THE COURTS.

Novel Application for a Writ of Prohibition.

A CHAPTER ON CHAMPAGNE

The New Jersey Steam Navigation Company.

PROCEEDINGS IN THE CRIMINAL COURTS.

In the suit of James P. Cummings vs. Collector Arthur to determine whether a certain importation of goods made by the plaintiff comes under the head of burlaps, subject to a duty of thirty per cent ad valorem, or are oilcloth foundations, liable to a duty of forty per cent ad valorem, the Court has reserved some legal questions for consideration.

Judge Benedict sat in the United States Circuit Court, No. 27 Chambers street, yesterday, for the purpose of trying criminals. No case being ready for trial the Court adjourned until Monday next.

In the United States Circuit Court, before Judge Blatchford, an injunction has been granted against William B. Reynolds, George E. Downing and Christopher H. Miller, enjoining and restraining them from using or infringing the patent known as the Mege patent for manufacturing beef suet or fat into artificial butter.

The Mariposa Land and Mining Company promises to furnish fertile matter for lawyers for some time to come. In proceedings yesterday before Judge Davis in Supreme Court Chambers for the appointment of a receiver of the company no less than three lawyers attempted to talk at the same time. Judge Davis speedily brought forth order from the chaos. It finally turned out that there were two motions for the sequestration of the property of the company, and to appoint a receiver of the company for the benefit of all creditors. The case of Eugene Kelly, the banker, against the company was introduced, and Judge Davis said he would take the papers in the present motions, and when the case of Mr. Kelly came up on Monday next he would decide the whole matter as to the injunction and the appointment of a receiver.

MARINE COURT JURISDICTION.

There was an interesting argument yesterday before Judge Davis in Supreme Court Chambers on application for a writ of prohibition against the Marine Court. The application grows out of a suit begun in the Superior Court, in which Lewis Alexander seeks to recover from Jacob Bennett some $2,700, alleged balance due for money deposited in his hands. Judge Freedman, holding Special Term of the Superior Court, transferred the cause to the Marine Court. This was opposed by Mr. Algernon S. Sullivan, the defendant's counsel, and the question was argued before the Superior Court General Term, the point raised being the constitutionality of the act under which the transfer was ordered. Mr. Matthew P. Breen, the plaintiff's counsel, contested the constitutional objection. Meantime the case was moved to the short cause calendar of the Marine Court, when Mr. Sullivan applied for a writ of prohibition interdicting the Marine Court from trying the case. In his argument yesterday he claimed that the act under which the transfer was ordered is unconstitutional, and therefore void; that the trial of the cause in the Marine Court would cut him from appeal, and that this act abridges the jurisdiction of the Superior Court and interferes with the rights of suitors. It was further urged that the act is unconstitutional because it is in violation of section 16, article 3, of the State constitution, which prescribes that "no private or local bill which may be passed by the Legislature shall embrace more than one subject, and that shall be expressed in the title." In opposition to the application it was maintained by Mr. Breen, counsel for plaintiff, that the act was not unconstitutional; that it did not take away from a party to a suit which should be removed by virtue of its provision, any substantial right or remedy; that the act simply affected the matter of practice and proceedings in the courts so far as to provide a speedy trial by removal of causes from the Superior Courts of record in the City of New York to the Marine Court; that this was no hardship nor deprivation, since the Marine Court, having all the appliances to try causes and render judgments the same as other courts of record, must be presumed to be capable of as fully administering justice as they are. In answer to the other objection that the act was a local one and embraced more than one subject, he cited the recent decision of the Court of Appeals in the case of police justices of this city in support of his position, that the act in relation to the Marine Court embraced but one subject, and that was properly expressed in the title. It was further maintained that this writ was an unusual remedy, and one which the Court seldom and only in the most urgent necessity ever granted, and only when there was no other complete and adequate remedy.

Judge Davis intimated that upon this application he would only consider whether it was a proper remedy, and then whether the circumstances required the issue of the writ, which included the decision of the question of the constitutionality of the act.

Counsel replied that if this Court, upon this motion, undertook to decide whether the act is constitutional, then it must consider the possibility of the Superior Court, General Term, deciding the appeal from Judge Freedman's order of removal in conflict with the decision of this Court. In other words, should this Court issue the writ and the Superior Court, General Term, affirm the order of removal, and declare the act constitutional, the plaintiff would be denied his substantial right to the premises, and then be prohibited from trying his cause.

At the conclusion of the argument Judge Davis took the papers and reserved his decision.

A CHAPTER ON CHAMPAGNE.

In the United States Circuit Court yesterday, before Judge Nathaniel Shipman, the case of De Barry & Co. vs. Chester A. Arthur, Collector of the Port, came on for trial. The plaintiffs are importers of champagne in this city. They imported a quantity of that wine, upon which, in addition to the duty of $6 per dozen bottles, the Collector assessed a tax of three cents for each bottle. The latter tax was paid under protest. The plaintiffs bring the present action against the Collector to recover back the excess of duty paid by them on the bottles. Counsel for the plaintiffs, in opening the case to the jury, referred at considerable length to the various laws bearing upon the duties leviable upon champagne and other wines. Champagne, he said, was never dealt in as wine, but as champagne; and the fact that Congress took champagne out of the ordinary category of wines showed that it followed the ordinary commercial term by which champagne was known. Champagne was always imported in bottle and never otherwise. The bottle was almost a component part of the article. Champagne was made in a bottle, never imported in casks, and it could not be made otherwise than in the bottle in which it finally came to the tables of those who consumed it. The act under which the present duty is imposed on the article is section 21 of the act of July 14, 1870. It says:—"On champagne and all other sparkling wines in bottles, $6 per dozen bottles, containing each not more than one quart and more than one pint, and $3 per dozen bottles containing not more than one pint each and more than one-half pint, and $1 50 per dozen bottles containing one-half pint each or less: and in bottles containing more than one quart each shall pay, in addition to $6 per dozen bottles, at the rate of $2 per gallon in excess of one quart per bottle, provided that any liquors containing more than twenty-two per centum of alcohol, which shall be entered under the name of wine, shall be forfeited to the United States, and provided further that wines, brandy and other spirituous liquors imported shall be packed in packages containing not less than one dozen bottles in each package, and all such bottles shall pay an additional duty of three cents for each bottle."

