THE COURTS.

Verdict for $5,000 Against the Third Avenue Railroad.

THE FERGUSON DIVORCE SUIT

Important Decisions in the Supreme Court.

James M. Davies & Co. imported a quantity of silk neck ties, on which they offered to pay thirty per cent ad valorem duty, as they supposed the full duty upon the class of goods imported by them. Collector Arthur demanded a duty of sixty cents upon the goods, which the appraisers classified as silk scarfs. Davies & Co. paid the excess of duty demanded under protest, and now bring suit to recover the difference of the alleged overcharge. Since the commencement of the suit the tax upon this special article was reduced from sixty cents to fifty cents, and the claimants now abandon the original claim and seek only the difference of overcharge upon the consignment as between fifty cents and sixty cents. The defendant contends that Davies & Co. are entitled to no other relief than what might accrue from the legal issue raised in the original action. Judge Wallace reserved decision.

Application was made to Judge Lawrence in the Supreme Court, Chambers, yesterday, on behalf of Mr. Morgan Jones, for a mandamus directing General Porter, the Commissioner of Public Works, to certify to the necessity for $5,000 worth of plumbing work done at the Corporation Counsel's office four years ago under the Tweed *régime*. This was opposed by Mr. Dean as absurd, unreasonable and on the face of it impossible to be complied with. Judge Lawrence took the papers.

It is understood that Eugene A. Heath has begun a civil suit against Lorin Ingersoll, James H. Ingersoll, Theodore P. Austin, Augustus P. McGraw, Thomas Harland and Elihu Root, for $100,000 damages, charging them with conspiracy to convict him of perjury and embezzlement in revenge for his securing, by his testimony, the conviction of James H. Ingersoll and John D. Farrington.

The will of Don Alonzo Cushman, late ex-Alderman, was yesterday offered for probate before Surrogate Hutchings. The usual citation was issued and a hearing set down for Thursday, 27th inst.

A BROKEN SHOULDER BLADE.

General William G. Halpine, who is a civil engineer, and served with credit as a colonel during the whole period of the late civil war, brought suit, which was tried yesterday in the Superior Court, before Judge Spelr, against the Third Avenue Railroad Company to recover damages for injuries received by him on the 3d of June, 1871, by being run over by the defendant's car on Chatham street, opposite Sweeny's Hotel. The General's shoulder was dislocated and his shoulder blade broken. The fracture has never completely knit, and he cannot ever have perfect use of his right arm. The muscles and nerves are enfeebled and partially paralyzed. His testimony was that wishing with a companion to get on a car going up town, they signalled a passing car, which was stopped for them. They were in the act of getting on the rear platform, General Halpine standing close to the car, leaving room for the down moving car on the other track of the same line to pass without touching him. The horses of the down car, just as they came near, swerved from their proper track upon the space between the two tracks and struck him, throwing him beneath the horses' feet and the car, when he suffered the injuries complained of. The jury, after a short retirement, found in his favor for $5,000. Messrs. P. O'Beirne and Algernon S. Sullivan appeared as attorneys for plaintiff, and Messrs. Brown, Hall & Vanderpoel for the railroad company.

THE FERGUSON DIVORCE SUIT.

Mr. A. Oakey Hall, as counsel for Mrs. Louisa A. Ferguson, made application yesterday to Judge Lawrence, in Supreme Court, Chambers, for an order compelling her husband, Henry C. Ferguson, to deliver up to her custody their infant child, Mabel Ferguson. Mrs. Ferguson is a member of the Brooklyn Amaranth Club; her maiden name is Louisa A. Miller and the parties were married in 1866. A suit was recently commenced against her by her husband for divorce, on the ground that in February last she absconded with Edwin Rowe, a merchant of Burling slip, in this city, and committed adultery with him in Portland, Rochester, Montreal and other places. In support of the wife's application an affidavit from her was read accusing her husband of passionate and brutal conduct toward her, locking her into a room, seizing her by the arm and throat and otherwise abusing her. She states that she informed her mother, with whom they were living, that she could stand this no longer, besides which she feared her husband would carry out his threat of taking her child from her. She left with the knowledge of her family and was escorted by Mr. Rowe, who was introduced to her by her husband, and whose wife had often sympathized with her in her domestic difficulties. On becoming conscious that she was shadowed by a detective, she went from place to place under escort of Rowe, who, two or three times, rashly and without her knowledge, registered "Edwin Rowe and wife," but she positively denies the alleged adultery. She states that in Portland a so-called detective arrested her and brought her to New York, where her husband took the child from her. She avers the child is devotedly attached to her. Another application was made at the same time for alimony and counsel fees.

