

THE COURTS

Argument on the Writ of Error in the Case of John Dolan.

The Civil Suits Against William M. Tweed.

TWEED'S FORFEITED RECOGNIZANCES.

A Writ of Habeas Corpus Refused for Stokes.

There was an argument yesterday in Supreme Court, Chambers, before Judges Davis, Brady and Daniels, in the case of John Dolan, convicted of the murder of James H. Noe. Mr. William F. Howe appeared on behalf of Dolan and District Attorney Phelps on behalf of the People. The facts of the case are too well known to require any repetition. In addition to the points raised by Mr. Howe on the various applications for a stay of proceedings, three new points were raised. The first point raised was that the first two counts in the indictment are bad for duplicity; that in the first count there are two distinct offenses charged, the first paragraph containing all the necessary averments of an indictment for burglary in the third degree and the remaining paragraph charging the offense of manslaughter in the first degree. It was insisted that the crime therein charged is murder at common law, but not murder within the provisions of the statute now existing, while under that count the defendant, it was claimed, could have been convicted of two distinct offenses—of burglary in the third degree and of manslaughter in the first degree, and the conviction for either of these two offenses would have been good against the indictment now on trial. It was contended that the defendant could not at the same time and upon the same indictment be tried and convicted of both these offenses, for the reason that they are separate and distinct felonies of different grades and to which different penalties are attached. This objection, it was further urged, applies to the second and third counts of the indictment, and only authority Courts of Oyer and Terminer is found in the third Revised Statute, fifth edition, page 320, which provides that in the several Courts of Sessions shall be held all indictments for offenses not triable there to the next Court of Oyer and Terminer, and that the same shall be determined according to law. It was urged that this section only authorizes Courts of General Sessions to order an indictment to be tried at the next Court of Oyer and Terminer, and that the Court of Oyer and Terminer which tried the indictment in error was not the "next," but was the "same" trial which was held at the indictment, and that the case at law was ordered into the Court of Oyer and Terminer. The third new point was that the jury found the defendant in error guilty of murder in the first degree, but that there are in the indictment which purported to charge him with murder in the first degree while in the act of committing a felony, and another charge which purported to charge him with murder in the first degree while in the act of committing a felony, and that the people relied upon the two first counts, and that it was to those that the minds of the jury were mainly directed. It was insisted that the indictment, which purported to charge him with murder in the first degree, was a general verdict of guilty of murder in the first degree, as charged in the indictment, would have been a general verdict of guilty of murder in the first degree, and that the jury, in finding a verdict thereon in the first degree, would necessarily have found that the killing was with a deliberate and premeditated design to effect death, and that the people relied upon the two first counts, and that it was to those that the minds of the jury were mainly directed. It was insisted that the indictment, which purported to charge him with murder in the first degree, was a general verdict of guilty of murder in the first degree, and that the jury, in finding a verdict thereon in the first degree, would necessarily have found that the killing was with a deliberate and premeditated design to effect death, and that the people relied upon the two first counts, and that it was to those that the minds of the jury were mainly directed.

DECISIONS JANUARY 20.

SUPREME COURT—CHAMBERS.

Porter vs. Robinson. The defendant is entitled to be discharged upon the ground that there was a want of jurisdiction.

COMMON PLEAS—GENERAL TERM.

The People, ex vs. Van Nostrand and another. Perjury. Judgment of conviction affirmed.

COMMON PLEAS—EQUITY TERM.

Hennessey vs. Wheeler, Hennessey vs. Townsend and Hennessey vs. Cullman. Plaintiff's trade mark on bottles representing the defendant's brand, and which was used by the defendant to induce purchase, is enjoined, and the defendant is ordered to pay damages.

COURT OF GENERAL SESSIONS.

Before Judge Gilchrist. MRS. MEIKSTON'S VEIORS. On the 17th of October Mrs. C. Meikston, living at No. 71 Montgomery street, left her apartment on the first floor to show the store beneath to an intending tenant, and on returning found the apartments in a state of confusion, trunks, drawers and wardrobes being broken open, and about \$500 worth of wearing apparel and jewelry gone, burglars having effected an entrance from the rear of the premises. Officers Mulvaney and Daniels subsequently arrested Daniel Crowley, a colored man, who was charged with the commission of the crime. He was committed to the House of Correction for six months.

THEY DID NOT BELIEVE HIM.

James Murphy, who is a notoriously bad character, well known to the residents of the upper part of the island, although of highly respectable connections, was placed on trial, charged with stealing \$2 25 from the change pocket of William H. Scofield, a conductor on the Morrisania Railroad, of which line Murphy's father was formerly superintendent. Murphy denied the theft, but being found guilty, he was sentenced to six months in the Penitentiary. He was also sentenced to a further term of one year in the same institution, having on Wednesday pleaded guilty to an indictment for assaulting Officer Heinz, of the Thirty-third precinct, while the latter was endeavoring to arrest him for a larceny.