The argument of counsel for the plaintiff was that as champagne could only be imported in bottles, and not otherwise, it was never intended by Congress that the bottle in which the wine was contained should be liable to a separate duty from the article itself.

The plaintiff offered to prove that champagne was manufactured in bottles.

Mr. Tremain, United States Assistant District Attorney, objected on the ground that if they entered on that subject there was no knowing where they would stop.

Judge Shipman said that he was anxious to let all the facts go in, so that if the case were to go to the Supreme Court that Court should have all the facts before it.

Mr. Tremain took the benefit of an exception to this ruling.

Some documentary proof having been gone into, evidence was given to show that champagne could not be manufactured without being put in a bottle and that the bottles in which it was made in France were the bottles in which it was imported into this country.

The case will be resumed Tuesday next.

NEW JERSEY STEAM NAVIGATION COMPANY.

This company was chartered in 1839, the charter being for thirty years. It ran several steamboats, some on the Hudson River and some on Long Island Sound. Among its directors were Daniel Drew, Jacob A. Vanderbilt, John Englis, Henry B. Norton and Solomon B. Stone. The capital stock was $500,000. The company proved a magnificent financial success, it having, as alleged, before its dissolution, divided among the stockholders 100 per cent, or nearly $1,000,000. This division of profits is said to have been made in anticipation of the expiration of the charter and ignoring certain claims pending against it. Among these claims was one for $6,004 35, being a judgment obtained against the company by the Security Insurance Company as damages for the collision of one of its steamers with a canal boat, such judgment having been obtained in a suit in the Superior Court. An execution was issued on the judgment and returned unsatisfied. This judgment, meantime, was obtained in 1868, the cause of action having, as stated, occurred some four years previously. The matter was not allowed to rest here. Suit was brought by the insurance company against the directors named above to recover the amount of this judgment, and the case came to trial yesterday before Judge Van Vorst, holding Special Term of the Supreme Court. The foregoing recital is based on the allegations in the complaint made by the insurance company. The defence is that the cause of action did not accrue before the winding up of the company. In the case there is a large retinue of counsel, and it is probable it will last through several days.

BUSINESS IN THE OTHER COURTS.

UNITED STATES DISTRICT COURT.

Powers of Assignees in Bankruptcy.

Before Judge Blatchford.

In the United States District Court Judge Blatchford rendered a decision yesterday in the matter of Frederick Horst, Assignee, &c., vs. Christian H. G. Losere and another. The Judge says:—"I have carefully examined the testimony in this case in the light of the views submitted by the respective counsel, and am of opinion that the plaintiff has failed to make out his case by a satisfactory preponderance of testimony. As between the bankrupt and the defendants there was a full and valid consideration for the goods received by the latter, and the transaction is not impeached unless it can be shown to be repugnant to the provisions of the Bankruptcy act. As to that it is not established that the defendants had reasonable cause to believe that a fraud on the act was intended. But the assignee had reasonable ground for bringing the suit, and the bill will be dismissed without costs."

SUPREME COURT—CHAMBERS.

Decisions.

By Judge Davis.

Roosevelt Hospital vs. The Mayor, &c.—Judgment granted.

By Judge Donohue.

Dunker vs. Ridder.—There is nothing in these papers to entitle the party to a new trial. Motion denied. Memorandum.

Mansell vs. Thompson et al.—Motion granted.

New York Northern and Ogdensburg Railroad Company vs. Guest.—Motion granted.

Matter of Berg et al.—Order granted.

Matter of Moscher.—Reference ordered.

SUPERIOR COURT—SPECIAL TERM.

Decisions.

By Judge Sedgwick.

Rosenthal vs. Winder et al.—Motion granted, on payment of $10 costs of motion and of assessment of damages, answer to be served within five days; short notice of trial to be taken; judgment to stand as security.

Welsh vs. German-American Bank.—Motion granted.

By Judge Speir.

Gould vs. Moore et al.—Case settled and motion for a new trial denied.

Chapman vs. O'Brien, Sheriff, &c., et al.—Motion denied, with costs.

McMicken vs. Lawrence.—Case settled.

COMMON PLEAS—SPECIAL TERM.

Decisions.

By Judge Robinson.

McIntyre vs. McIntyre.—Motion denied.

By Judge Daly.

Jenkins vs. Heclit.—Five per cent allowed to the defendant as allowance for his costs on the amount claimed.

COURT OF GENERAL SESSIONS.

Burglaries and Larcenies.

Before Recorder Hackett.

John Boddy and Philip McDermott, who were charged with burglariously entering the house of Isaac Baer, No. 208 East Thirtieth street, on the night of the 25th of November, pleaded guilty to an attempt at burglary in the second degree.

John Reidy, who was indicted for attacking James Smith on the 3d of this month, and stealing seventeen cents from him, pleaded guilty to larceny from the person.

These prisoners were each sentenced to the State Prison for the period of five years at hard labor.

Isadore Goldstein pleaded guilty to stealing a valise, containing $600 worth of human hair, on the 4th of this month, the property of Louis Sterling, a resident of Brooklyn. The Court sent this prisoner to the State Prison for four years and six months.

Peter Jourdan was tried and convicted of receiving jewelry and lace trimmings, valued at $100, knowing the property to have been stolen by Mallnie Bauer from Miss Noe, by whom she was employed as a dressmaker. The punishment inflicted was imprisonment in the State Prison for three years.

William Parker pleaded guilty to committing an assault and battery upon August Lorenz on the 17th of October, by striking him several blows on the head. The Recorder sentenced him to one year's imprisonment in the Penitentiary.

Annie Kenney, who, on the 24th of November, stole $75 from Patrick McMahon, pleaded guilty to an attempt at grand larceny. She was sent to the State Prison for two years and six months.

Samuel Linton pleaded guilty to stealing, on the 27th of November, a quantity of spoons and jewelry, the aggregate value of which was $131, belonging to Susan Linton. He was remanded for sentence.

