, the court room was crowded. Among those in attendance were a large number of members of the Liquor Dealers' Association, who naturally, being liable to trial under a similar indictment, felt a deep interest in the final result of the case. It was known, however, that a motion would be made in arrest of judgment, and very sanguine hopes were evidently built on this. An effort was made by Mr. McKeon to have the argument on the motion postponed, owing to A. Oakey Hall, his associate counsel, being then occupied in an important argument in another Court. Judge Barrett thought, however, that Mr. McKeon could open the argument, with a strong likelihood of being shortly reinforced by his absent associate. He had nearly finished, however, before Mr. Hall came in.

Mr. McKeon took the broad ground that the indictment under which Mr. Schwab was convicted was fatally defective. He argued that it was not enough to say in the indictment that the offence was committed in the Ninth ward. The ward was described in common law cases originally to enable the Sheriff to go there for his jurors, who were the judges, and this continues in such cases; but in statutory offences, as in Schwab's case, it was necessary to give the street and number, as was evident from numerous decisions, especially that of the People vs. Slater. He contended, in the next place, that the indictment was drawn under the act of 1857, which he insisted was repealed by section 26 of the act of 1866 and by the act of 1870 regulating the sale of intoxicating drinks. In conclusion he raised the question of constitutionality, and appealed to the Court not to amend by its action defective legislation, but remit the matter to the Legislature.

Assistant District Attorney Rollins, in reply, contended that the act of 1870 was sufficiently explicit to show that they intended to revive the act of 1857, and he contended that it was wholly unnecessary to give the street and number. Suppose the house had no number, was the pleader to particularize by descriptions, such as, "the first house on the left as you go down hill;" "the house with green blinds and a bald-headed man sitting on the steps?"

Mr. Hall closed the argument in support of the motion, enforcing ably the grounds urged by his associate.

Judge Barrett overruled the points raised and denied the motion on arrest of judgment.

Mr. Rollins then moved for judgment on the verdict.

Mr. Hall, for the prisoner, urged delay in order to have time to prepare a bill of exceptions, and also urged various considerations, such as that it was a case not of malum in se, but malum prohibitum, or in other words a police regulation.

Mr. Schwab was ordered to stand up, and being asked the usual questions, Judge Barrett proceeded to pass judgment, as follows:—

THE SENTENCE.

You have been convicted by an impartial jury, well and carefully chosen, of the offence of selling wine without a license, which is a misdemeanor by law. That offence was aggravated in your case by the deliberate character of the resistance you made to the law. You knew the law, and deliberately violated it and you ought to be punished for it. There are considerations, however, which have been addressed to the Court by your counsel, which, in fact, the Court has considered, which will prevent me from imposing the full measure of punishment which I am authorized by law to do, and I have made up my mind in this case not to inflict the full measure of punishment, nor even to inflict a degrading punishment, because the offence was not of a character which, as the law says, was bad in itself. At the same time, imposing as I intend a mild and lenient sentence, I wish it understood that I am making no precedent for the future, and if such cases of violation of the law be brought before the Court, and a spirit of organized resistance should continue, the Court will unhesitatingly mete out the full punishment which it is authorized by law to do. In your case, I doubt whether I should have inflicted more than a fine, but for your own course. You aggravated your offence not only by deliberate violation of the law, but, in the judgment of the Court, by evasion and prevarication on the witness stand for the purpose of impeding the administration of justice, and I cannot but look with disfavor on the character of the testimony you gave, coming so closely, to my mind, to perjury that it requires a subtile mind to perceive the difference—stating that this was German cider which you bought, when you must have known in your heart that it was wine. If you had legal points to present to the Court, you had the counsel to present them, but you organized resistance to the law. For these reasons I cannot feel justified in awarding merely a nominal punishment, and at the same time I shall not send you to the Penitentiary—a punishment which would be degrading. On the whole, it will be just and fair and lenient to sentence you to thirty days in the City Prison. And the sentence of the Court is that you be confined in the City Prison for the period of thirty days, pay a fine of $200, and stand committed until it be paid.

CASE OF CORONER CROKER.

In the expectation that Judge Barrett would yesterday morning give his decision on the motion to admit Coroner Croker to bail, the Oyer and Terminer Court room was filled for some time before the opening of the Court. In this respect the throng was not disappointed, though some were at the result. The Coroner was present, and in his own mind it was evidently a foregone conclusion, judging from the calm indifference of his demeanor. The following is Judge Barrett's decision:—

THE DECISION OF JUDGE BARRETT.