In reply, Mr. Chauncey Shaffer read the husband's affidavit denying abusive or brutal conduct. He states that on one occasion when he forbade his wife to go to the theatre because she was getting into a kind of theatrical mania, she insisted she would go. He locked her bedroom door. She got another key and was opening the door, when he gently pushed her back. She attacked him, endeavoring to scratch his eyes out, scratched his cheek, broke the pipe he was smoking and screamed for her brother Sam. The brother rushed up stairs and struck him, then ran down and locked himself in. Plaintiff gave chase and threatened to burst in the door unless Sam opened it and apologized. Then Sam cried out:—"If you do I'll shoot you." "Shoot away," answered plaintiff, "I have a pistol, too," and finally the mother-in-law came on the scene. The husband also states that the story of his having introduced the co-respondent to defendant is a fabrication. An affidavit of Detective Dunn was read. He states that he had power of attorney from the father to get the child, and that he did not arrest the mother, but the Chief of Police gave her the alternative of going to New York or of being locked up. Chauncey Shaffer here explained that in the New England States adultery is a State Prison offence, and a person accused of the crime can be locked up.

The case was adjourned for a week, on application of Mr. Hall, who desires to put in further affidavits.

THE COMPTROLLER'S CONTUMACY.

A few days ago William McMahon, formerly Assistant Clerk of the Board of Aldermen, obtained judgment for $500 against the city in a suit for salary. His counsel, William F. McNamara, applied to Comptroller Green for a warrant for the amount. A satisfaction piece was offered the Comptroller, but the latter still refused to pay the money. Upon this execution was issued and the same placed in the hands of the Sheriff, who, availing himself of that *dernier ressort* of creditors of the city, levied on the pictures in the Governor's Room at the City Hall. Meantime these memorable portraits were spared the ignominy of being knocked down to the highest bidder through a stay of proceedings. Not satisfied with this, motion was made yesterday, on behalf of the Comptroller, before Judge J. F. Daly, in Special Term of the court of Common Pleas, to vacate the execution and levy. After quite an animated discussion between counsel Judge Daly said that when a respectable attorney applied to the Comptroller for a warrant in payment of a judgment obtained against the city for his client, and with such request offered a satisfaction piece, the Comptroller had no right to withhold the warrant, and he would therefore deny the motion.

SUPREME COURT (GENERAL TERM) DECISIONS.

The Judges holding the Supreme Court, General Term, Judges Davis, Brady and Daniels, handed in a batch of written opinions yesterday unprecedented in the history of this Court. There were seventy-two opinions in all, comprising decisions of cases argued at the March term. We give below abstracts of the more important opinions:—

HARRY GENET'S PROPERTY.

In the suit brought by the city against Henry W. Genet, in which a warrant of attachment was issued last spring against his property, his counsel, Mr. Oliver W. West, moved at Special Term to vacate the attachment. This motion was denied. From the order denying this motion an appeal was taken to this Court, which yesterday gave its decision on the appeal, affirming the order at Special Term, and thus sustaining the attachment. Judge Daniels gives the prevailing opinion, in which Judge Brady concurs. Judge Daniels, in his opinion, upholds the attachment upon the sole ground that it is inferrible from the affidavit upon which it was granted that Genet is a non-resident. At the same time he severely criticises the affidavit as very defective and as most carelessly drawn. Judge Davis, in a long and able dissenting opinion, dissects the affidavit and shows its entire insufficiency and closes as follows:—"My brethren are, however, of opinion that the facts are sufficient to establish that defendant is a non-resident of the State, and that the attachment should be held valid on that ground. I cannot agree to that conclusion. The warrant was not sought or granted on that ground. There is no assertion of non-residence. The defendant is a fugitive from justice, and the idea of non-residence is based altogether upon a supposed presumption that he has fled to a foreign country or State and there remains, because he would be safer there, from the vigilance of the officers from whom he escaped than in this State. I am not able to see that such a presumption exists. If official vigilance has been no greater since than at the time of the escape a presumption based upon it has small ground to stand upon. But the State is large enough to furnish numerous places of concealment; and even the city itself has harbors of refuge in which criminals may be safe from the search of those who seek diligently not to find. In my judgment the fact alleged in the affidavit fail to show non-residence as required by the code is, I think, a fact to be distinctly asserted and affirmatively proven." It is understood that Mr. West will at once carry the case to the Court of Appeals.

THE KINGSBRIDGE ROAD OPENING.

James Lynch, a party assessed in the above matter, appealed to the General Term from the order confirming the report of the Commissioner of Estimate and Assessment. When the appeal came on to be heard a motion was made by Mr. Grenville P. Hawes, in behalf of property owners, to dismiss the appeal on two grounds. First, that no notice had been served on the attorneys for the parties to whom awards had been made; and, second, that the order was not appealable.

Chief Justice Davis, delivering the opinion of the Court, holds that there was no necessity of serving notice of appeal upon any party but the Corporation Counsel, and that the order is appealable on its merits. The Court reviews many decisions in support of his opinion, and particularly upon recent cases in the Court of Appeals, cited by Mr. Deering, counsel for the appellant. The opinion is very long and reviews in detail the history of legislation upon the subject of street openings, and the respective rights interesse of parties awarded and assessed. It is the opinion of the Court that between parties to whom an award is made and those assessed there is no adverse interest, and, therefore, no necessity of a service of notice of appeal upon either by the other. The matter involves over $1,000,000, and the decision in this case is of great importance to all interested. The motion to dismiss the appeal of Lynch is therefore denied, with costs, all the judges concurring.