Frank Fitzpatrick, a little boy, indicted for stealing thirty cents from the person of Edward Dever, pleaded guilty to an attempt to commit the offence. His Honor sent him to the House of Refuge.

John P. Hickey, who was charged with stealing $10 on the 3d of November from Edward Dennis, pleaded guilty. He was sent to the State Prison for one year.

John Kenney, who was charged with pointing a pistol at Thomas Belligan, on the 5th inst., pleaded guilty to assault and battery, and was sent to the Penitentiary for twelve months.

Montaletti Luigi pleaded guilty to an indictment charging him with assaulting Eva Reed on the 27th of November. He was sent to the Penitentiary for three months.

TOMBS POLICE COURT.

More About Those Lap Robes.

Before Judge Murray.

Yesterday James Murphy, of No. 21 West Thirty-seventh street, and Francis Crawford, of No. 233 East Fifty-eighth street, appeared to make extra complaints against Rodgers, Lynch, Davis, Bennett and Estleman for stealing lap robes from them. Odell, the man in whose stable the stolen property was found, has been locked up since Wednesday, and yesterday his counsel sued out a writ of certiorari and habeas corpus, which is returnable before Judge Barrett, in the Court of Oyer and Terminer, this morning. The prisoners were brought up and examined on the new charges, but in answer to each they said they were not guilty, and were committed for trial.

JEFFERSON MARKET POLICE COURT.

A Lawyer's Board Bills.

Before Judge Smith.

At Jefferson Market Police Court, before Justice Smith, Mr. Charles J. Guiteau, lawyer, was committed in $1,000 bail on a charge of false pretences.

He has, it is alleged, been swindling his boarding-house keepers, by absconding with his baggage during the night in some instances, and in others by handing a check as worthless as himself in satisfaction for the amount of any account he was allowed to run. After staying some time at the St. Nicholas Hotel, where he incurred a pretty heavy bill, he disappeared. Detective Keely, of the hotel, arrested Guiteau. Mrs. Simonson, of No. 31 East Twenty-second street, appeared against him for having passed her a check for $21 on the Leather Manufacturers' Bank, where it appeared he never had any account, to induce her to release his luggage, which she held as security for a board bill. Among his other victims were Stephen Thorne, No. 19 West Twenty-fourth street; John P. Worsten, No. 208 Fifth avenue; Mr. Bishop, No. 31 Madison avenue; Mrs. Stahl, No. 26 East Twenty-third street.

Bergh and the Dog Fighters.

Mr. Henry Bergh, President of the Society for the Prevention of Cruelty to Animals, assisted by a force of police under command of Captain Ullman made a successful raid on the dogpit No. 12 Rivington street, Thursday night. They discovered a number of men engaged in the brutal pastime of pitting two dogs one against the other. The parties present were completely surprised by the unexpected appearance of the officers, and were all made prisoners and arraigned this day at Jefferson Market before Justice Smith, who held the proprietors in $700 and the spectators in $300 bail each to answer.

FIFTY-SEVENTH STREET POLICE COURT.

The Ring Robbery.

Before Judge Otterbourg.

George Williams, the young man who was arrested on Thursday in East Twenty-first street while running away with a tray of gold rings, valued at $600, the property of George Becks, jeweller, No. 264 Third avenue, was arraigned on a charge of grand larceny. The complaint of Ferdinand J. Zingerebe, the boy who was in charge of the store at the time of the larceny, showed that the accused went into the store and asked to see some amethyst rings. The tray containing the rings was taken from the case and shown to him. At that moment a confederate entered, and, having distracted the attention of the boy, the accused ran out into the street with the tray and was arrested with it in his possession. He pleaded not guilty, but was held in $3,000 bail to answer.

Felonious Assault.

Henry H. Muxlow, who keeps a feed store on Third avenue, was arraigned on a charge of felonious assault on a former partner of his, named James Miller. The latter is now in Bellevue Hospital, unable to leave his bed and suffering severely from internal and other injuries inflicted, as alleged, by the defendant. On the complaint of Officer Tooker, of the Nineteenth precinct, Muxlow was committed to await the result of his victim's injuries.

Escape of a Prisoner.

A few days ago a boy named James Callaghan was arraigned by an officer of the Eighteenth precinct on a charge of disorderly conduct. He was placed by the police court officers within the prisoners' enclosure, in front of the bench. While the attention of the court officers was attracted to another prisoner within the railing, who caused some confusion by his ill conduct in presence of the Court, Callaghan slipped backward over the bench on which he was sitting and left the court unobserved. He has not yet been rearrested.

Attempted Burglary.

William Osmond, of No. 565 Third avenue, yesterday afternoon detected two young men in the act of breaking into his parlor through a door leading from the hallway, their intention, no doubt, being to rob the place. They fled on being discovered, but were afterward arrested on a Lexington avenue car by Officer Morgenwick, of the Twenty-first precinct, and, on being arraigned in Court, were held for trial in default of $2,500 bail each. Their names are George Ryan and Thomas Rogers.

COURT OF APPEALS.

ALBANY, N. Y., Dec. 11, 1874.

In the Court of Appeals, Friday, December 11, 1874—

No. 64½. Helen M. Filer, respondent, vs. The New York Central Railroad Company, appellant.—Argued by A. P. Laning, of counsel for appellant, and by J. H. Martindale for respondent.

No. 101. Fletcher M. Thrasher, respondent, vs. Elvira Bentley, appellant.—Argued by J. M. Dunning, of counsel for appellant, and by George W. Miller for respondent.

No. 88. Louisa Rothner, appellant, vs. The Knickerbocker Life Insurance Company, respondent.—By consent of Court goes over to December 17.

No. 122. Edward J. King, respondent, vs. Samuel T. Knapp et al., appellants.—Argued by T. Darlington, of counsel for appellants, and by John E. Parsons for respondent.

Proclamation made and Court adjourned to Monday, December 14, at ten A. M.

Calendar.

The following is the day calendar for Monday, December 14:—Nos. 123, 127, 130, 131, 132, 136, 138, 139.

UNITED STATES SUPREME COURT.

WASHINGTON, Dec. 10, 1874.

