THE COURTS.

An Illiterate and Careless Executrix Imprisoned for Contempt.

MABEL LEONARD'S NEW ROLE

More Applicants for Discharge from Matrimonial Bonds.

FRAUDULENT LIFE INSURANCE DIVIDENDS.

A decision of much importance in relation to the responsibility of executors of wills and trustees generally, and their liability for punishment for a violation of their trust, was yesterday rendered by Surrogate Calvin. The case came up on a motion to punish Madalina Hahlin, late executrix of the last will and testament of Thomas Hahlin, for non-compliance with a decree of the Court made on her accounting, whereby she was adjudged to pay to Mary Grube the sum of $1,112. On the return to the attachment the testimony taken showed substantially that the deceased left a tenement house somewhat encumbered by mortgage, and a business of purchasing and sale of the broken meats of certain hotels in this city, and the general fragments remaining from their tables; that the will as understood by the executrix required her to continue the business, so as to preserve it for her eldest son when he should come of age; that for some time she did continue the business, but, as she swears, it proving unprofitable she disposed of it, while there was some testimony showing or tending to show that the business was profitable. She admitted under oath that soon after the decease of her husband, and in 1869, she drew from the savings bank the sum of $1,182, the amount of a legacy bequeathed to her in the will; that she had collected the rents of the house, but had expended all such rents and her own legacy in paying some debts of the testator, in paying interest on the mortgage, making repairs upon the premises and in the support of herself and children, so that she had become entirely destitute of the means by which to perform the decree. Below is given that portion of the Surrogate's opinion deciding the motion on the question of punishing her for contempt:—

"It is true she appears not to have kept any account of her receipts and disbursements and to have greatly neglected her duty as executrix, yet I do not doubt from the evidence that she has without authority expended the money and is now without means to comply with the decree. Under section 4, 3 R. S. (6 Ed.), 839, the prisoner may be committed to prison until such sum, with the costs and expenses of the proceedings be paid. By section 20, same statute, it is provided that if the Court shall adjudge the defendant to have been guilty of the misconduct alleged, and such misconduct was calculated to or did defeat the rights of a party in a matter pending in such court, it shall proceed to impose a fine or to imprison, or both, but in case of inability to perform the requirements imposed, the Court ordering such imprisonment may relieve the person so imprisoned in such manner and upon such terms as it shall deem just and proper. In view of this power testimony was taken upon the question of the accused being able to perform the requirements imposed, in order that the relief might be afforded without the formal imprisonment, if a proper case should appear to have been made, though the scheme of the statute seems to contemplate the commitment first, and the relief to be sought thereafter. The natural repugnance to imprisoning a woman makes this proceeding peculiarly unwelcome and embarrassing, yet while the law provides for her appointment to such places of trust I see no good reason why she should not be held to the same strict accountability as males. It very often occurs that an administratrix or executrix is called to account who has used the funds of the estate for the support of herself and family, entirely regardless of the rights of creditors, and who seem to suppose that they have done right. But a still greater grievance as well as inconvenience arises in very many cases from the absence of any account whatever of the proceedings of the representatives of estates, resulting frequently from their inability to read and write. I am aware that it has been the custom of this office for many years to issue letters to wholly illiterate persons, while with very rare exceptions the settlements of the estates they have represented have been attended with great expense, uncertainty, dissatisfaction and family discord, as well as serious loss. In view of these well known facts, it seems to me that henceforth the spirit of section 5 of chapter 782 of the Laws of 1867 should be followed, and the discretion there conferred exercised as a general rule, for the danger of granting letters to illiterate persons there suggested has been fully realized in practice. Indeed, it is self-evident that where the law requires executors and administrators to render an account of their proceedings as such from time to time it presupposes them to be capable of keeping and rendering such accounts. Henceforth applications for letters testamentary and administration by any person unable to read and write should be refused, unless specially ordered by the Surrogate. The prevalence of trustees' delinquations has impelled the Legislature of this State to enact a law calculated, by authorizing criminal prosecution, to enforce the honest performance by trustees of their delicate and responsible duties. Chapter 208 of the Laws of 1877 makes the conversion to his own use, or the fraudulent withholding of any money, goods, property, rights in action, &c., belonging to an estate or person, by any person acting as executor, administrator, trustee or guardian, embezzlement and punishable by fine and imprisonment. It is desirable that this law should be called to the attention of all such trustees, and henceforth the letters issued should contain an indorsement by way of notice of its provisions. I have deemed it to be my duty to say thus much upon the general subject by way of calling attention to the duties and responsibilities of trustees in the hope that it may result in a more diligent, faithful and honest administration of their trusts. Now as to the proper disposition of this motion, the executrix may congratulate herself that the law just cited is not retroactive. I entertain no doubt on the evidence that she is substantially without the means of performing the decree in this matter, and that her imprisonment cannot aid the beneficiary whose funds have been misappropriated. And as the widow as doweress has an interest in the premises it seems to me that that interest should be devoted to reimbursing the claimant. She should be committed to prison until she shall pay the sum required to be paid by said decree and $50 costs of this proceeding, unless she shall execute a release of so much of her interest in the premises and to the rents thereof as shall be necessary to cover such sums.