The matter will come on to be heard on its merits at some future day of the term. Messrs. Carter, Hawes, Andrews, Shaw, Nathan, Kitchell and Jellife and others appeared for the motion, and Messrs. Deering and Purdy were opposed.

THE MISSISSIPPI STATE BOND FORGERY.

On the 24th of September, 1872, Thomas Cunningham was tried and convicted in the Court of General Sessions for the forgery of 1,000 warrants of the State of Mississippi. The prisoner had the warrants engraved in this city from an original, and the facsimiles were perfect to the signatures of the State Treasurer and Auditor of Public Accounts. After a protracted trial of over three days Cunningham was sentenced to the State Prison for five years, but his counsel, Mr. William F. Howe sued out a writ of error and carried the case to the Supreme Court. The argument took place at the last General Term, Mr. Howe insisting that the uttering of the forged bonds was not proven to have been effected in this State, and also that the bonds alleged to have been forged were not instruments upon which forgery could be predicated, the seal of the State not being affixed to them. District Attorney Phelps opposed the position of the prisoner's counsel. The Court yesterday rendered a decision, Judge Brady writing the opinion, reversing the judgment, and ordered Cunningham a new trial. The former trial occurred during ex-Judge Garvin's administration.

STATUTORY DEFINITION OF LARCENY.

In the case of George Wegner, tried before Judge Barrett in the Over and Terminer, charged with swindling by the wholesale jewellers of this city, convicted and sentenced for five years to State Prison, his counsel, Mr. Wm. F. Kintzing, raised the point on appeal that the facts did not justify the conviction in that the owner had not only parted with the possession but with the property itself, although the same was obtained by trick and artifice, the goods having been given him as samples and then sold on his own account. At the trial Mr. Kintzing also raised the point that proof of similar acts of larceny was not admissible, the same having been admitted by the Court on the question of criminal intent. Judge Daniels, who delivered the opinion of the Court, held that the rulings of Judge Barrett in the Court below were correct and affirmed the judgment. It is the intention of Mr. Kintzing to take out a writ of error and carry the case to the Court of Appeals, as the questions involved are of the greatest importance.

BITING OFF AN EAR NOT MAYHEM.

James Burke was convicted in the Court of General Sessions, before Recorder Hackett, on the 16th day of December, 1874, of the crime of mayhem, and sentenced to State Prison for the term of fifteen years. Appeal was taken to the Supreme Court, General Term, by his counsel, Mr. Peter Mitchell, who cited the following points in behalf of the plaintiff in error:—First, that the Court below erred in admitting hearsay evidence; second, that biting off an ear was not mayhem as contemplated by the statute, and, third, that there was no proof of premeditated design or lying in wait in this case; fourth, erred in charging the jury and construing the statute on mayhem. The General term yesterday rendered a decision reversing the conviction, and ordered a new trial. Judge Brady wrote an elaborate opinion in accordance with the above points, holding that the Recorder erred in deciding that this offence as proved was within the statutory offence of mayhem.

THE BROOKLYN BRIDGE.

An appeal was taken to the General Term from an order appointing commissioners of appraisal of land necessary to the purpose of completing the Brooklyn Bridge. The main point raised on the appeal was that the time fixed by the Legislature for the completion of the bridge had passed when the commissioners were appointed. Judge Brady gives the opinion of the Court in a lengthy, but clear and able opinion. He holds that by subsequent legislation there was clearly a legislative waiver of the limit previously declared and an extension of the time. He concludes as follows:—"Forfeitures are not favored by the Courts, as shown by the case in 9 Wendell, and the authorities therein cited, and the magnitude and importance of the enterprise to which the matter relates, and the private interests involved are too great to be abandoned on any other than unmistakable intention on the part of the Legislature to destroy it."

THE TENTH NATIONAL BANK SUIT.

The Tenth National Bank, which loaned to the Commissioners of Charities and Correction over drafts amounting to $277,939 05, exclusive of interest, were paid the principal, then sued for interest, and the verdict was against the bank. The case came before the General Term on exceptions taken. The Court says, Chief Justice Davis writing the opinion, the city distinctly proposed to pay the sum as principal in full of the claim, and that the condition was that the claim for interest should be waived, and on this there was no substantial conflict. There was no express contract by the city to pay interest, and the motion for a new trial must be denied, as when a creditor has received the principal debt as such in full he cannot maintain an action for interest.

THE MARIPOSA LAND AND MINING COMPANY.

In the appeal taken in the suit of Eugene Kelly vs. The Mariposa Land and Mining Company, the Court decided, through Judge Daniels, yesterday, holding as follows:—Mr. Kelly was entitled to an injunction against the completion of the transfer of its stock to the California Company; that the statements by the defendants that the conveyance had already been made was too general, and did not show the Court that the property had passed beyond the power of an injunction; that the appointment of a receiver of the property in this State was proper, but there was no good reason shown for ordering a general assignment of all the company's property, which would be a subversion of the company. Order to be modified accordingly.