The Court has looked into the minutes of the Grand Jury and has also considered a large part of the testimony adduced before the Coroner, and is clearly of opinion that the motion to admit to bail should be denied. The Court has purposely refrained from writing any opinion in the case, for that would have involved—necessarily involved, to some extent, at least—an analysis of the evidence taken before the Coroner, and because the Court deems it to be all important that this prisoner should be tried without a feather's weight of prejudice on the part of the Court as well as the jury who is to try him. The Court, however, is unwilling simply to deny the motion without expressing its entire dissent from the proposition, as a matter of law, that any prisoner indicted for murder may successfully invoke, on a motion to be admitted to bail, the powers of any court or judge upon the mere ground of preponderance of evidence in his favor. Such a precedent would be dangerous in the extreme, and the Court thinks it is unsound. It would involve a trial, to a certain extent, of every man indicted for murder, on paper, on testimony taken by the Coroner, where the Court has had no opportunity of seeing witnesses, examining them itself, and testing their credibility, weight and character by a skilled cross-examination, and the other appliances known to the law, on trial before a petit jury, and would place it in the power of the Court, on a simple inspection of the written evidence taken before the Coroner, of adjudging in advance, and before trial in a proper and orderly manner, that there was such a grave conflict or such a preponderance of evidence as to justify the admitting to bail. I think that proposition both dangerous and unsound, and I cannot allow the occasion to pass without expressing my entire dissent from it. The proper course where there is a fair conflict of evidence, as here, is to adopt the course which has been adopted in this case—namely, to apply for and obtain, as this prisoner has, a speedy trial. The motion is denied. The prisoner was then removed.

SUNDAY NIGHT OPERAS.

The injunction obtained on the 4th inst. by Mr. Max Strakosch, the operatic *impresario*, restraining the Police Commissioners from interfering with his operatic performances on Sunday nights, was argued yesterday in Supreme Court, Chambers, before Judge Donohue, Mr. Charles Wehle appearing for the plaintiff, and Mr. A. Oakey Hall for the Commissioners, by special designation of the Corporation Counsel.

Mr. Wehle made an elaborate argument, insisting that the law of 1860, which forbids operatic and dramatic exhibitions on Sunday, is unconstitutional. He claimed that the same was unconstitutional—first, as unduly interfering with the liberty and property of the citizen; second, because the act was local, and its subject matter was not sufficiently expressed in the title. He cited very numerous decisions in support of his positions.

Mr. Hall, in answer, contended that the question was not one of taste, expediency, policy or ethics, but of rigid statute, which he should simply argue as such. The question whether or not dramatic and operatic exhibitions could be constitutionally given on Sunday was not an open question before any court excepting that of the Appeals, inasmuch as in the celebrated Lindenmuller case, reported in the 33d Barbour's Supreme Court Reports, the General Term of this district (among the Judges of which were the present City Judge Sutherland and the present Judge of Appeals Allen) had decided that the very statute of 1860, now attacked, was constitutional in all its length and breadth. That case was very elaborately argued by Messrs. Clinton and Brady on one side and the late John H. Anthon upon the other. The Court of Appeals might possibly reverse that law, but, so far as the Special and General Terms of the Supreme Court of this district were concerned, the question was pre-adjudged, and was no longer open to discussion. He admitted there was a distinction between the concert and every amusement which fell short of what is specifically enumerated in the law of 1860, such as the dress drama, the dress opera, circus, jugglery, &c. In regard to the objection that the title of the act did not specify the subject and did not aver it was an act to prohibit theatrical amusements in the city of New York, it was a sufficient answer that the Lindenmuller case covered this point and all under the statute. He further contended that this was not like the question in the theatrical license cases. Here the local authorities were enforcing a misdemeanor statute, and not a private society enforcing a private penalty statute.

Mr. Wehle, in reply, denied that the Lindenmuller case applied to this one before the Court, and argued that the omission of the subject from the title of the act brought it within the adjudicated cases, and made it, on that ground, unconstitutional and void; and that the Lindenmuller case did not raise the questions of the title and the local act.

Judge Donahue took the papers and reserved his decision.

BERGH AND THE STAGE PROPRIETORS.

The trial of Charles Bunnell, the superintendent of the Fourth Avenue Stage line, and of Jesse Marshall, John F. Marshall and William H. Wilkins, charged with torturing a horse, which has been going on in the General Sessions for the last three days before Judge Sutherland, was concluded yesterday. Mr. Fellows summed up the evidence for the defence, and was followed by Assistant District Attorney Russell, who, in a humorous and eloquent address, pleaded for his client "the old gray horse" and urged the conviction of the defendants. On motion of counsel Jesse Marshall and Wilkins were discharged from the indictment, the proof utterly failing to connect them with the alleged offence. Judge Sutherland delivered a brief but impartial charge, at the conclusion of which the jury, without leaving their seats, rendered a verdict of guilty against Mr. Bunnell and Mr. John Marshall. Mr. Russell consented to let the defendants go on bail till Monday, when the judgment of the Court will be pronounced.

BUSINESS IN THE OTHER COURTS.

SUPREME COURT—SPECIAL TERM.

Coroners' Employment of Chemists and Physicians at Inquests.