MABEL LEONARD IN COURT.

The child actress, Mabel Leonard, and her mother, Mrs. Rogers, and her stepfather, John P. Rogers, have between them occupied for some time a considerable share of the attention of the courts. It is unnecessary to recite all the details of the case, they having already been fully published in the HERALD. The mother, who is an actress, placed Mabel in a benevolent institution here during her temporary absence from the city. The Society for the Prevention of Cruelty to Children subsequently took charge of the child to prevent the mother resuming custody of her, and, pending habeas corpus proceedings by the mother, Judge Donohue placed the child in custody of J. C. Herriott, husband of Clara Morris, with whom the child had acted at the Union Square Theatre. Young Mabel escaped from Mr. Herriott's custody, and her mother and stepfather were in contempt of Court. The stepfather was committed to Ludlow Street Jail, from which he has long been seeking his discharge, claiming his innocence in the matter. Meantime the mother and Mabel disappeared and went West. On last Saturday night, as reported in the HERALD, Mr. Jenkins, of the Society for the Prevention of Cruelty to Children, arrested both mother and daughter behind the scenes in a Brooklyn theatre, where Miss Morris was performing. Both were kept in custody until yesterday, when they were brought before Judge Donohue. Mabel, who was most neatly dressed and wearing her hat in a very jaunty style on the side of her head, was the centre of general notice, and the mother, who was also most tastefully attired, came in for a large share of attention.

Mr. Delafield, counsel for the society, asked that interrogatories be filed for the mother to answer, which was granted, and in the meantime the mother was remitted to the custody of the Kings county Sheriff to give her time to arrange her household affairs. Mr. Alfred Steckler, who appeared on behalf of the mother, in the absence at Albany of Mr. William F. Howe, her counsel, asked that the child be remitted to the custody of the Sheriff or to her mother's custody. Mr. Delafield moved to have her sent to the Episcopal House of Mercy pending proceedings. Judge Donohue said the child had been already taken out of the custody of the Court and it was best now to place her where she could not escape. The case was then adjourned for three days, the child being ordered to the House of Mercy and the mother back to Brooklyn, with instructions that after she fixed up her household matters there she be remanded to the custody of the Sheriff of this county.

When Judge Donohue had announced his decision he left the bench and the crowd gathered about Mabel and her mother. Mabel threw her arms around her mother's neck and hung sobbing on her bosom. The mother kissed her child again and again, and mingled her tears with those of her daughter. Mabel cried out that Mr. Jenkins had hunted her down, and vowed vengeance upon him. Mrs. Rogers, in indignant terms and trembling voice, described the action of the Court as an outrage; said that she was a British subject, and announced her intention to appeal to her government for protection. "I have been hounded from place to place by the officers of this society, while I was endeavoring to obtain an honest living and support my child." She called upon those about her to witness the outrage, and said that she would obtain redress, no matter what trouble and money it might cost. She said, most defiantly, that her daughter should not be separated from her, and that where one went both would go. When the officers came to remove them the mother relented, and telling Mabel not to cry, they went their different ways. Meantime Judge Donohue directed the discharge of Mrs. Rogers.

THE DIVORCE BULLETIN.