MINOR CASES.

In the suit brought by Charles B. Wood against Lucy D. Fisk, as administrator of James Fisk, Jr., the General Term decides, Judge Daniels writing the opinion, that a verdict should have been directed in plaintiff's favor, and that the motion made on his behalf must be granted. Verdict set aside and a new trial ordered.

Edward Van Rance, who was one of the Directors of the New York College of Veterinary Surgeons in 1862, neglected attending the meetings, and a resolution was passed declaring his place forfeited. He took no steps until 1874, when he got an injunction against the Board acting without him. Appeal was taken, and the Court decided through Judge Daniels, that Van Rance slept too long on the matter; he could not take advantage of any irregularity, and the injunction must be dissolved.

The Hebrew Free School Association have built their school on leased lots, on which they have to pay taxes. They brought suit to recover an assessment of taxes on the property, and were defeated. They appealed, and the General Term decided through Judge Davis, yesterday, holding that the tax was imposed without jurisdiction on property exempt by law.

DECISIONS.

SUPREME COURT—CHAMBERS.

By Judge Lawrence.

Hoyt vs. Nicholson; Andrews vs. Beebe; Sullivan vs. The New York *City Bulletin* Association; Alcott vs. Vogel; Schuman vs. The American Whalebone Manufacturing Company; Bunn vs. Doyle; Tim vs. Tim; Sellman vs. Kaufman; In the matter of Ingraham; Ward vs. Card; The People of the State of New York vs. The Citizens' Plate Glass Insurance Company; Parmly vs. Ward; The Society for the Reformation of Juvenile Delinquents in the City of New York vs. Falk; Anthony vs. Day; Osgood vs. Arnold; Miner vs. Croffut; Osgood vs. Zemler; In the matter of Pilmpton; National Park Bank vs. Ross; Hart vs. Thomson.—Granted.

In the matter of Swift.—Petition must be resworn to.

Ackerman vs. Davies and another; Levy vs. Gillet; Amnidown vs. Wing.—Orders granted.

Price vs. Clapp; Price vs. Clapp.—Orders refused.

Braunsdorf vs. Schimmeller.—The affidavit of Mr. Furlong is not dated.

Briggs vs. Lion.—Judgment in foreclosure granted.

Humes vs. Baird.—Judgment granted.

By Judge Barrett.

Dickel vs. The Mayor, &c.—Motion granted.

Butler vs. Wehle.—Extra allowance of five per cent on $2,170 80 granted, and final judgment that plaintiff is not entitled to the injunction.

Mutual Life Insurance Company vs. Smith.—This is not the case of a devise in fee, subject to a power in trust, but of a devise in trust not charged but coupled with a power of sale. Is not such a power exhausted upon the termination of the trust? And was not the trustee at the time of the execution of the mortgage limited to the duty of conveying to the issue of L. S. Smith in fee? These questions, in my judgment, are by no means free from doubt, and the infants should not be precluded from raising them because of the oversight of the guardian ad litem. (4 Ed., ch. 635.) The decree must therefore be opened, with leave to the infants to file a new answer setting up the invalidity of the mortgage.

By Judge Donohue.

Loper vs. Karvos; Davis vs. Karvos.—Orders granted.

Thompson vs. Thompson.—Report of referee confirmed and decree of divorce granted to plaintiff.

SUPREME COURT—GENERAL TERM.

By Judges Davis, Brady and Daniels.

The Mayor, &c., vs. Genet.—Order affirmed, with $10 costs and disbursements. Opinion by Judges Daniels, Brady and Davis, Judge Davis dissenting.

In the matter of the petition of Bainbridge.—Order reversed, with $10 costs, besides disbursements. Opinion by Judge Brady.

Devlin et al. vs. Devlin.—Order affirmed, with $10 costs, besides disbursements. Opinion by Judge Davis.

The Continental National Bank vs. Adams et al.—Order affirmed, with $10 costs and disbursements. Opinion by Judge Brady.

Van Ranst vs. The New York College of Veterinary Surgeons.—Order reversed, with $10 costs and disbursements and motion denied, with $10 costs. Opinion by Judge Davis.

Higgings vs. Murray.—Judgment reversed and new trial ordered, costs to abide event. Opinion by Judge Daniels.

In the matter of the application of the Department of Public Works and to widen Kingsbridge road. Motion to dismiss appeal denied, with $10 costs. Opinion by Judge Davis.

Mallory vs. McConnell.—Judgment reversed and new trial ordered, with costs to abide the event. Opinion by Judge Brady.

In the matter of the petition of Boehm to vacate assessment.—Order affirmed, with $10 costs and disbursements. Opinion by Judge Daniels.

Kendall vs. Brill.—Judgment affirmed. Opinion by Judge Davis.