Before Judge Van Brunt.

Mr. H. Endemann, who is an analytical chemist, was employed by the Coroners of New York county to analyze the viscera of two deceased parties, in cases where criminal poisoning was suspected. The employment was in connection with a regular inquest. Plaintiff's bill was presented by him to the Board of Supervisors, and allowed by them and ordered to be paid as a proper charge against the county. The Comptroller refused to pay, and suit was brought.

On demurrer to the complaint Counsel to Corporation contended—first, that the claim was not a county charge, and therefore the act of the Supervisors was ultra vires; and second, that the Coroners were not allowed by statute to incur any such liability on behalf of the county. Mr. Algernon S. Sullivan and Mr. L. Beach, who appeared for the plaintiff, contended that the action of the Supervisors is conclusive and final; that the statute enumerating what shall be "county charges" provides for "the contingent expenses necessarily incurred for the use and benefit of a county;" that the detection and punishment of the crime of murder is the first use and benefit of a county; that in a similar case in another county the Supreme Court held that such services were "chargeable against the county, that they were necessary to the administration of criminal justice;" that the statute requires the Coroner not only to ascertain the cause of death, but to take measures to detect the guilty party, with a view to punishment; that the Coroner must collect and perpetuate the testimony; that there is no statute prohibiting such a charge, and that payment by the county of such charges is uniform usage. The authority of Chief Justice Oakley in Brady vs. Supervisors of New York County, 2 Sand., p. 418, was cited to show that whenever services have been rendered which are beneficial to a county, and no specific compensation is provided for the same by law, they shall be deemed contingent charges against the county. It was urged in conclusion that the statute of 1868 as to fees of Coroners in this county does not apply to this case. The Court took the papers, decision being reserved.

SUPREME COURT—CHAMBERS.

Decisions.

By Judge Donohue.

Starck vs. Starck.—Memorandum.
Marsch vs. Hess.—Motion denied.
Retzfelder vs. Mears.—Motion granted.
Hollister vs. Englehart.—Granted. (Memorandum.)
Hackley vs. Henry.—Order granted.
Robinson vs. Hatch.—Motion granted.
Legrand vs. Clarke.—Denied.
Rice vs. Disbrow.—Granted.

COMMON PLEAS—GENERAL TERM.

Reisig vs. Monahan.—Judgment suspended and new trial ordered before Justice Kane, of the Eighth District Court, in accordance with section 356 of the Code, the parties to appear before the Justice for trial at the Eighth District Court room on the 4th day of December, 1874, at ten o'clock A. M.

COURT OF COMMON PLEAS—SPECIAL TERM.

Revision of Assessments.

Before Judge Larremore.

An important decision was rendered yesterday by Judge Larremore touching the extent of restraint that can be placed upon revisors of assessments. George Stuart, who owns property on Seventy-fifth street, applied for an injunction restraining the Board of Revision and Correction of Assessments from confirming an assessment against his property for regulating, grading and curbing the street. The ground of the application was that the contract had not been properly fulfilled. Affidavits were put in opposition setting forth that the work was done as well as could be considering the rocky condition of the ground. In his decision Judge Larremore holds that before an injunction can be asked for restraining from the performance of a duty imposed by law it must be conclusively shown that there is no other remedy, and that the legal remedy not having been exhausted, the application must be denied.

TOMBS POLICE COURT.

A Burglar Captured.

Before Judge Murray.

Yesterday morning an officer of the Fourth precinct noticed Charles Gallagher and William Eaton moving some casks from the premises No. 155 Duane street, which are occupied by Henry Adams & Co., liquor dealers. He watched them, and saw them carry out two one-eighth casks of brandy and a box of stout. As soon as they had got the goods on an express wagon, which was in waiting, the officers captured them and brought them to Court, where they were held in $200 each to answer. The officer testified that they had broken open the door and passed the goods through the aperture.

Mrs. Mansfield's Diamonds.

Mrs. Mansfield, the wife of ex-Police Judge Mansfield, lives with her husband at Nyack, N. Y. Now and then she comes down from her home and remains for a few days with her step-son, William Mansfield, who keeps an oyster saloon at No. 201 Bowery. On Monday she made one of these visits. During the afternoon of that day she went out to make a call, and left a pair of diamond earrings on the bureau in her room. When she returned she did not miss them, but on Tuesday morning, when she wanted to use them they were not to be found. She went to Police Headquarters to ask for the detectives. She saw Captain Irving and he sent off Bell and Williamson to work up the case. She could give them no clew, as she suspected no one. They went to a pawnshop in Bleecker street and heard from the proprietor that a young man had presented a pair of earrings such as they described, but that he did not take them. The description of the presenter of the rings led the officers to believe that Thomas Wandell, an oysterman in William Mansfield's employ, was the thief. They arrested him and he acknowledged the theft. After much trouble he produced the trinkets. He had stowed them away under an icebox in the saloon, from whence he brought the sparkling gems, much to the delight of Mrs. Mansfield. When brought to court Wandell pleaded guilty and was remanded for trial in default of $2,000 bail.