DOG FIGHTERS IN TROUBLE.

John Galery, proprietor of the premises No. 73 Montgomery street, together with John Cochran, Morris Fitzgerald, John White, Matthew Manning, Peter Egan, James Fitzgerald and William Walton, who were arrested by the officers of Mr. Bergh's society and the police officers of the Seventh precinct for carrying on a dog fight on Galery's premises on the 13th inst., were held for arraignment and pleaded guilty.

WASHINGTON PLACE POLICE COURT.

Before Judge Kilbuck. ATTEMPTED BURGLARY. Charles Sailer, of No. 212 East Eighteenth street, was held in \$1,000 to answer for burglariously entering the liquor saloon of J. P. Corrigan, No. 45 Eighth avenue, and attempting to carry away \$2,000 worth of liquors and cigars.

GRAND LARCENY.

On Wednesday last Jane Van Hosen, of No. 128 West Eighth street, called on Leah Mulholland, of No. 124 West Eighth street, and asked for ten cents. While Mrs. Mulholland went to purchase a drink Jane decamped with a watch chain and bracelet, valued at \$100. She took the watch and chain to William Connor's liquor store, No. 122 West Nineteenth street, who gave her a receipt for the same. She was held for arraignment and pleaded guilty.

ESSEX MARKET POLICE COURT.

Before Judge Otterbourg. THE USURY LAW. On March 15 last Ellick Pullock, of No. 355 West Twenty-sixth street, discounted a note of \$75 for J. Heckstader, at the rate of twelve per cent interest. Subsequently he had the note discounted at the Germania Bank. In Mr. Pullock failed and made an assignment, and then the note was sold to the Germania Bank. Mr. Pullock was held for arraignment and pleaded guilty.

LARCENY FROM THE PERSON.

Anthony Fay and Lewis Kruz were held in \$2,500 each for stealing a watch and chain from John Sasse, of No. 288 East Tenth street, while they were engaged in a larceny on First avenue, at a late hour on Wednesday night.

FIFTH-SEVENTH STREET COURT.

Before Judge Murray. THE REV. MR. THOMPSON DEPRIVED HIS ASYLUM AND SENT TO AN ASYLUM. Dr. Elliott Smith examined yesterday the Rev. John James Thompson, who was arrested on Wednesday on a charge of indecently assaulting a young lady. His insanity was established, and the criminal charge having been withdrawn, Mr. Thompson was committed to the Bloomingdale Asylum for the insane. He has given against him, but the insanity has been proved, and he is now in the asylum.

SUMMARY OF LAW CASES.

The Grand Jurors for the Oyer and Terminer and General Sessions for next month were drawn in the Supreme Court, Chambers, before Judge Barrett. Judge Barrett has appointed Philip T. Hughes referee, to judge testimony as to the amount of services performed by Theodore W. Davis, receiver of the Ocean National Bank, compensation to be at the rate of each service allowed under the laws of this State.

THE SUIT OF THE UNITED STATES vs. DORIS & DOBBS vs. TWEEED.

The trial was begun yesterday in the United States Circuit Court, Judge Shipman in the case of Lewis Taylor vs. the Oceanic Steam Navigation Company. He sued to recover \$10,000 for alleged injury to his health when the Atlantic was wrecked. In December, 1865, the brig J. H. G. Berry was advertised for sale by the United States office. Andrew Lawrence, of the firm of Lawrence, Knickerbocker & Co., brought suit for damages for non-delivery of the vessel. The case came on for trial yesterday in Supreme Court, Chambers, before Judge Lawrence, and will probably occupy a day or two.

THE MARINE COURT YESTERDAY.

The Marine Court yesterday, before Judge McAndrew, rendered a verdict of acquittal in the case of Charles Barrett for failing to deliver a portion of the lease for the premises No. 27 Chambers street to the Gasman Council, to be used as a Marine Court.

THE BURKE-GARDNER TRIAL.

The Burke-Gardner trial was continued yesterday before Judge Van Hook, in the Supreme Court, Chambers. A large attendance, attracted by the singular character of the trial, was present, and listened to the testimony of the witnesses. Several more witnesses were examined for the purpose of showing that the evidence certainly makes a strong case against the defendant. Judge Lawrence, of the Court of Common Pleas, yesterday granted a peremptory mandamus against the Comptroller and Commissioner of Public Works requiring them to return the bid put in by James McGowan, with the surplus offered for grading a portion of Madison avenue. It further directed that the Comptroller approve the return and return them to the Commissioner, who in turn is required to execute the contract. If the Comptroller does not approve the return, he is to give his reasons for such disapproval. The mandamus is returnable on the first Monday in February in the next year.