Mr. John H. Gardiner, of the Atlas Steamship Company, was arrested and held to bail yesterday in the sum of $5,000 in the suit for limited divorce brought against him by his wife, Anna E. Gardiner, on the charge of habitual drunkenness and cruelty. Her counsel, Mr. James M. Ward, applied to Judge Van Vorst, in Superior Court, Chambers, for the order of arrest, which was not granted till after considerable argument. The counsellor stated that he applied for the order under section 549, subdivision 2, and section 550, subdivision 4, of the new Code of Procedure. The chief authority advanced in the argument in suppport of the motion was the case of Jameson against Jameson, decided at the May term of the General Term of the Supreme Court. No little difficulty was experienced in arresting Mr. Gardiner, and his house, No. 129 Macdougal street, was watched for several days before the deputy sheriff could lay hands on him. As he was leaving the house yesterday morning and about entering a carriage that official captured him and took him to the Sheriff's office, where Mr. Gardiner furnished bail in the amount above stated. The prisoner took his arrest very philosophically. The details of the case are familiar to the readers of the HERALD, having been published in extenso on the 24th of last month. The argument on the motion for custody of the children, alimony and counsel's fees comes up for hearing and determination to-day in Superior Court, Chambers. The arrest of Mr. Gardiner is said to be the first arrest in a divorce case under the new Code of Procedure.

In the suit for divorce brought by Mary E. Jameson against David F. Jameson, in which the defendant in January last was arrested and held in $10,000 bail, since which time he has been in jail, Mr. O. R. Dyatt, the defendant's counsel, made a motion yesterday, at Special Term, before Judge Van Vorst, that the case be tried at an early day as a preferred cause. After hearing Mr. R. L. Ransom in opposition, Judge Van Vorst directed that the case be set down for trial on the 15th inst., on condition that the defendant pay $164, an amount still due toward payment of expenses.

Catharine Nolan says that her husband, William Nolan, has been unfaithful to her, and has accordingly brought a suit for divorce against him, and Judge Robinson yesterday ordered a reference in the case.

PAY OF CLERKS.

A case of considerable interest to merchants and clerks, as illustrating the careless manner in which contracts of employment are entered into and the consequent suffering that may ensue on one side or the other, was tried yesterday before Judge J. F. Daly, in the Court of Common Pleas. In November, 1875, Mr. J. W. Brink was engaged as salesman by Fay, Hazen & Co., wholesale merchants on Broadway. The contract was to commence in January, 1876, and to run for two years at $2,000 per year. This contract or memorandum was signed by Brink and not by the firm. A few weeks afterward the parties made a new writing on the same piece of paper that contained the original contract relative to the compensation of Mr. Brink, relating to having charge of a department in their store. This latter memorandum was signed by Fay, Hazen & Co. After Mr. Brink began work the firm, as a matter of accommodation, paid him semi-monthly moneys to apply for his services. When these payments ceased after continuing for several weeks Mr. Brink, construing them as an agreement to pay him semi-monthly, began suits every two weeks for the money alleged to be due, until four suits had been commenced, each vigorously resisted by the firm. In one of the suits tried in the Eighth District Court judgment was entered for Mr. Brink, but on appeal the General Term of the Common Pleas reversed it. In September, 1876, during the pendency of these suits the firm discharged Mr. Brink on the ground that he forfeited his place by having brought unfounded and vexatious suits. The present suit was for $4,000 damages. Mr. Amos G. Hull, counsel for the firm, contended that the contract was void under the statute of frauds, and could form no basis for a cause of action. Judge Daly ruled that the two instruments together would take the case out of the statute, and denied the motion to dismiss on this ground. When the plaintiff's evidence was all in Mr. Hull, having first put in proof of the pendency of the various suits brought by Mr. Brink, renewed his motion on the ground that the conduct of Mr. Brink in bringing the suits was inconsistent with the duty he owed as a faithful servant of his employers. Mr. Coursen replied in opposition, but Judge Daly granted the motion and dismissed the case.

WILLIE DAW, THE ACROBAT.