JEFFERSON MARKET POLICE COURT.

A Sneak Thief Astonished.

Before Judge Smith.

Antonio Martini, a Spaniard, entered the house of Charles A. Merritt, No. 834 Broadway, and packed up a neat bundle, over $70 worth, of shawls and other clothing, which he found in Miss Irving's room. He was making a hasty exit from the house when Mr. Merritt met him on the stairs. He pretended to be looking for somebody whose name he did not remember, but the excuse did not succeed. The bundle was opened and showed the scoundrel's depredations. He was committed in default of $1,000 bail for trial.

A Very Mean Thief.

Diedrich Brede, of No. 331 East Forty-sixth street, took Diedrich Myer into his employment out of pure compassion and gave him a bed in his house. Myer disappeared about the 10th of November, and examination revealed that property valued at $200 had gone too. Myer was only arrested yesterday, in the Eighth ward, and in his possession were found several of the missing articles. He admitted his guilt and was fully committed in default of $1,000 bail.

Carrying a Dirk Knife.

John F. Phillips was arrested by Officer Kenney, of the Twenty-eighth precinct, yesterday, on the corner of West and King streets, for having a long dirk knife in his possession. He told the Judge that he only used it when eating his dinner and thought it was no harm to carry it about him. Inasmuch as it was found up his sleeve he was held in $700 bail for trial on a charge of carrying concealed weapons.

A Jerseyman Robbed.

Patrick McMahon, a Newark Jerseyman, was talking with Annie Kenny in Wooster street on Tuesday night. She threw her arms around him and stole his purse containing $70, for which she was held in $1,000 bail yesterday.

COURT OF APPEALS.

ALBANY, NOV. 25, 1874.

In the Court of Appeals, Wednesday, November 25, 1874.

No. 94. John W. Kerr, Sheriff and appellant, vs. Willis S. Nelson, respondent.—Argument resumed this morning and concluded.

No. 29. Dewitt C. Bates, administrator, &c., appellant, vs. The Cherry Valley, Sharon and Albany Railroad Company, respondents.—Argued by Lyman W. Bates, as counsel for appellant, and by J. E. Dewey for respondents.

No. 70. Herman D. Walbridge et al., respondents, vs. The Ocean National Bank, of New York, appellant.—Argued by S. W. Fullerton, of counsel for appellant, and by Henry Broadhead for respondents.

No. 30. Richard Rowland, respondent, vs. B. A. Hegeman, executor, et al., appellant.—Argued by Ira Shafer, as counsel for appellant, and by A. B. Conners for respondent.

No. 90. The Richmond County Gas Light Company, appellant, vs. The Town of Middletown, respondent.—Argued by F. Westervelt for appellant, and by S. F. Rawson for respondent.

Proclamation made and Court adjourned to Tuesday, December 1, 1874.

Day calendar for Tuesday, December 1.—Nos. 85, 105, 103, 108, 36, 101, 91, 17.

THE COLLINS CASE.

Work of the Committee of Investigation Appointed by the Commissioners of Emigration.

The committee of investigation appointed by the Commissioners of Emigration, at their meeting on Tuesday last, to inquire into the facts of the Eliza Collins case, commenced their examination yesterday. After visiting several places where information of the circumstances connected with the complaint made by the girl were likely to be obtained, they called on her at No. 169 Mulberry street. They found her still suffering and weak, but not in any immediate danger. From the report of the attendant physician and the woman with whom she is living the members of the committee learned that she had become subject to fits of unconsciousness which lasted about an hour, and they were of opinion that if these spells continued and reduced her much, as they cannot fail to do, it will be wise to call on the Coroner to take her statement. In the course of conversation with Dr. Day on the subject, they were informed that after the girl had made her affidavit for the Commissioners of Charities and Correction, Dr. Day visited the building on the corner of Eleventh street and Third avenue, on the subject. He gave his opinion to Mr. Kellock, the superintendent, and Mr. Kellock agreed with him in his belief of the girl's truth.