ALEXANDER BABB, CHIEF OFFICER OF THE UNIONESSER JEANNE ELIZABETH, WAS YESTERDAY BROUGHT BEFORE THE UNITED STATES COMMISSIONER OSBORN, FOR EXAMINATION ON A CHARGE OF OBSCENITY.

Alexander Babb, chief officer of the schooner Jeanne Elizabeth, was yesterday brought before the United States Commissioner Osborn, for examination on a charge of obscenity. He was committed to the House of Correction for six months, on arriving in the harbor, anchored off the New Jersey shore, where he transferred the schooner to the schooner S. G. Knight, who was arrested, and Commissioner Osborn held him in \$1,000 bail for examination to-day. Babb was examined.

A WILL DRAWN BY A MAN DYING IN ANDERSONVILLE PRISON.

A will was drawn by a man dying in Andersonville Prison, in the Supreme Court, Chambers. The will was signed by John Burk, Captain of company C, of the Nineteenth Pennsylvania Volunteers. The will was written by a friend named Michael Dougherty, and is attested by two members of the Nineteenth Pennsylvania Volunteers, who were incarcerated in this prison at the time. The will leaves all his little property, which principally consisted of money from the Government, to a relative named Bernard McKevitt. It was written upon a very dirty and greasy piece of note paper, and was signed by the testator, John Burk, Daniel Bates, late President of the Third Avenue Savings Bank, in his cross-examination yesterday in a suit in which he is plaintiff, did not give a very satisfactory account of the facts of the case. The will was read in the presence of the Commissioner and the Board of Audit and Appropriation.

TURNED TO THIS CITY, ONLY TO ENTER AN ASYLUM.

Dr. Elliott Smith examined yesterday the Rev. John James Thompson, who was arrested on Wednesday on a charge of indecently assaulting a young lady. His insanity was established, and the criminal charge having been withdrawn, Mr. Thompson was committed to the Bloomingdale Asylum for the insane. He has given against him, but the insanity has been proved, and he is now in the asylum.

IN A TIGHT PLACE.

Roundsman Kelly, of the Eighteenth precinct, arrested, on Wednesday night, Francis Kennedy, of No. 311 East Fortieth street, on suspicion of having stabbed William Donahue, of No. 611 First avenue, on New Year's Day. Kennedy, when searched, produced a formidable set of metal knuckles, which he said he carried for his protection. Donahue identified Kennedy as the man who had attacked him, and he was subsequently identified as the accomplice of Patrick Whalen, who was arrested on Tuesday night, of the Ninth sub-precinct, Brooklyn, on suspicion of having attempted to arrest the two on suspicion of burglary.

COURT CALENDARS—THIS DAY.

SUPREME COURT—CHAMBERS—Held by Judge Barrett. Part adjourned. SUPREME COURT—SPECIAL TERM—Held by Judge Donahue. Nos. 13, 165, 179, 228, 245, 247, 251, 253, 263, 269, 270, 271, 273, 275, 277, 279, 280, 282, 286, 287, 288, 289, 293, 294, 296, 299, 307, 308, 310, 43, 162.

SUPREME COURT—GENERAL TERM—Held by Judges Davis, Brady and Daniels. Nos. 12, 3, 4, 5, 29, 25, 29, 31, 35, 52, 53, 54, 55, 56, 59, 62, 64, 65, 68, 74, 75, 10, 36, 42, 46, 47, 50, 60, 72, 81.

SUPREME COURT—CHAMBER—Part 1—Held by Judge Van Hook. Part 2—Held by Judge Westbrook. Part 3—Held by Judge Van Hook. Part 4—Held by Judge Van Hook. Part 5—Held by Judge Van Hook. Part 6—Held by Judge Van Hook. Part 7—Held by Judge Van Hook. Part 8—Held by Judge Van Hook. Part 9—Held by Judge Van Hook. Part 10—Held by Judge Van Hook. Part 11—Held by Judge Van Hook. Part 12—Held by Judge Van Hook. Part 13—Held by Judge Van Hook. Part 14—Held by Judge Van Hook. Part 15—Held by Judge Van Hook. Part 16—Held by Judge Van Hook. Part 17—Held by Judge Van Hook. Part 18—Held by Judge Van Hook. Part 19—Held by Judge Van Hook. Part 20—Held by Judge Van Hook. Part 21—Held by Judge Van Hook. Part 22—Held by Judge Van Hook. Part 23—Held by Judge Van Hook. Part 24—Held by Judge Van Hook. Part 25—Held by Judge Van Hook. Part 26—Held by Judge Van Hook. Part 27—Held by Judge Van Hook. Part 28—Held by Judge Van Hook. Part 29—Held by Judge Van Hook. Part 30—Held by Judge Van Hook. 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