Willie Emmerson, better known as Willie Daw, the young acrobat, seems to be the bone of unrelenting contention between his parents, the Society for the Prevention of Cruelty to Children and his acrobatic instructor. In 1872 his parents, who live in San Francisco, indentured the boy to Howard Daw for four years, to be taught trapeze and gymnastic performances. At the expiration of the four years Willie, who performs under the name of Willie Daw, having become an expert acrobat, his parents, through the society, applied for his custody, and a writ of habeas corpus was sued out. Judge Donohue referred the matter to Mr. William Sinclair. The examination shows that the boy was kindly treated, had been taught to read and write by Mr. Daw, and upon a physical examination he was pronounced healthy and sound. Mr. Peter Mitchell asked Judge Donohue to give the custody of the boy to Mr. Daw, claiming that parents who would indenture their child at an early age to an acrobat performer were not fit persons for the child's custody; that after they had parted with him for four years and he had become attached to Daw it was cruel to take him away, and that the boy being exceedingly precocious his wishes ought to be consulted as to with whom he would rather live, he preferring to stay with his acrobatic instructor. Mr. Delafield appeared for the society, and in order to further examine the child by the Court the matter was adjourned until morning.

A COUNTERFEIT TRADE DOLLAR.

John Shannon was getting his boots blacked close by the candy stand of Baptiste Bennoti when the latter improved the occasion by inviting Mr. Shannon to buy a stick of candy. Shannon said he would if the Italian could change a dollar, at the same time handing him a trade dollar. The Italian went to get change, and, as he says, discovering the dollar to be a counterfeit, had Shannon arrested. The latter said before Commissioner Shields yesterday that he had no knowledge that the dollar was bad, and that if the Italian had come back to him and told him so he would have given him another.

"Do you understand English well?" inquired General Foster of the Italian, during the examination.

"No, me sick in my ear," was the reply.

The evidence was found wholly insufficient to sustain the charge of any guilty knowledge on the part of Mr. Shannon as to the dollar being a counterfeit and he was discharged.

TRIALS OF A DOG CATCHER.

Thomas Butler was recently convicted in the Court of Special Sessions of assault and battery and sentenced to ten days' imprisonment and to pay a fine of $10. His counsel, Mr. John O. Mott, obtained yesterday from Judge Barrett a writ of certiorari with a view to carry the case to the General Term for renewal and from Judge Donohue a writ of habeas corpus and an order admitting the prisoner to bail pending the hearing at the General Term. Butler was a dog catcher and employed an assistant who captured the dog of Anthony Green, a barber, who, on seeing his favorite canine being carried away, left a customer half shaved and, with razor in hand, undertook to recapture his dog. Butler knocked down the barber, hence his arrest. He was convicted on the ground that he had no right under the order to employ a deputy. Mr. Mott insists that this right belongs as much to a dog catcher as to a sheriff.

AMERICAN POPULAR LIFE.

Mr. Edward L. Lawrence, receiver of the American Popular Life Insurance Company, was yesterday, on application of Attorney General Fairchild, directed by Judge Donohue to bring suits against various stockholders to recover dividends alleged to have been illegally paid to them. Mr. Lawrence states that an examination of the books of the company shows conclusively that the same had been insolvent for a long time previous to his appointment as receiver; that the company had at intervals declared dividends on the capital stock and paid such dividends to stockholders out of moneys falsely pretended to have been earned by the company, and that a number of persons who had been applied to to refund such payments had refused to do so. He gives a list of the alleged derelict parties, and against such the orders to bring suit was granted.

DECISIONS.

SUPREME COURT—CHAMBERS.

By Judge Lawrence.

Roosevelt Hospital, &c., vs. The Mayor, &c.—The counsel for the defendant refers in his supplemental points to the case of St. Joseph's Asylum, recently decided by the Court of Appeals, and claims that the decision in that case disposes of one of the principal points involved in the case before the Court. The case referred to does not appear to be reported and I desire a copy of the opinion, if counsel can furnish it.