Mr. Lynch, one of the Commissioners of Emigration and a member of the committee appointed by the Board to look into the Collins' case, states that just before the trial began in the Court of Oyer and Terminer the counsel for Major requested to have three of the jurors who had been already chosen changed for three he selected and the counsel for the people agreed to the proposition and arrangement. The jury in the case and before which Major was tried for felonious assault upon Eliza Collins was composed of Timothy Holten, of No. 58 West Thirty-first street; Prince W. Nickerson, of No. 308 Ninth avenue; Frank M. Clack, of No. 207 East Forty-fifth street; Eugene H. Paddock, of No. 23 East Twenty-fourth street; Patrick Healy, of No. 211 Monroe street; Henry M. Evens, of No. 347 West Fourteenth street; Henry Cooledge, of No. 346 Lexington avenue; George Gardenigh, of No. 138 Chrystie street; Thomas H. Mason, No. 215 Madison avenue; Isaac Kraus, No. 102 Broome street; George H. Norcross, No. 408 West Twenty-second street; Julius Levin, No. 125 East Eighty-fourth street. The three last jurors, Mr. Levin states, were those put in the place of the three removed. Mr. Kraus is the proprietor of one of those liquor saloons known as "distilleries." It is located in Sheriff street, and he lives in the front basement of No. 102 Broome street. When called on yesterday by a reporter of the HERALD he was in his distillery watching a game of cards between a number of clients in a room off the shop. He said the jury were not all of one mind at the first ballot, but they grew to be so before leaving the jury room. He said, "You can't hang a man unless you have the evidence, and there was plenty of evidence to acquit that man." He did not remember much about the girl, but he thought she had rosy cheeks and was a nice girl. He seemed thoroughly satisfied with the result of the trial and his own experiences as a juryman. Mr. Healy keeps a liquor saloon in Madison street, and lives in the front basement of No. 111 Monroe street. He was not at his place of business when called upon, but his barkeeper said that he was on jury duty. The building of the Commissioners of Charities and Correction was not much disturbed by the presence of the Commissioners. They are probably waiting the report to be sent in to the Board of Commissioners of Emigration by the committee.

MUNICIPAL NOTES.

The celebration of Evacuation Day at the City Hall consisted of the fluttering of flags from the top of this now dilapidated edifice, an unusual sprightly aspect on the part of Mayor Havemeyer, increased knots of politicians in the vestibule, and—no more. Somebody states that we are to have two anniversaries of this character for 1874. The evacuation of the 31st of December is still to come—a clearing out of present "reform" officials to make way for Tammany Hall. Will there be an improvement? Time must develop an answer.

The final and most important move in the sewer contract was consummated yesterday. Mr. Charles Devlin received his warrant from the City for $54,000.

Comptroller Green has taken a brief recess from the fatigues of office and adjourned for Thanksgiving to his farm at Worcester, Massachusetts. There are not many prayers heard around the City Hall for his speedy return, as the head of the Finance Department does not seem to be a general favorite among officials. In the meanwhile Deputy Comptroller Earle discharges the duties of his absent chief. How this gentleman can stand the batteries of abuse hourly levelled at him by city claimants is a mystery not easy of comprehension.

Thomas Clarke Luby has been appointed a temporary clerk in the bureau for the collection of taxes.

Nineteen bids for the building of sewers, paving streets, &c., were opened yesterday at the office of the Department of Public Works. The awards will be made in a few days.

Aldermen Patrick Lysaght, Joseph P. Strack, Stephen N. Simonson, John Robinson, Samuel A. Lewis, William L. Cole and Peter Seery took the oath of office yesterday. The latter two gentlemen were elected on the at large ticket and the former on Senatorial district tickets. They will take their seats on the 1st of January.

The Board of Apportionment have until the 1st of January to examine the estimates sent back to them from the Board of Aldermen. They will probably meet next week to take action. They can either adopt the suggestions of the Aldermen or reject them as they deem fit. The increase in the original estimate is over $200,000.

THE "ISSUE OF FACT" CONTROVERTED.

Mr. William Welsh, of Philadelphia, on Dr. Seymour's Veracity—Somebody's Bad Memory at Fault.

The readers of the HERALD will remember a statement, printed a short time ago, in which Dr. Seymour introduced a number of testimonies, taken under oath, to justify himself and clear his character from the imputations cast thereon by the proceedings in secret session of the Convention which refused to confirm him as Bishop of Illinois. Mr. William Welsh, of Philadelphia, who procured the main testimony, which resulted in Professor Seymour's defeat, now comes to the front and traverses that gentleman's "Issue of Fact," and comes very near to, if he does not actually succeed in, showing it to be an issue of fiction or of falsehood on the part of several persons whose testimony had been thus gathered and published.

Mr. Welsh's letter is addressed to the Bishop of his own diocese, and is published in full herewith, except that his letter to Dr. Houghton, of this city, which has already appeared in print, is omitted. As the controversy is far from being closed, this fresh instalment will be read with interest by churchmen.

PHILADELPHIA, Nov. 17, 1874.