Dowes vs. Griswold.—Motion for new trial denied, with costs and judgment for plaintiff on verdict. Opinion by Judge Daniels.

In the matter of the petition of Agnew to vacate assessment on Madison avenue.—Order of Special term reversed, with $10 costs and disbursements. Opinion by Judge Davis.

Oberly vs. Dickinson.—Judgment affirmed. Opinion by Judge Brady.

Speyer vs. Colgate.—Judgment modified as specified in opinion, and affirmed as modified, without costs. Opinion by Judge Daniels. Order to be settled by Judge Daniels.

Campbell, administratrix, &c., vs. Hoge, impleaded, &c.—Order affirmed, with $10 costs, besides disbursements. Opinion by Judge Davis.

Carpenter vs. Beare.—Judgment affirmed. Opinion by Judge Brady.

De Forest vs. Farley.—Order affirmed. Opinion by Judge Davis.

Same vs. Same.—Order affirmed. Opinion by Judge Davis.

Vail et al. vs. Lane.—Order modified, as stated in opinion, and affirmed as modified, without costs to either party. Opinion by Judge Daniels.

In the matter of the New York Bridge Company to acquire lands, &c.—Proceedings affirmed. Opinion by Judge Brady.

Wood vs. Fisk, executrix.—Motion for new trial granted, with costs to abide event. Opinion by Judge Daniels.

Rver vs. Wilberley et al.—Judgment modified, as specified in opinion of Judge Brady. Order to be settled by Judge Brady. Opinion by Judge Brady.

Smith vs. The Mayor, &c.—Judgment affirmed. Opinion by Judge Daniels.

Walker et al., executrix, vs. Shoemaker.—Order affirmed. Opinion by Judge Brady.

Penfield, guardian, &c., vs. James.—Order affirmed, with $10 costs and disbursements. Opinion by Judge Brady.

Marsh et al vs. The First National Bank of Mobile.—Judgment affirmed. Opinion by Judge Davis.

Vose vs. Yulee.—Judgment affirmed. Opinion by Judge Brady.

Mayer vs. the Mayor, &c.—Judgment affirmed. Opinion by Judge Davis.

Rogers, assignee, &c., vs. Schmersahl and another.—Judgment reversed, and new trial granted; costs to abide event.

In the matter of the petition of Furniss et al.—Order affirmed. Opinion by Judge Brady.

The People ex rel. Lee and Bixby.—Proceedings affirmed and writ dismissed. Opinion by Judge Davis.

Kennedy and Brandon and another.—Judgment affirmed as modified. Opinions by Judges Davis and Brady. Order to be settled by Judge Davis.

McDonnell vs. The Mayor, &c.—Judgment reversed and new trial ordered, costs to abide event. Opinions by Judges Brady and Davis, Brady dissenting.

Bush vs. Treadwell.—Judgment affirmed. Opinion by Judge Davis.

Weetjen et al. vs. The St. Paul and Pacific Railroad Company et al.—Injunction modified in accordance with opinion of Judge Daniels, with costs to the respective parties as stated in the opinion. Opinion by Judge Daniels. Order to be settled by Judge Daniels.

Reid et al. vs. Martin.—Order affirmed, with $10 costs besides disbursements. Opinion by Judge Davis.

Burke vs. The People, &c.—Judgment reversed and new trial ordered. Opinion by Judge Brady.

The Tenth National Bank vs. The City of New York.—Judgment affirmed. Opinion by Judge Davis.

Livingston, executor, vs. Strong.—Judgment affirmed, with costs. Opinion by Judge Daniels.

Wormser vs. Garvey.—Judgment affirmed. Opinion by Judge Davis.

Schwab vs. The People, &c.—Judgment affirmed. Opinion by Judge Daniels.

The People ex rel. Walker vs. The Court of Special Sessions.—Proceedings affirmed and writ dismissed. Opinion by Judge Davis.

Doremus vs. Williams.—Judgment reversed and new trial ordered, with costs to abide event. Opinion by Judge Brady.

Mannay vs. Fletcher.—Judgment affirmed. Opinion by Judge Brady.

The People ex rel. Trowbridge vs. The Commissioners of Taxes.—Proceedings reversed and assessments remitted to the Commissioners, with instructions, &c. Order to be settled by Judge Davis.

White et al. vs. Suller.—Judgment affirmed. Opinion by Judge Brady.

Oberlander et al. vs. Spiers et al.—Judgment reversed. New trial ordered, with costs to abide event. Opinion by Judge Daniels.

Mesamore vs. Black.—Order modified so as to direct reference to take proof, &c., with costs to abide event. Opinion by Judge Davis.

Kelly vs. The Mariposa Land Company.—Order modified and affirmed as modified, with costs to abide event. Opinion by Judge Daniels. Order to be settled by Judge Daniels.

In the matter of Levy to vacate assessment.—Order affirmed, with $10 costs. Opinion by Judge Brady.

Watts vs. Weller.—Order reversed, with $10 costs, besides disbursements, and motion for injunction denied, with $10 costs. Opinion by Judge Davis.