No. 36. Littlefield et al. vs. Perry, trustee—Appeal from the Circuit Court for the Northern District of New York.—This was a bill to restrain the appellants from manufacturing and vending certain coal stoves to which the appellees claimed the exclusive right within the States of New York and Connecticut. The Court below found for the plaintiffs, and it is here insisted that they could not maintain their action, because they were only licensees of the patent, and had no such interest in the patent as would enable them to plead its provisions; and it is argued that to maintain an action for infringement the plaintiff must be the patentee or assignee of the entire invention, or of an individual interest therein (in which case he must join with the other tenants in common), or he must be the grantee of an exclusive sectional interest in the entire patent, to the exclusion of the patentee himself, for a specified portion of the country. E. R. Hoar for appellants; E. W. Stoughton and J. H. Reynolds for appellees.

THE TILTON-BEECHER SCANDAL.

Opinion of Judge McCue Directing the Plaintiff to Furnish a Bill of Particulars—The Order Filed in the Brooklyn City Court—The Trial Ordered Over Until the January Term.

Shortly after noon yesterday Judge McCue rendered his opinion granting the motion of counsel for defendant for a bill of particulars in the suit brought by Theodore Tilton against Henry Ward Beecher. The opinion is as follows:—

CITY COURT OF BROOKLYN.—Theodore Tilton vs. Henry Ward Beecher—Motion for a bill of particulars.—The Court of last resort has decided that this Court has power to order a bill of particulars in all descriptions of actions when the circumstances are such that justice demands that a party shall be apprised of the matters for which he is to be put on trial with greater particularity than is required by the rules of pleading.

Application is now made by the defendant for a statement in writing, verified by the plaintiff, of the particular times and places at which he expects or intends to prove the commission of any criminal acts between the defendant and the plaintiff's wife.

After a careful examination of the papers submitted on the motion, and after deliberating upon the able and suggestive arguments of counsel, I am of opinion that the present case is a proper one for the exercise of judicial discretion, and that the plaintiff can, without any injustice to himself, give the defendant the information desired by him, so as to enable him to prepare fully to meet the plaintiff's charges.

The law imposes no impossibility, and does not require from the plaintiff the designation of a precise day, at the hazard of failure of justice if he fail to prove the act upon the precise day named. It is sufficient if he designates the day with such reasonable approximation as that the defendant is fairly apprised of the charges.

In view of the affidavit of the plaintiff read on this motion it will be sufficient for him to state in the bill of particulars to be furnished that the two acts of criminal intimacy alleged to have taken place on the 10th and 17th days of October, 1868, were committed on or about those days, and at either one or the other of the places mentioned in the affidavit; or, as suggested by one of the counsel for the defendant, it may be regarded as sufficient to say that these acts were committed during the month of October, 1868. Such a statement fairly acquaints the defendant with the charge he is to meet. I think it not improper to remark here that the frankness with which the defendant's counsel concede that such a statement may be regarded as a reasonable compliance with the rule proper to be applied in such a case as this renders this application more easy of disposition than it seemed to be when the motion was first made at Special Term.

The objection to giving a statement of particulars seems to rest mainly upon the ground that the designation of particular acts of adultery necessarily excludes proof of confessions made by the defendant going to establish acts of adultery when no time or place was named in the confession. The general confessions of the defendant may be given in evidence against himself, and they may be sufficient, if accepted in full force by the jury, to convict the defendant, and it is clear that all declarations, writings and documents which are properly admissible as evidence may be used with all the force and effect they deserve against the defendant to establish the main issue. The radical difference in the proposed orders submitted by the respective counsel seems to be this:—The plaintiff insists that he shall not be precluded from giving evidence of acts of the defendant by which the adulterous intercourse charged in the complaint may be established, "although it may not thereby appear to have been committed on any particular day or at any particular place;" while, on the other hand, the defendant insists that if by acts it is intended to prove specific acts of adultery the bill of particulars should state these acts with the same fairness with reference to time, place and circumstance, as is suggested in relation to the two acts alleged to have been committed in the month of October, 1868. I cannot well understand how any act of the defendant can be offered as proving directly and specifically the adulterous intercourse charged in the complaint, "although it may not thereby appear to have been committed on any particular day or at any particular time." Such seems to be the plaintiff's proposition. Such proof would necessarily not only establish the commission of the adultery, but also with some degree of certainty both the time and place. There is no practical difficulty in reconciling this apparent antagonism, as declared by the court of last resort in the decision made in this case. "The Court must see to it that both parties are fairly dealt with." If the plaintiff proposes to prove any specific acts of adultery, other than those alleged to have taken place in October, 1868, it should be so stated. If the plaintiff does not propose this it is no hardship to limit him to proof of the specific charges which he intends to press.

The plaintiff's proposition that if he be thus limited and fail in his proofs as to the acts alleged to have taken place in October, 1868, the defendant, "though confessing his guilt as to other times and places," must necessarily be acquitted, seems to me entirely untenable.

In the shape in which the former motion was made, there was force in the objection, for it was then asked that the plaintiff should be confined in his proofs to the times mentioned in the bill of particulars. On the present application, however, it is not sought to deprive the plaintiff of the benefit of the general confessions of the defendant. Such a rule might indeed, "shield a defendant from just responsibility." We propose no such restraint.

As to the specific acts of crime charged against the defendant, he should be advised of them with reasonable precision. As to the results which may follow the proof of acts (other than specific acts of adultery), documents, confessions and any other circumstances properly admissible in evidence, they must be left to the determination of the jury under the rules laid down by the Court on the trial.

I am of the opinion, therefore, first, that the plaintiff should be limited as to his proof of specific acts of adultery to those named by him in his bill of particulars; second, that this order is not to be construed as prohibiting the plaintiff from introducing on the trial of this action testimony which may be admissible under the general rules of evidence as to any acts (other than the specific acts of adultery), declaration writings, documents and confessions, in which alleged confessions no particular time or place shall have been referred to.

No costs of this motion. A. McCUE, Judge.

The following order was subsequently filed by the Court settling the motion:—

At a Special Term of the City Court of Brooklyn, held at the Court House, in the city of Brooklyn, on the 10th day of December, 1874, present Alexander McCue, Judge.

