

THE COURTS

Interest of Trustees in the Erie Railway Mortgages.

SINGULAR INTERRUPTION TO A TRIAL.

Verdict of Manslaughter in the Fourth Degree Against Philip Olwell.

The Farmers' Loan and Trust Company, as trustee of certain mortgages by the Erie Railway Company, has filed in the County Clerk's office an answer setting forth its interest as such trustee in the suit brought by the Attorney General against the Erie Railway Company.

John J. McNamara, of No. 21, South Street, was yesterday brought before Commissioner Ingersoll on a charge of being a retailer in retail goods without paying the special tax required by law. He gave \$500 bail for examination. It is the intention of the collectors of internal revenue to prosecute vigorously this class of cases.

In the suit brought by Henry C. Ferguson against Louis Ferguson for divorce, on the ground of adultery, the facts of which have been heretofore published, Judge Lawrence yesterday gave a decision upon the petition of the mother for the custody of the child. He allows the child to remain with its father, but with permission for the mother to see it at proper times. As to the question of alimony and counsel fees he directed an examination before a referee, Mr. D. C. Calvin being named as such referee.

In the suit brought by Catherine Donovan against the Compagnie Generale Transatlantique for \$5,000 damages for loss of a case of merchandise, consisting of velvets, silks, embroideries and military goods, shipped from Havre for this port, on the steamer France, the answer set up that the goods in question were smuggled goods. A motion was made before Judge Van Vorst at Special Term of the Superior Court, to strike out such averment in the answer. In his decision yesterday Judge Van Vorst granted the motion, holding that the purpose of the plaintiff had nothing to do with her contract with the defendants, and that she was not to be held liable for the actions of her carriers.

Eugene A. Heath has brought suit against Theodore P. Austin to recover \$10,000, the price of certain shares of the Heath & Smith Manufacturing Company. Nearly all the testimony was submitted in the trial of the case yesterday before Judge Freeman of the Superior Court, when Heath was arrested on a warrant issued by Judge Bixby, charging him with perjury. On the arrest of Heath the trial was at once suspended. It is understood that the alleged perjury refers to the testimony given by Heath at the trial of James H. Ingersoll before the Court of Oyer and Terminer regarding the indorsement of the names of Heath & Smith upon certain warrants on the city treasury.

In the United States Circuit Court the case of The Milwaukee and St. Paul Railway Company vs. William Barnes and others came up for argument yesterday before Judge Blaisdell. A cross bill had been filed by Mr. Barnes for the purpose of enforcing the rights of three mortgage bondholders of the company in question, under a deed of trust which had been executed to him. The amount involved in this litigation is about \$1,100,000. The facts of the case have been already fully reported in the HERALD. The ground upon which the cross bill is chiefly relied is that the title of the railway company to its property has, in different forms and in many instances, become void in the United States courts.

W. F. Howes, in the federal courts at Washington, Mr. F. N. Hange and ex-Judge Porter appear as counsel for the railway company, and Francis Fenwick, M. H. Carpenter and J. B. Stewart for Mr. Barnes.

THE MURDER ON THE ROCKS.

The trial of Philip Olwell for the murder of James Orr, in April last, in his shanty on the rocks, between Seventy-eighth and Seventy-ninth streets, near Fourth avenue, was resumed yesterday, before Judge Davis, in the Court of Oyer and Terminer. A large crowd thronged the court room.

Mr. W. F. Howes, his counsel, had showed much nervousness than on the opening day. Mr. Darling, of the Fifth Avenue Hotel, and other witnesses testified to the good character of the prisoner, which, he said, should go a great way in his favor, he recited the details of the tragedy. He insisted that the deceased, having obtained a copy of the indictment, had been told by the prisoner, who killed him in self-defense, that he was innocent of the crime.

Mr. Rollins followed in a speech of about equal length and earnestness. He produced the killing of Orr a deliberate murder, and insisted that the fact would only justify a conviction for murder in the first degree.

Judge Davis was very careful and in a dignified manner he listened to the testimony and asked the questions bearing on the case. The learned judge occupied nearly two hours in his examination of the witnesses, and at the close of the day he left the jury to be the judges of fact in the case.

The most extraordinary case, said the Judge, and the most extraordinary case, said the Judge, and the most extraordinary case, said the Judge.

The jury went out at half past four o'clock, and at the first minutes past five returned in a verdict of guilty of manslaughter in the fourth degree. The prisoner was remanded to prison. It was evident that he was more than satisfied with the verdict, and so were his host of friends present.

VALUE OF A HUSBAND.

In July last a stevedore, named James Burr, was engaged in unloading iron on the ship Mauritius, at pier No. 11 North River. He had partly unloaded the vessel and while standing upon the pier it suddenly gave away and Mr. Burr was thrown into the river. He had a bar of iron under his arm when he sank and it was found still lightly clasped to his side when the body was recovered. His widow, Elizabeth Burr, brought suit for \$5,000 damages for the death of her husband. The case was tried yesterday before Judge Blaisdell in Superior Court, the jury being composed of Messrs. Darling, Fenwick, Howes, and Porter. The jury rendered a verdict for \$1,000 to the widow plaintiff.

MARINE COURT—PART 2.

PITTSBURGH PROFESSIONAL FIDELITY.

Margaret M. Bennett vs. David D. Tool.—This was a suit for damages, based on a contract made by the defendant, who is a physician, and who attended professionally on the plaintiff. When the physician's services were no longer required he sent in his bill, but no money was paid. The plaintiff brought an action for the recovery of the amount of the bill. The case was tried before Judge Blaisdell in Superior Court, the jury being composed of Messrs. Darling, Fenwick, Howes, and Porter. The jury rendered a verdict for \$1,000 to the plaintiff.

COURT OF APPEALS—DECISIONS.

And vs. Perkins.—Upon the 24th day of December, 1874, the defendant being in possession under a contract with the plaintiff for the purchase and sale of the premises named in the complaint and having paid to the plaintiff the full amount of the purchase money therefor, executed a mortgage thereon to one Sewell and one Pappan, plaintiffs, to secure the payment to them of a certain note made by their order by defendant for the sum of \$500. This mortgage was duly recorded in the County Clerk's office on the 24th day of January, 1875. Upon the 15th day of April, 1875, the plaintiff delivered to defendant a bill of exchange for the sum of \$500, which was duly cashed on the 15th day of April, 1875. On the 15th day of April, 1875, the plaintiff delivered to defendant a bill of exchange for the sum of \$500, which was duly cashed on the 15th day of April, 1875. On the 15th day of April, 1875, the plaintiff delivered to defendant a bill of exchange for the sum of \$500, which was duly cashed on the 15th day of April, 1875.

MORTGAGE WARRANT DEED.

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DECISIONS.

SUPERIOR COURT—CHAMBERS.

By Judge Donohue.

Vrydag vs. Vrydag.—Reference report confirmed, and order granted for the plaintiff to be reinstated.

By Judge Lawrence.

The People, ex. vs. The New York and Staten Island Ferry Company.—In view of the numerous affidavits which have been filed in support of the Attorney General, I am of the opinion that the preliminary injunction should be dissolved, and that the case should be referred to the court for trial.

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