Baxter vs. The Missouri, Kansas and Texas Railway Company.—Order appealed from affirmed, with $10 costs, besides disbursements.—Opinion by Judge Brady.

Weyman vs. The People.—Judgment affirmed. Opinion by Judge Daniels.

Rockwell et al., executors, vs. Geery et al.—Judgment reversed and case remanded to the referee for further proceedings. Order to be settled by Judge Davis. Opinion by Judges Davis and Brady.

St. Claire, Jr., vs. Cushing.—Judgment reversed, new trial ordered, costs to abide event. Opinion by Judge Brady.

The American National Bank vs. Westervelt.—Judgment affirmed. Opinion by Judge Daniels.

Miller vs. The National Steamship Company.—Judgment affirmed, with costs. Opinion by Judge Davis.

The People ex rel. Devlin vs. Asten.—Order reversed and mandamus ordered. Opinions by Judges Brady and Davis, Judge Davis dissenting.

The Union Dime Savings Institution vs. Insley et al.—Order affirmed and proceedings referred to a referee to hear and determine the claims. Order to be settled by Judge Brady. Opinion by Judge Brady.

Giobons vs. Dayton, Public Administrator, &c.—Judgment reversed and new trial granted, unless plaintiff stipulate to reduce the judgment as specified in opinion, in which case affirmed as modified, without costs to either party on this appeal. Order to be settled by Judge Davis. Opinion by Judge Davis.

Smith vs. Welsh.—Judgment reversed and new trial ordered, costs to abide event. Opinion by Judge Brady.

Mason vs. Partridge.—Judgment modified as specified in opinion (if plaintiff so stipulate) and affirmed as modified, without costs of appeal to either party. Opinion by Judge Daniels. Order to be settled by Judge Daniels.

Sawyer et al. vs. Same.—Judgment affirmed.

Kilborne et al. vs. Same.—Judgment affirmed. Same opinion.

Kuse, administrator, vs. The New York, New Haven and Hartford Railroad Company.—Judgment affirmed. Opinion by Judge Brady.

Place vs. Greenman.—Judgment and order reversed and new trial ordered, with costs to abide event. Opinion by Judge Daniels.

The Maryland Coal Company vs. Edwards.—Judgment reversed and new trial granted, with costs to abide event. Opinion by Judge Davis.

Herden et al. vs. Bundenstock et al.—Judgment affirmed. Opinion by Judge Daniels.

Alker, Public Administrator, &c., vs. Salomon et al.—Judgment affirmed. Opinion by Judge Daniels.

The Hebrew Free School Association of the City of New York vs. The Mayor, &c.—Order affirmed, with costs and with leave to answer on payment of costs. Opinion by Judge Davis.

Coulter vs. The Board of Education of the City of New York.—Judgment affirmed. Opinion by Judge Brady.

In the matter of the petition of Ingraham to vacate an assessment.—Order affirmed with $10 costs, besides disbursements. Opinion by Judge Brady.

Cunningham vs. The People.—Judgment reversed and new trial ordered. Opinion by Judge Brady.

The Excelsior Petroleum Company vs. Embury et al.—Same vs. Same.—Judgments affirmed. Opinion by Judge Brady.

SUPERIOR COURT—SPECIAL TERM.

By Judge Van Vorst.

Logan vs. Logan.—Order for alimony to plaintiff granted.

Lirquer, Jr., et al. vs. Taylor.—Second and third separate defences are irrelevant, and are stricken out; as to rest of motion denied, without costs.

Offinger et al. vs. De Woll et al.—Petition granted, and order made.

By Judge Freedman.

Witkowski et al. vs. Brennan.—The papers do not contain the references required by rule 11 of this Court.

By Judge Sedgwick.

White vs. Talmadge et al.—Order settled.

By Judge Monell.

Fiske vs. Allen.—Case settled.

COMMON PLEAS—SPECIAL TERM.

By Judge J. F. Daly.

Studwell vs. Kernart.—Notice of this application must be given.

MARINE COURT—PART 1.

Before Judge Gross

THE STATUTE OF FRAUDS.

Florence de Treville vs. Casimer Fabregon.—The plaintiff claims that she rented a house from the defendant at a large price, the inducement being that he and his son would board with her during the term of the lease, a period of three years, at the rate of $1,500 per annum; that at the end of the first year the parties withdrew as boarders, and have since failed to pay the sum agreed on. The plaintiff then sought out other parties as boarders in place of the plaintiff and his son at the best price she could obtain, and claims in this action to recover the difference between the amount thus realized and the $1,500 per year for the remaining period. The lease of the premises was reduced to writing, but the alleged agreement to board was not. On this state of facts a lengthy argument was had on a motion to dismiss the complaint, defendant's counsel making the following points:—1. That if the agreement claimed under be an agreement to board which has become merged in the lease, the plaintiff is precluded from introducing evidence by reason of the merger, the lease speaking for itself; and 2. If it be an agreement separate from the lease, not being in writing, it is void by the Statute of Frauds. The Court, without passing upon the first point, dismissed the complaint on the second, holding it to be a contract which by its terms could not be performed within a year, and directed that the case be heard by the General Term in the first instance.