Right Rev. WM. BACON STEVENS:—

MY DEAR BISHOP—Since our conversation yesterday morning I received and have carefully examined the Rev. Dr. Seymour's pamphlet entitled "The Issue of Fact." I compared it with statements made by him over his signature to the House of Deputies, in secret session, and with Bishop Coxe's letters, and also with other reliable testimony in my possession, with the following results:—

On the 21st of October a letter from Bishop Coxe was read in the House of Deputies, stating that "a reverend gentleman, well known as an active agent of the C. B. S., or the system it sustains, was permitted to lecture to students of the seminary, in a private room, on his peculiar views of the Holy Eucharist." As will also be seen on page 197 of the *Daily Churchman*, the following reply was made:—"Information having been furnished to the Rev. Dr. Seymour of the charges contained in the letter of the Bishop of Western New York, the Rev. Dr. Spaulding, of Pittsburg, presented the following papers on the same day:—'I never allowed or knew of any priest of the C. B. S. being in the seminary or lecturing to the students on any occasion whatsoever since I have been in charge of the seminary. I have never permitted any one to lecture or address the students in any case whatsoever without the consent of the faculty.'"

GEORGE F. SEYMOUR.

In another communication of the same date he said:—"I also affirm that I never permitted any one to address the students or lecture to them on any occasion without the knowledge and consent of the faculty, and that if such things have been done they have occurred without my knowledge and consent, and, in case I had known them, would have been prohibited by me."

GEORGE F. SEYMOUR.

These papers were read in the House of Deputies, and, knowing that Professor Seymour uses the English language understandingly, the Deputies were naturally impressed with the belief that the person indicated by Bishop Coxe had never been in the seminary or lectured there or elsewhere to the students, so far as Professor Seymour knew at the time of his writing, he having said, "I never allowed or knew," &c.

The inference was equally natural that if Professor Seymour ever became assured that such a lecture as that indicated by Bishop Coxe had been delivered he would not, by his silence, have given consent, but would have shown publicly his disapproval of such a violation of the discipline of the seminary.

On page 198 is the following question by the Rev. Dr. Stringfellow, who also was procuring evidence to neutralize the effect upon the House of Deputies made by the reading of Bishop Coxe's letter to Judge Smith, a Deputy from Western New York:—"Did any person, bishop, priest, deacon or layman ever challenge your acknowledgment or confession to having permitted the Rev. Mr. Grafton or any other person not connected with the seminary to lecture or address the students?" On the same page you will find the following reply, made by Professor Seymour on the 21st of October, over his own signature:—"I never acknowledged nor confessed to having done so; and hence I do not see how any such question could ever have so challenged."

I will now quote from Professor Seymour's statements, printed on page 4 of the "Issue of Fact:"—"It is not true that Bishop Coxe obtained his version of the matter when he was in the seminary as a visitor of the same in the spring of 1873, for at that visitation the moment the fact of Father Grafton's lectures was mentioned I stated to him, in terms too strong and clear to permit the possibility of mistake, that those lectures were delivered without my knowledge or consent, and that if I had known of them in time I should certainly have prohibited them." Bishop Coxe, in his letter to me, dated October 21, 1874 (see *Daily Churchman*, p. 198), when speaking of the lectures of Mr. Grafton, said:—"When I expressed my surprise to Dr. Seymour that a volunteer professor had been introduced by him within the walls of the seminary he defended himself on the general ground that 'the person was a presbyter of the Church.'" I have the deliberately written statements of two professors of the General Theological seminary, made over their own signatures, and dated New York, November 2, 1874. One of them writes:—"At the visitation of the Bishop of Western New York the question was asked whether the students were liable to the influences of teachers other than those appointed by the trustees. This incident of the visit of the Rev. Mr. Grafton to the General Theological Seminary, among other matters, was alluded to in illustration of such liability. Dr. Seymour defended Mr. Grafton as above the possibility of availing himself of such an occasion in order to do improperly anything in the institution, and I have no recollection of any intimation by Professor Seymour of having not known of Mr. Grafton's visit." The other professor has given a full and minute description of Professor Seymour's conduct in relation to Mr. Grafton's visit, and I make the following extracts from his letter in my possession:—

"I do remember that Bishop Coxe, on that occasion, denying the propriety of admitting any clergyman without due authorization to instruct the students, said, 'Why, even I, a bishop of the Church, would deem that I should be violating the proprieties of the case if I should meet and instruct students in the seminary without such due authorization,' or words to that effect;" again, "I took occasion, shortly after receiving the information, to say to the Rev. George F. Seymour, D. D., acting dean of the seminary, that I had been informed that Mr. Grafton had so visited and instructed the students." "He (he replied) by insinuating his right and his purpose, when occasions were given to admit any ordained and recognized clergyman who might wish to visit the students and whom the students might wish to see." "He also said that they should have free access in the seminary buildings without regard to the theological position or views of the clergyman in question." "From the whole tenor of the conversation it was apparent that the Acting Dean had known of Mr. Grafton's presence at the seminary and of his visiting the students, and he expressly stated that Mr. Grafton would have had called at his house in the seminary buildings, and that he had seen him and conversed with him there."

These written statements, made reluctantly and cautiously, fully corroborate the statement made by Bishop Coxe, but the oral testimony given to me by bishops who had examined their students and who desired to avoid giving publicity to the names of young men just entering the sacred ministry was much stronger than the written testimony already given.