Ratzer, &c., vs. Ratzer, &c.—Assuming that the learned counsel for the defendant is right in contending that the questions involved in this action, and in the suit in the Court of Chancery of the State of New Jersey, are the same or substantially the same, I am of the opinion that the motion for leave to file a supplemental answer should be denied for the reason that the action in this court was commenced first. The rule is that where there are two proceedings pending between the same parties for the same cause of action the proceedings first commenced is a bar to the last. (Goshen vs. Lyon 10, Bart., 461.) In the case of Bates vs. Fellows (4 Bosworth, 639) referred to by counsel the Court refused to pass upon the question of the sufficiency of the matter proposed to be pleaded in the supplemental answer because it depended upon a question of fact to be proved. Here the question of sufficiency is necessarily one of law, and under the decision in 16 Bart., above cited, the matter proposed to be pleaded cannot be a bar to this action. Motion denied, with $10 costs.

Matter of the Last Will, &c., of James Foster, Jr., &c.—Report of referree confirmed, with costs. Opinion.

Halsted vs. Lesman.—An allowance of five per cent on the amount received is granted to defendant. Memorandum for counsel.

The People ex rel. Miller vs. Smith and others, &c.—The first exception taken by the respondents to the writ cannot be sustained. The writ explicitly states that the individuals addressed constitute the Board of Police Commissioners, and it is addressed to them as such Commissioners. I do not regard the writ as argumentative in the respect claimed by the respondents' counsel. All the other exceptions seem to relate to matters which can be more appropriately disposed of when a return has been made and all the facts of the case are before the Court, and I do not feel disposed to pass on the question sought to be raised on a motion to quash. Motion denied, without costs.

By Judge Barrett.

The People ex rel. O'Brien vs. Board of Assessors; Miller vs. Board of Assessors.—The settlement of these orders can now be brought up on notice to the Corporation Counsel.

By Judge Donohue.

Lavensen, &c., vs. The Red Line Transportation Company; Thaule vs. Krekeler.—Motions denied.

Smith vs. Overmann.—See parts marked out; other to stand.

In the matter of Dickie, &c.—Granted.

By Judge Westbrook.

Lewenstein vs. Roberts, Jr.—Motion to vacate arrest granted, with $10 costs.

In the matter of Schualbe.—Motion granted; James D. Fisk appointed trustee.

Sparks vs. Ingraham.—Motion granted.

Helmke vs. Packer.—Bail reduced to $1,000.

Gano vs. McCann; Wright vs. The Mayor, &c.—Orders granted.

SUPERIOR COURT—SPECIAL TERM.

By Judge Freedman.

Wyman vs. Blumgart et al.—Motion denied.

Weed vs. The Mutual Benefit Life Insurance Company.—Remittitur filed; judgment affirmed.

Western Union Telegraph Company vs. Harrington et al.—The injunction at present in force should be continued until trial, with $10 costs, to abide the event. But any of the defendants who will execute the stipulation referred to in the supplementary suggestions handed up by plaintiff may, as against themselves, have the injunction so far modified as to be able to proceed with suits already pending. Order to be settled on motion.

By Judge Van Vorst.

Welsh vs. Skidmore et al.—Order settled and signed.

McKelvey vs. Lewis.—Motion denied, but without costs. Opinion.

By Chief Judge Curtis.

Croker vs. Croker.—Order signed.

Anderson vs. Wetzler.—Motion that defendant make certain statements and allegations in answer more definite and certain granted, with costs of motion to plaintiff to abide event of suit.

COMMON PLEAS—SPECIAL TERM.

By Judge Robinson.

The Juvenile Guardian Society vs. Roosevelt.—Complaint dismissed.

The Exchange Fire Insurance Company vs. Early; Colwell vs. Keefer; Nolan vs. Nolan.—References ordered.

In the matter of Fairchild, Hill & Co.; Hogan vs. Dunn; Hogan vs. Lawson; Hogan vs. Lantry; Hatch vs. Wicks.—Approved.

Nolting vs. Grass.—Order granted.

MARINE COURT—CHAMBERS.

By Judge McAdam.

Hirschberg vs. Davis.—The defence of accord, without tender of satisfaction is defective (C. T. Kingsley, Edm. S., 1,143).—The motion for judgment granted.

Gee vs. Olmstead.—The supplemental order merely affects moneys due on the 4th of September, 1877, the day on which it was granted. See Merrian vs. Hill (vol 1 p. 260 Weekly Digest). The defendant will therefore be required to submit to a further examination on the 8th of October at ten A. M., as to what portion of the money collected was then due.