COURT OF GENERAL SESSIONS.

Before Judge Sutherland.

THE EARLE ASSAULT.

In this court yesterday morning the case of James Duffy, charged with firing a pistol at Deputy Comptroller Earle, was on the calendar, and District Attorney Rollins said he was ready for trial. Mr. Kintzing, associate counsel for the defence, moved its postponement in consequence of the illness of the senior counsel. After considerable debate His Honor set the case down for Thursday next.

PLEAS AND SENTENCES.

James McGuire, who was indicted for burglary in the first degree, pleaded guilty to the third grade of that offence. On the night of the 23d of April the prisoner broke into the residence of Charles Wayman, No. 217 East Twenty-fourth street, and was discovered in one of the apartments. He was sentenced to the State Prison for four years.

William Ziegler pleaded guilty to an attempt at burglary in the third degree. The indictment charged that on the night of the 27th of April he burglariously entered the lager beer saloon of Henry Knuermann, No. 864 Sixth avenue.

Daniel Sullivan pleaded guilty to an attempt at grand larceny, the charge being that on the 3d inst. he stole a gold watch worth $60 and $10 in money from Liebrich Blok.

A similar plea was accepted from John O'Neil. On the 2d of this month he stole clothing worth $30 and $20 in money, the property of Pearl & Shepherd.

Alfred Palmer, who was charged with entering the premises of Michael Bligh on the 24th of last month, pleaded guilty to an attempt at burglary in the third degree.

These prisoners were each sent to the State Prison for two years and six months.

James Johnson, a little boy, pleaded guilty to an assault with intent to steal, and was sent to the Penitentiary for one month.

Andrew J. Palis, who was charged with stealing a pair of shoes from the store of Leopold Lasky, on Eighth avenue, pleaded guilty to petit larceny. He was sent to the Penitentiary for six months.

George O'Bryon, who on the 2d inst. stole $55 in money from the apartment of Rosetta Burns, pleaded guilty to an attempt at grand larceny. He was sent to the Penitentiary for one year.

ACQUITTALS.

James Lee and John Reilly were tried upon an indictment charging them with attempting to burglariously enter the grocery store of Nicholas Witschen, corner of Irving place and Eighteenth street. The evidence was slightly circumstantial and the jury rendered a verdict of acquittal.

Joseph Morgan, a longshoreman, was tried upon a charge of stealing $10 from the person of Michael Burns, in Washington street, on the 27th of last month. The jury rendered a verdict of not guilty.

THE ADAMS EXPRESS ROBBERY.

The counsel for Lawrence Noonan, who was indicted and tried for complicity in the Adams Express robbery, and in whose case the jury failed to agree, moved yesterday to have his client admitted to bail in $5,000, as fixed by Recorder Hackett, whereupon the Assistant District Attorney claimed the usual notice, forty-eight hours, and the further hearing of the motion was set down for Monday next.

WASHINGTON PLACE POLICE COURT.

Before Justice Wandell.

"JACK SHEPPARD" CAUGHT.

John Mahoney, whose admiring friends have given him the cognomen of "Jack Sheppard," was yesterday arraigned before Judge Wandell on a charge of grand larceny. Mahoney met an unsuspecting truckman, named Henry Dodson, who was carting a case of goods for Brewster & Mills, of No. 255 Pearl street, and requested him to carry a case for him to the corner of Chambers street and Broadway. Arriving there, as and the truckman carried the case up three pairs of stairs. Mahoney there left him, under pretence of having forgotten the keys of the storeroom, and drove off with Dodson's truck and goods. Detective King, of the Central Office, captured Mahoney, and Judge Wandell held him in $5,000 bail to answer.

ESSEX MARKET POLICE COURT.

Before Judge Morgan.

TRAPPED AT LAST.