It is difficult to understand how admissions made to Bishop Coxe in the presence of others and repeated very emphatically to a fellow professor could be forgotten. Yet there are many well authenticated instances of such impressions being effaced from the mind by a strong necessity for self-justification or by subsequent anxieties and excitements. It should also be borne in mind that Professor Seymour is in a trying position by holding office in a general theological seminary, when, as his most intimate friends allege, his belief in regard to the controverted doctrines of, and practices in, the Church, are in thorough accord with those held and enunciated by that outspoken gentleman, the Rev. James De Koven. Professor Seymour's assertion, if he can verify it, that he did not give his sanction, or even his silent assent, to the instruction given by the Rev. Mr. Grafton, will place him, in my judgment, in a far worse position than if he had sanctioned it. Men rarely, as in Professor Seymour's case, attempt to justify themselves for what they neither did nor allowed to be done. After Professor Seymour learned that a noted leader in a movement, that should be termed retrograding churchmanship, had lectured to students in the seminary on two evenings, on subjects that did not appertain to his own chair and did belong to other professors, it was his duty to make diligent inquiry into the full scope of the lectures and instructions, and to bring the students before the faculty for reproof or expulsion, guarding the seminary against a repetition of this gross abuse of privilege and of wrong to the other professors who are alone authorized to lecture on some of the important subjects treated of by Mr. Grafton. Insult was added to this injury, for one of the professors tried in vain to induce Professor Seymour to realize the injustice done to his department. This professor prepared a cautionary lecture for the senior class, showing the wrong done to the institution and to the students by encouraging and listening to volunteer lecturers, especially when, as in this case, the teacher holds extravagant views of important doctrines and usages, not sanctioned by this Church. The professor prepared his address with care, submitting it to another professor, and it was read in the House of Deputies at my request.

The propriety and necessity of such precaution to students in a general theological seminary must be apparent to all sound churchmen, yet Professor Seymour publishes in his "Issue of Fact," on page 8, the deposition of George Henry Higgins, a presbyter of Illinois, that when the Professor of Systematic Theology delivered that lecture, "it was received by the students with a great deal of merriment."

On page 41 it will be seen that Professor Seymour never inquired into the particulars of Mr. Grafton's teachings until after his "reconciliation" was decreed. Yet he made a positive denial of a fact known to Bishop Coxe, from notes taken by one or more of his students. Professor Seymour now confesses, after reading the notes taken by other students, that Mr. Grafton did teach just what Bishop Coxe asserted, but he failed to state that Mr. Grafton reported the case of a woman cured of locomotor ataxia by receiving the holy eucharist. The Bishop of Central New York told me of the unhappy reactionary effect upon one or more of his students produced by the symbols, books and doings in some of the rooms of students in the seminary, and as the student or students reported, with the open or implied approval of Professor Seymour. The Bishop of Ohio said to me that he cared not whether Professor Seymour knew or did not know of the instruction given by Mr. Grafton, for if, as acting dean, he did not know it, when all the students were invited, he was so culpably remiss as to show his entire unfitness for that position.

The Rev. Mr. Grafton being an honorable man, it is hard to believe that he deliberately concealed himself two nights in the seminary buildings, in a part of which Professor Seymour resides, or that he consented to lecture in a formal manner in a general theological seminary, on the second evening of his visit when all the students were invited, without receiving in some form an assurance of the assent of the Dean, or possessing a full knowledge that their views were in strict accord. An agreement in certain doctrinal views no doubt justified Professor Seymour in averring, after Mr. Grafton had delivered the lectures, that he was "above the possibility of availing himself of such an occasion in order to do improperly anything in the institution." That there was some arrangement by which the Dean was not to be officially informed of Mr. Grafton's lectures, is rendered more than probable by the following testimony on page 9:—"Robert B. Drane declined to be present, because he understood that the Dean knew nothing about the matter."

It appears on page 11, that every student in the seminary was specially invited to attend the lecture on the second evening, and on page 9 it is made evident that Mr. Grafton's visit was not an unexpected call, but a premeditated visit on a written invitation.

George Henry Higgins, a presbyter of the diocese of Illinois, thus swears (as will be seen on page 7):—"I was invited by the said Mr. H. M. Torbert, to meet in his room the Rev. C. C. Grafton, of Boston, who was temporarily in the city of New York, on his way to or from Boston; that I accepted the invitation, and met besides the Rev. Mr. Grafton three or four of my fellow students, whom I knew as the intimate friends of Mr. Torbert; the evening was passed in pleasant general conversation, and toward its close a suggestion was made either by myself or by one of the students present, that if Mr. Grafton's stay in New York was prolonged over one night, we might be allowed to meet him again the next evening, and that he would tell us something of the work carried on by the Order of St. John the Evangelist." The general inaccuracy of this gentleman's testimony is shown by its want of correspondence with other testimony, and by his swearing that the Rev. Dr. Seymour knew nothing whatever of the meeting, also "that the whole matter of Mr. Grafton's address related to the personal purity of life necessary for those who are called to holy orders. That nothing in regard to the Holy communion was the subject matter of either evening." On page 12, Walter Russell Gardner, deacon, swears thus:—"The day the Rev. Mr. Grafton arrived at the seminary, Mr. Torbert and I agreed that we would each, at supper time, invite such students to his (Mr. Torbert's) room as we thought would like to meet him.