Theodore Tilton vs. Henry Ward Beecher.—On rendering and filing the affidavit of Thomas G. Shearman, verified December 6, 1874, on the part of the defendant, and the affidavit of Theodore Tilton, verified December 10, 1874, on the part of the plaintiff, and on the order to show cause granted herein December 7, 1874, and the remittitur from the Court of Appeals, upon the appeal from the order heretofore made in this cause, denying the motion for a bill of particulars, and after hearing William Evarts, William Shearman and General Tracy, of counsel for defendant, and Mr. Morris, of counsel for plaintiff, it is ordered that the plaintiff furnish to the defendant's attorneys, within three days of the time of the service of a copy of this order, a statement of particulars, verified by the oath of the plaintiff, setting forth the particular times and places at which he expects or intends to offer proof that any specific acts of adultery occurred between defendant and wife of plaintiff, such designation to be made or indicated in the decision on file, and that the plaintiff be and he is hereby precluded from offering any evidence at the trial of this action to prove the occurrence of any specific acts of adultery at any other time or place than such as shall be set forth in the said statement of particulars.

But this order is not to be construed as prohibiting the plaintiff from introducing on the trial of this action testimony which may be admissible under the general rules of evidence as to any acts (other than specific acts of adultery), declarations, writings, documents or any alleged confessions on the part of the defendant of any such criminal, wrongful or improper acts, in which alleged confessions no particular time or place shall be alleged to have been referred to. A. McCUE, Judge.

The counsel on both sides held a consultation last evening in regard to the course to be pursued next. The lawyers for the plaintiff expressed themselves as determined to proceed with the trial of the case, and counsel for the defence assured the members of the press that there would be no compromise on their side.

The subjoined order putting off the trial until the January term of the City Court was subsequently entered:—

THE CITY COURT OF BROOKLYN.—Theodore Tilton against Henry Ward Beecher.

It appearing to the satisfaction of the Court that the trial, if commenced next Monday, could not be closed during the term, the case is ordered over until the first Monday of January term next, and the jurors now empanelled are discharged and need not attend as heretofore directed. By the Court.

GEORGE W. KNAEBEL, Deputy Clerk.

DATED BROOKLYN, Dec. 11, 1874.

POLICE AFFAIRS.

Weekly Meeting of the Police Commissioners.

At the meeting of the Board of Police Commissioners yesterday morning the communication from the Counsel to the Corporation was presented, which is printed below. Mr. Smith says it is a reply to a request made by the Police Commissioners for information as to the steps he has taken to have vacated the injunctions restraining the police from interfering with certain theatrical performances on Sunday evenings. The Police Commissioners, however, using the language of the antiquated and voluble "Miss Corney," say, "It is nothing of the sort," and further say that the communication tells them nothing they did not know before. They, therefore, adopted a new resolution to request Mr. Smith to tell them what he has done, or is doing, to have the injunctions in favor of the Bowery, Stadt and other German theatres removed. Afterward the Commissioners expressed the opinion that Counsel Smith had gone out of his way to tell them their duty, which they knew very well, but were impeded in performing, instead of going straight at the task of informing them what he had done toward aiding them to do their work. The following is the communication which riled the Police Commissioners:—

NEW YORK, Dec. 10, 1874.

THE HONORABLE THE BOARD OF COMMISSIONERS OF THE POLICE DEPARTMENT:—

GENTLEMEN—In answer to your letter of the 4th inst. I respectfully inform you that what is known as the Strakosch injunction has been dissolved by the Supreme Court. The question of the dissolution of the injunction relating to the Stadt Theatre has not yet been decided. I advise you that, with the exception of the case last mentioned, it is the legal duty of the Police Department to enforce the statute known as "an act to preserve the public peace and order on the first day of the week, commonly called Sunday," passed April 17, 1860, and constituting chapter 501 of the laws of that year. I have no doubt that the injunction last referred to will be dissolved, and I will send you information immediately when the decision is announced.

I am, gentlemen, very respectfully, your obedient servant, E. DELAFIELD SMITH, Counsel to the Corporation.

The Board heard reports from Superintendent Walling on the cases of Captain McDonnell and Patrolmen Benjamin Tessaro, George H. Wyman and Richard Ganley. The Superintendent rehearsed the circumstances under which these officers performed acts for which rewards are offered to them; but made no suggestion as to whether the Board should permit these rewards to be taken. The Commissioners refused to allow Captain McDonnell to take $50 from Bradbury Bros. for recovering a valuable wedding dress from thieves. They considered that he had done no more than his duty. They permitted Patrolman Tessaro to accept $100 from the Italian Consul for having arrested a notorious Neapolitan brigand and murderer, as at the time he made the arrest he was off duty. Patrolman George H. Wyman is waiting to be given or refused permission to accept $250 from the Post Office Department for having arrested a man who broke open a street letter box; and Patrolman Richard Ganley is anxiously hoping for the opportunity to accept $20 reward for arresting a deserter from Governor's Island. Their cases were referred to the Committee on Rules and Discipline.

General E. L. Viele sent to the Board a sectional map of the city, copies of which he offered to furnish to police stations for $15 each. The matter was referred to the chief clerk of the Board, Mr. Hawley.

The Committee on Street Cleaning reported to the Board that John H. Starring had offered to pay $20 for each of 200 scow loads of street dirt, to be delivered at the foot of West Sixtieth street. The Board accepted Mr. Starring's offer. Hitherto the street dirt, which has been delivered at the foot of East Ninety-sixth street, has been paid for only at the rate of $10 per scow load.

The Board appointed H. T. Barlow clerk in the Detective office, and set apart the rooms now occupied by the Property Clerk for the use of the Vaccination Bureau of the Health Department.

The following named men were appointed as patrolmen:—Owen McEntee, Twenty-first precinct; Frank Kavanagh, Eleventh precinct; Philip Fellman, Thirty-third precinct; James Layburn, Twenty-second precinct.

The Board cited the following men to appear before it previous to appointment to the force:—Edmund Carey, Lewis Connor, George H. Hewitt, Willard F. Hansee, Michael J. Connolly, Emory D. Parker.

UNLICENSED PLACES OF AMUSEMENT.