For a long time past the police of the Twenty-second precinct have been perplexed in their endeavors to ferret out the perpetrators of the numerous burglaries which have lately occurred within their limits, but their efforts proved unavailing. It was reserved for Officer Devlin, of the Tenth precinct, to solve the mystery, which he did by arresting on Tuesday night, in Grand street, near the Bowery, two young men, named John McKeon, alias Gleason, of No. 432 West Fortieth street, and James Sutter, of No. 761 Sixth avenue. They are both under twenty years of age. Officer Devlin's attention was attracted to the youths by their manner of acting, the more so as there were two young girls in their company, whose conduct was peculiar. Having watched them for some time he determined to arrest the young men, and accordingly brought them both to the Tenth precinct station house. On Thursday morning the two women who had been in their company entered the station house with delicacies for the unfortunates, and were, much to their disgust, provided with accommodations immediately in adjoining cells. The two men prisoners had been searched at the station house, and the search resulted in the discovery of gold chains, jewelry, pawn tickets, and other valuables, evidently the proceeds of a long series of raids upon householders. Yesterday morning all four were arraigned before Judge Morgan. The girls gave their names as Elizabeth Higgins, of No. 539 Ninth avenue, and Jane Halpin, of No. 545 Ninth avenue. The detectives of the Twenty-second precinct having meantime been informed of the arrest produced as a complainant Mr. George J. Busse, of No. 148 West Fifteenth street. Mr. Busse testified that one of the prisoners, Eliza Higgins, had been employed in his family as a domestic until the latter part of February last. Since then his premises were broken into and $200 worth of jewelry and other valuables carried off, some of which he identified as being found on the prisoners McKeon and Sutter. The detectives, in the course of their researches, found that the prisoners had occupied furnished rooms at No. 16 Harrison street, which seems to have been the centre of operations. The gang have evidently been carrying on their depredations for a long time before being overtaken and are held responsible for many robberies. Among the items charged to their account are the following:—Mr. A. D. Pratt, No. 151 West Fifty-third street, jewelry; William Herris, No. 355 West Fifty-third street, clothing; John Scott, No. 453 West Forty-third street, clothing; William Richmond, No. 423 West Fifteenth street; Mr. Savage, No. 840 Eighth avenue, $500 worth of valuables. Judge Morgan committed all four of the prisoners in $800 bail each to answer, on the complaint of Mr. Busse.

FIFTY-SEVENTH STREET COURT.

Before Judge Kilbreth.

A BOY THIEF.

James Foster, aged eight years, was charged with stealing a gold watch and chain, valued at $185, from the room of Carrie Winter Nilter, No. 876 Lexington avenue. A comrade named Edward McEvoy testified that he saw the watch in Foster's possession. The accused admitted the charge, but said he had given it to another boy. He was held in default of $500 bail for trial, and McEvoy was sent to the House of Detention.

ALLEGED INDECENT ASSAULT.

Joseph Spitzer, of No. 165 East Fifty-ninth street, a married man, was charged by Frances A. Taylor, seventeen years of age, of the same place, with having indecently assaulted her. The offence was committed in the cellar of the house, and the screams of the complainant were heard by her mother and several of the neighbors, who saw the defendant coming up from the cellar immediately thereafter. Spitzer waived an examination, and, having given $500 bail for trial at the Special Sessions, he was discharged. He denies the charge.

COMMISSION OF APPEALS.

ALBANY, May 7, 1875.

The day calendar for the Commission of Appeals for Monday, May 10, is as follows:—Nos. 360, 365, 366 and 341.

The Commission adjourned until Monday, at ten A. M.

GREEN'S OBSTRUCTIVENESS.

HE TRIES TO GET THE CORPORATION COUNSEL TO HAVE A JUDGMENT AGAINST THE CITY REOPENED, BUT DOES NOT SUCCEED—A SEVERE RAP FOR THE OBSTRUCTIONIST.

The Comptroller on the 6th inst. sent a letter to the Corporation Counsel, asking him to have the judgment obtained by the publisher of the *City Record* for $20,948 34 opened, and the questions involved in the suit submitted to adjudication. Yesterday the Corporation Counsel sent Mr. Green his answer in writing. In this opinion Mr. Smith says:—"I cannot advise you that in this case there exists any defence which would justify litigation. I have not failed to consider the case in all its bearings. I again advise you that the judgment should be paid at once. That there may be no misunderstanding, I am compelled to officially apprize you that the Law Department cannot give any support or countenance to litigation in this matter. There seems to be no reason why great public evils should be hazarded in order to review the official action of Mayor Havemeyer and his associates in this case, which official action is regarded by the law officer of the city after the most careful and repeated consideration as legal and unquestionable."

Notwithstanding this opinion of the Corporation Counsel, Mr. Green will, it is thought, refuse to pay the claim of the contractor until the interest on the claim shall have reached an amount equal to that of the original judgment; for though he objects to paying the principal of any amount due a city creditor he does seem to take great pleasure in paying the principal when it is heavily laden with interest.

THE UNPAID FIREMEN.

Several firemen called at the Comptroller's office yesterday to ascertain if they could not get their pay for the month of April, but were unable to get any satisfaction, as Mr. Green still holds the warrants and refuses to make out payroll warrants as the charter provides he can. Some of the men are getting desperate over the delay and threaten to make things hot for the Comptroller if he allows his stubbornness to stand between them and the payment of their grocery bills much longer. The employés of the Department of Public Works are also getting impatient, as the warrants for their pay have not yet been sent to the Mayor.

WALL STREET NOTES.

THE ELECTION IN KANSAS PACIFIC AND THE CANVASS OF ITS POSSIBLE RESULTS—FRESH ADDITIONS TO THE LIST OF THE STOCK EXCHANGE—STATEMENT OF OHIO AND MISSISSIPPI—CHICAGO ADVICES—THE COMING ELECTION IN THE STOCK BOARD.

The street received fresh information yesterday of the operations of the cl