When we were assembled there were so many present, and so little opportunity for each individual to converse with the Rev. Mr. Grafton, that it was suggested that he make some sort of address. Accordingly he addressed us at some length in quite an informal way." "The next evening, at supper, I again assisted in inviting students to Mr. Torbert's room." On page 9 Messrs. Tompkin, Jr., Smith, Ashton and Willis swear, "We were present on the occasion of the delivery of two discourses by the Rev. C. C. Grafton, in a student's room, on the evenings of December 11 and 12, 1872. We were there with some twenty others at the invitation of the occupant of the room, whom Mr. Grafton was visiting."

One witness swears (see page 8), "That nothing in regard to the Holy Communion was the subject matter of either evening." Another thus swears (see page 12), "I am unable to recall any allusion to the Holy Eucharist in either address." Yet Professor Seymour now virtually admits (as will be seen on page 4) that Mr. Grafton taught that the miraculous efficacy of the Holy Eucharist when administered and received in faith equals in efficacy its alleged miraculous power in the Roman Church.

On page 7 we learn from Mr. Grafton that when in England he was a member of the Confraternity of the Blessed Sacrament, and it does not appear that his name was ever taken from its books or that he has renounced any of its principles, a few of which I will quote from their official intercessory paper of September, 1874. It was sent to the members of the House of Deputies, but being marked confidential, I asked and obtained from the Superior General of the Order, the Rev. Dr. Ewer, permission to use it. "Tuesday, September 8—Prayers for the right disposition of spirit for the Sacrament of Confirmation." "Thursday, September 10—The Blessed Sacrament," a "cessation of evening communion in the Church. Restoration to the Anglican Communion of the reservation of the Blessed Sacrament for the sick and dying." "September 17—A restoration of the use of the Sacrament of Extreme Unction throughout the Anglican Communion." "Ember Day—Repose of the souls of all deceased associates," and "of Bishop Whitehouse." "September 24—Prayers for a Catholic-minded Bishop for Kentucky, a Catholic Bishop for Illinois."

The Rev. Mr. Grafton's leadership in the order, or Brotherhood of St. John the Evangelist (Cowley Brothers) may have interfered with his active membership or continuance in the Confraternity of the Blessed Sacrament, as the members of his brotherhood think they rise to a higher spiritual life by taking the vow of celibacy. This is, as you well know, a vow repudiated by our Protestant Church, because it has been found to be especially dangerous, where, as in this case, periodic auricular confession is urged upon women as well as upon men. As Mr. Grafton preached the sermon at the anniversary of the C. B. S. and took a prominent part at its business meeting by offering and discussing an important resolution, surely Bishop Coxe was fully justified in calling him an active agent of the system it sustains.

By reference to page 11 it will be seen that the Rev. Mr. Grafton's instruction on the second evening was on what is termed "The Religious Life, as held by the Order of St. John the Evangelist." It thus appears that the Romish theory of higher sanctity in those who on principle abstain from marriage was discussed before a large body of students in the General Theological Seminary without any unfavorable comment by its acting Dean, who seems not to have seen anything false or extravagant in the Rev. Mr. Grafton's reference to the miraculous efficacy of sacramental grace.

I cannot properly weigh the moral force of the testimony so freely proffered by graduates and students of our General Theological Seminary unless I know how many of them have entered upon or are in sympathy with the retrograde movement under Superior General Ewer. Some of them were arrayed by him against their professors (possibly Professor Seymour excepted). Some, from their intemperate zeal for the Professor who sympathizes with them, have invalidated their testimony by swearing that Professor Seymour did not know of Mr. Grafton's pre-arranged visit to, or his lecturing in the seminary. Surely the taking an oath that another man did not know of an event is swearing to what could not be known and looks as if something was to be covered up, and swearing that an event known to every student in the seminary was unknown to the man whose business it was to know it, shows a low condition both of intelligence and morals. The Rev. Mr. Grafton does not seem to consider such an oath improper, for he thus wrote to me under date of November 6, and sent a copy of the letter for publication in the current issue of the *Churchman*:—"I take my oath that Dr. Seymour did not give me access to the students or know anything about my having any conference with them."

That Bishop Coxe far understated the case will, I think, be clear to every impartial investigator, and the respect of the laity for the bishops, who, by virtue of their office and by authority from the General