Arrest of Proprietors by the Sheriff—They Are Released on Bail.

The Society for the Reformation of Juvenile Delinquents has commenced actions against theatrical proprietors for non-payment of licenses. It appears the law makes it incumbent upon managers to take out licenses from the Mayor, and a fine of $100 is imposed for each performance enacted without such authority, the penalty to be for the benefit of the society above named. Messrs. Sandford, Robinson & Woodruff, as counsel for the society, have procured several orders of arrest and placed them for execution in the hands of the Sheriff. The main points of the complaint in the case of Messrs. Martin Campbell & Francis B. Murtha, proprietors of the Globe Theatre, are as follows:—

That on the evenings of the 11th, 12th, 13th, 14th, 16th, 17th, 18th, 19th, 20th and 21st days of November, 1874, defendants exhibited to the public in the building situated at Nos. 728 and 730 Broadway, New York city, and called the Globe Theatre, certain entertainments of the stage and certain dramatic performances, consisting of minstrelsy, ballet and other dancing and performances of acrobats and certain dramatic performances or games performed by numerous actors suitably costumed; that previously and on the evening of the 10th day of November, 1874, said defendants exhibited to the public in the Globe Theatre certain entertainments of the stage, dramatic performances and interludes, and three farces, entitled respectively, "Fool of the Family," "Wanted a Nurse" and "The Rivals," each of which was performed by several actors, dressed in appropriate costume.

That such entertainments and performances were so exhibited to the public as aforesaid without any license having been previously obtained from the Mayor of the city of New York for the place of such exhibition for such purpose, pursuant to the provisions of an act of the Legislature of the State of New York, entitled "An Act to Regulate Places of Public Amusement in the City of New York," passed May 22, 1872.

Among the arrests made yesterday were Paul Falk, proprietor of the Tivoli, St. Mark's place; Samuel Shapter, proprietor of the Metropolitan Theatre in Broadway, and Otto Ehrendt, proprietor of Concordia Hall, in avenue A. Falk was released in $2,800 bail, Ehrendt in $1,500 and Shapter in $1,300. Civil suits for the recovery of the penalties have also been commenced against these parties.

MRS. GILLIGAN'S DEATH.

A post-mortem examination of the body of Mrs. Gilligan, who died yesterday at No. 72 Thompson street, from the effects of injuries said to have been inflicted by her husband, was made last evening at the Morgue by Dr. Marsh, in the presence of Coroner Woltman. It resulted in the discovery of extensive laceration of the external organs of generation. The uterus contained a foetus of about six months. The appearance of the internal organs showed the deceased to have been of very intemperate habits.

Dr. Marsh is of the opinion that death was caused by hemorrhage, following external laceration, resulting from violence of some kind.

THE 'LONGSHOREMEN.

It is doubtful if the strike of the 'longshoremen is any nearer a termination to-day than it was three weeks ago. The laborers are, to all appearances, quite as determined now as when they knocked off work; while on the other hand the steamship companies declare their determination and their ability to stand by their original action to an indefinite period. It is certainly true that the stevedores who have contracts for loading and discharging the steamships find no difficulty in getting all the men they need to perform the work at thirty cents an hour, and very many of these workmen have now become so proficient that the loss of the old hands is but little felt. Quite a number of those who went on the strike have already become so pinched for funds that their resuming work at any price is now a matter of absolute necessity, and, therefore, some have gone to work at thirty cents an hour in direct violation of the orders of their union. It is more than suspected that those who still hold out are longing for some kind of accident in the way of a cargo shifting so that the owners of vessels may be compelled to employ the old 'longshoremen to stow their cargoes or else lose their ships. One of the strikers, a man somewhat more intelligent than his fellows, while in conversation with a HERALD representative yesterday, said he felt sure that the public would not have to wait long for the news of half a dozen disasters at sea, all occasioned by the ignorance of the men who have been stowing cargoes for the past three or four weeks. For his part he would not care to go to sea at this season of the year in a vessel whose freight had been tossed in helter-skelter by a set of men who know nothing whatever about the business they were employed in.

In truth, however, there seems little or no foundation for apprehension in this direction. The masters and agents of all the ships sailing from here declare that their vessels are as well loaded now as before the strike, and ridicule the idea that those who are responsible for such matters would allow their property to be endangered in the way the 'longshoreman above quoted indicates.

The financial agents of the 'Longshoremen's Union, Messrs. William Riordan and John Driscoll, were at St. Mary's Hall, New Bowery, yesterday afternoon, paying out to the needy members of the union on strike their quota of relief according to the rules of the union. Though those who came to claim pay did not present external evidence of distress, they were each aided to the amount of from $6 to $10, according to their circumstances and family. About $1,000 was disbursed. Great confidence was expressed by those assembled that by Monday the strike would be over.

AID FOR NEBRASKA SUFFERERS.

The good work undertaken by the Nebraska Relief Fund (Messrs. Saunders & Hardenburgh, No. 112 Broadway) to aid the sufferers by the grasshopper plague in Nebraska progresses but slowly, and the subscriptions come into the bankers' hands very tardily. Upon inquiry of ex-Governor Saunders yesterday, at the above banking house, he said "that, although the subscriptions were reasonably numerous, they were in amounts so small that the power for good would be very limited. If the charitable people of New York only could realize the extreme destitution of these poor people in the West their purse strings would certainly be loosened. Money is needed at once in order that provisions may be forwarded before the cold weather sets in and the heavy snows make transportation difficult. The greatest destitution exists among the families who reside from thirty to one hundred miles beyond the railroads. On the Republican River, and the Loup (fork of the Platte), and the Elk Horn River, the people are absolutely starving. The Burlington and Quincy Railroad joins the Union Pacific Railroad at Kearney Junction, 200 miles from Omaha, and north and south of these points the inhabitants want relief at once. We have free transportation as far as the railroads go, but provisions have got to be hauled a long distance beyond the rails. It is to be hoped the heart of charity will beat here in the East for these stricken families, and that the blessed work of relief will be pushed promptly forward.

RELIEF FOR KANSAS.

Judge Ricksecker, of Kansas, who represents the Kansas Relief Society, has headquarters at the railroad office of the Chicago, Burlington and Quincy Railroad Companies, No. 317 Broadway, where contributions are solicited for the starving families of that section who have lately suffered so terribly from the grasshopper plague. Boots, shoes and clothing of all kinds will be gratefully received. Upon calling at the office yesterday, a HERALD reporter found but one small box from Keyport, N. J., which does not promise well for liberal aid to the sufferers. It is suggested by Judge Ricksecker that money contributions should be made to Donnell, Lawson, & Co., No. 92 Broadway, fiscal agents of the State of Kansas, as the sums received by them will be forwarded at once free of charge to the Central Relief Committee at Topeka. The sufferings of the poor people who live in a prairie country—in sod-houses and "dug-outs"—will be terrible this winter if they are not relieved. It is earnestly hoped that the charity of New Yorkers will be liberal in view of the terrible destitution in the West.

MUNICIPAL NOTES.

Mr. Salem H. Wales has been appointed Commissioner of Docks in place of Mr. Gardner, deceased. This settles the fight which has been waged so energetically around the Mayor's office for the past few days for this particular position. Mr. Wales was the republican candidate for Mayor at the last election. Mayor Vance says the appointment has been made with the full concurrence of his successor, Mr. Wickham.

The onslaught upon Mayor Vance for the place of Mr. Laimbeer, Commissioner of Charities and Correction, who has tendered his resignation, still continues. The friends of Mr. Charles Blackie, the defeated republican candidate for the Assembly from the Thirteenth district, are on the warpath. They assert that Mr. Blackie is just the man for the place. He is indorsed by the chairman of each republican Assembly organization, by the German Central Organization and by the eight republican Aldermen elect. Yesterday a committee representing those gentlemen called upon the Mayor. They were received courteously, but no promises were made. The friends of other candidates are equally impressed with the loss which the people at large must suffer should the Mayor fail to recognize their particular claims.

The *City Record* Commission, consisting of Mayor Vance, Commissioner Van Nort and Corporation Counsel Smith, met yesterday. Bills amounting to some $1,800 were audited. A resolution was passed directing an extra issue of 1,000 copies of the paper containing the official canvass, for the use of the Common Council. This appears to be the only feasible method of increasing the circulation of this mammoth journal from its standard—185 copies.

An ordinance was passed last May directing the owners or occupants of buildings to remove all vault covers in front of their premises presenting a smooth surface and substitute coverings presenting a rough surface. Commissioner Van Nort was charged with the carrying out of this ordinance. Special circulars are now being sent around the city calling attention to this law and giving instructions as to penalties attached in case of noncompliance.

The secretary of the St. Patrick's Mutual Alliance called at the Mayor's office yesterday, but did not have the pleasure of an interview. Rumor asserts that he required a more definite answer to the request of the committee delegated to represent his interests with Mayor Vance as to an appointment on the police force. This important consideration has, no doubt, caused the Mayor several sleepless nights.

The joint committee of the boards of Aldermen and Assistant Aldermen will meet to-day to make arrangements for the reception of King Kalakaua. What that reception will consist of has not yet been developed. No doubt His Majesty will be delighted with the attentions of our New York Aldermen, their character for lavish hospitality and enormous cigars being of world-wide fame. They have fêted the Japanese, the Prince of Wales, the son of the Czar, the Lord Mayor of Dublin and other distinguished gentlemen. Now let us see what they can do in entertaining majesty itself.

SUICIDE OF A SCHOOL PRINCIPAL.

Early yesterday morning Mr. Jacob H. Falling, of Montgomery county, New York, was found dead in a room at Unrein's Hotel, corner of Third and Washington streets, Hoboken. By his side was found an empty phial, labelled laudanum, and this, with the great contraction of the pupils of the eyes, showed plainly what had caused his death. In deceased's pockets $82 in money, a silver watch, gold chain and two pairs of spectacles were found. On the evening previous Mr. Falling had come to the hotel demanding an apartment in which to remain over night. He retired to rest without apparent melancholy, and nothing more was seen of him until the discovery of his body. Deceased was the principal of a school on Long Island until a few months ago. He came to New York in quest of employment, and it is conjectured that his failure to find a suitable position led to his gloomy death. The remains are lying at Crane's Morgue, awaiting the arrival of the relatives from New York

GERMANO-CHURCH QUESTION IN JERSEY.

At the latest meeting of the Town Council of Union Hill, N. J., one of the German members, Mr. F. Meyer, offered and had passed a resolution that a supplement be prepared to the charter virtually providing that the church property of the township be no longer exempt from taxation. The Christian fraction of the community are in high dudgeon over this latest effort to introduce the imperialism of the Prussian Chancellor's policy. The application of the idea to the huge slices of real estate now exempt in Northern Hudson county under the mask of being attached to private educational institutions would not meet with so much disfavor.

THE M'KENNA MURDER.

Continuation of Testimony for the Defence.

IMPORTANT TESTIMONY

Story of the Shooting by an Eye-Witness.

Fourth Day's Proceedings of the Trial.

The trial of Coroner Croker was resumed yesterday morning in the Court of Oyer and Terminer at the usual hour. The attendance throughout the day was very large, but owing to the excellent arrangements of the officers of the Court outside and of Crier Ricketts within notable quiet and order prevailed during the session.

The prisoner, Mr. Croker, wore his usual impassive look, seemingly, in fact, the most uninterested of the spectators. With the exception of that of some three or four witnesses the testimony throughout has been of the most contradictory character, the witnesses on either side being not only cross-examined at tedious and harassing length upon the direct testimony, but also confronted with their depositions taken at the Coroner's inquest, which ex-Sheriff O'Brien swore he looked upon as a sham. If the other witnesses had no more reverence for the proceedings before the Coroner than had the ex-Sheriff no wonder the whole case has got so inextricably mixed as it has. The most important evidence yesterday was that of the first witness, John Biglin, who was not examined at the inquest.

Judge Barrett having taken his seat the case was at once proceeded with.

TESTIMONY OF JOHN BIGLIN.

John Biglin was the first witness called. He testified that he saw Croker, the two Hickeys and Sheridan on their way to the polling place on the morning of election; shook hands with Croker and passed on; heard the noise of the row and saw everybody running; shortly after leaving Croker and his friends he went back toward the crowd and got within ten or twelve feet of O'Brien and Croker; saw O'Brien rush toward Croker, and the latter struck him; O'Brien kind of grappled for Croker, but there was a policeman between them; at the same moment that Croker hit O'Brien in the mouth there was a shot fired, and McKenna fell;

THE SHOT WAS FIRED AT THE PRECISE MOMENT THAT THE PRISONER STRUCK O'BRIEN;

Croker had not a pistol in either hand that witness could see; witness stood right behind Croker, and if he had a weapon he would certainly have seen it.

Q. Where was McKenna when he fell? A. He was in the street.

Q. About how far from the curbstone? A. I should judge about midway between the railroad track and the curbstone; his head was toward Thirty-third street; the shots were fired very rapidly at first; after the firing of the first, second and third shots the crowd began to scatter; witness knew both O'Brien and Croker well.

Cross-examined—I was first near the cigar store where the polling place was; I met Croker as I came out; he started to go toward Thirty-fourth street; I hadn't got over forty or fifty feet away before I saw a crowd beginning to run by me toward Thirty-third street; I got up afterward myself right behind O'Brien's back; O'Brien was facing west, about four feet from the curb; Croker was facing him and facing me too; both men were out in the street; I remained on the curbstone all the time; I did not hear any names called, as when I got there they had got to blows; I don't know the name of the officer who was between the two men; he seemed to have hold of both men; his effort was apparently to separate the combatants; the first I saw of McKenna was as he was in the act of falling.

By a juror—How far from the curbstone was McKenna when he was shot? A. McKenna was to the right of Croker and about six or seven feet from the curbstone.

The witness illustrated the positions occupied by the different parties to the fracas by pointing to the diagram.

Witness, continuing—I saw George Hickey fire three or four shots; he fired after the crowd had dispersed and while McKenna was prostrate on the ground; he fired in the direction of McKenna; I am positive he fired three shots, and I think he fired four; there were several parties who went toward McKenna to pick him up; one man came out to McKenna, but ran back again when Hickey fired a shot.

To a juror—Croker hit O'Brien just as the

SHOT WAS FIRED THAT STRUCK M'KENNA.

To Mr. Phelps—I am quite sure about that.

Justice Barrett at this time requested the jurors to hold their questions until after the counsel on both sides were through with the witness on the stand, as breaking in upon the counsel with abrupt questions, sometimes two or three at once, tended to interrupt the continuity of counsel's thoughts. He had been requested by counsel on both sides to suggest that plan. When the counsel had finished, then the jurors might ask all the questions they might desire to ask. The Court also would observe the same rule.

Witness continued—I am sure that as McKenna fell Croker struck O'Brien, and was still facing him; I remember O'Brien said to the officers, "arrest them men;" he spoke pretty loud; he hallooed it out pretty loud, and in an excited way; I did not hear Croker order the police to arrest any one; I told the Assistant District Attorney the same facts that I have told here to-day.

To the Court—I did not see Henry Hickey fire; I saw George Hickey shoot, though; Croker was moving away after arrest when George Hickey fired his other shots; the crowd ran into doorways, stores and every and any where for safety.

To Mr. Fellows—At the report of the shot by which McKenna fell I was looking directly at Croker; I say emphatically that

RICHARD CROKER DID NOT FIRE THAT SHOT;

my brother and myself were opposed to Mr. Croker in politics; we were for the other candidate.

TESTIMONY OF MATTHEW ROURKE.

Matthew Rourke was next sworn:—I keep a saloon at No. 626 Sixth avenue; I was near the polls about Thirty-fourth street the whole morning electioneering; Steve O'Brien was standing next to me at the polling place in Thirty-fourth street; he commenced to run suddenly, and I ran after him; Steve ran right into Second avenue, where the muss was, and Steve ran into the crowd; I ran on the outside of the crowd; Croker was on the defensive at the time I got there; Croker and Jimmy O'Brien were facing each other; the latter was on the curbstone, while Croker had one foot on the street and one on the curb; they did not exchange blows after I got there; after the parties were arrested I saw Steve O'Brien pick up a cobble-stone, but he dropped it again; Croker was in the custody of Officer Smythe; when the first shot was fired Croker was under arrest; I was standing then on the curbstone; the officer was between Croker and O'Brien, with his hand on Croker; then it was that the first shot was fired, followed quickly by two others; I did not see McKenna until after he was down on the ground; I heard five shots altogether; I had a full view of Croker and his hands at the time the shot was fired;

HE DID NOT HAVE ANY PISTOL IN HIS HANDS;

I saw McKenna first when he ran from the northeast corner of Thirty-fourth street; he did not get down to where Croker and O'Brien were at all; the next I saw of him after this was while he was on the ground.

On the cross-examination witness swore positively that Croker could not have had a pistol in his hand and he not see it, and he saw none.

TESTIMONY OF JAMES CARR.

James Carr, of No. 302 East Thirty-fifth street, testified that he was standing on the northeast corner of Thirty-fourth street and Second avenue on the morning of the row; saw O'Brien and Croker meet; saw O'Brien strike the prisoner and the prisoner strike back; noticed one man get a blow on the side of the head, when he jumped out, drew a revolver and fired a shot; saw another man step out, pull a revolver and another man grasp his wrist; as he did so the man with the pistol stretched out his arm, the shot was fired and a man fell; at the time I did not know who the man was who received the shot and fell; I heard since it was John McKenna.

Q. Do you know Coroner Croker? A. I do.

Q. Did he fire the shot you saw fired? A. He did not.

By the Court—What?

Witness—I say positively that Croker did not fire the shot; I was working in the interest of Mr. Power, a Tammany candidate in that district; I was distributing pasters, and had been employed by Luke Casey, who paid me.

Cross-examined—I noticed O'Brien strike Croker first; I saw Croker strike O'Brien also.

David J. Daley, James Palmer, Thomas Higgins, Denis Mahaney and Andrew O'Keefe all testified to a similar state of facts as narrated by the preceding witnesses for the defence, all swearing posi-

[CONTINUED ON NINTH PAGE.]