Adams vs. Valentine; Wight vs. Bickling; Grasse vs. Blake; Redmond vs. Byrnes; Pearsall vs. Malcolm.—Motions granted.

Byrnes vs. Deleyer.—Motion denied, without costs.

Willard vs. Colgate.—The book account and ring must be transferred and delivered over to plaintiff.

Leslie vs. Moody; Hart vs. Connor; Low vs. Ely; Rice vs. Bunn; Williams vs. Connolly.—Orders settled.

Coyle vs. Reilly.—The evidence justifies the appointment of a receiver, John S. McGill.

Cary vs. Williamson.—Defendant fined $10, to be paid on or before October 3 and ordered to appear October 3 at two P. M.

Ferguson vs. Zucca.—Motion granted for October 19, 1877.

McCallum vs. Lamzan.; Witdack vs. Kalisch (two cases).—Motions granted.

Wedemeyer vs. Vincent.—Arrest vacated.

Sterling vs. Stewart.—Dismissed.

Prendible vs. Cavanagh; Same vs. Le Grand; Same vs. McGibney.—Judgments.

The Great Council of the Improved Order of Red Men vs. Erhart.—Judgment for plaintiff on demurrer.

Bogart vs. Davidson; Keller vs. Foote; Harrison vs. Roche.—Defaults.

Lindner vs. Boylan.—Decision filed.

Mullen & Rehm; Lewis vs. Solomon.—Sureties approved.

SUMMARY OF LAW CASES.

A seduction suit has been brought by Andrew Nolting against Lucis Grass, and the defendant, who is a minor, yesterday obtained an order from Judge Robinson appointing his father guardian ad litem.

The Supreme Court, General Term, yesterday, after hearing some important motions, adjourned till next Monday. The adjournment was to allow the judges opportunity to attend the Judicial Convention to-morrow in Albany.

On application of Mr. Peter Mitchell Judge Barrett yesterday granted an order to show cause why the Musical Protective Union of New York should not restore to membership Giuseppe Mazzocapi. The order was made returnable to-day.

A writ of habeas corpus was granted yesterday by Judge Barrett, on application of Mr. H. C. Denison, requiring the Catholic Protectory of Westchester county to produce in Court Catherine and Mary E. Fitzsimons, respectively eight and ten years of age. These children, it is alleged, were taken up as vagrants. It is now claimed that they strayed away from home without their parents' knowledge. The case was set down for a hearing to-morrow.

The trial of a suit brought by Duncan McCall against the Western Union Telegraph Company was commenced yesterday in the Court of Common Pleas. The action is brought to recover $1,200 damages for the non-delivery of a telegram, whereby the plaintiff, as he alleges, lost his commission for the charter of two ships. The defence is that the damages are too remote, and that the telegram was not repeated, as required by the rules of the company.

In the case of Henry W. Thaule vs. Margaret M. Krekeler for malicious prosecution, in which the jury gave Thaule a verdict of $3,500, a motion was made by her counsel, Peter Mitchell, for a new trial, and opposed by D. M. Porter, counsel for Thaule. Judge Donohue yesterday rendered his decision denying the motion, with costs to be paid by Mrs. Krekeler.

Some time since motion was made before Judge Lawrence, in Supreme Court, Chambers, to quash a writ of mandamus to compel the Police Commissioners to pay Sergeant Miller two months' salary. The motion was argued by Mr. McClean on behalf of the Police Commissioners and opposed by Messrs. Grant and Lydecker on behalf of Sergeant Miller. Yesterday the Judge rendered a decision in favor of the Sergeant.

In most of the State courts yesterday, it being the commencement of a new term, very little was done beyond calling the calendars and arranging days of trial. All the judges put in a prompt appearance, and the improving effects of their three months' vacation was plainly visible in their bronzed complexions and the renewed energy with which they entered upon the discharge of their judicial duties. It was a general day of congratulatory handshaking all around.

Under the will of the late James Foster, Jr., Mrs. Mary E. Whittlesey was left $30,000, which fund the executors of her father, not wishing to have the care of it, transferred, by order of the Court, to Anthony L. Hoguet and Andrew C. Getty. After a time Mr. Hoguet petitioned the Court for his discharge, which was granted. It is now claimed that $20,000 of the money was lost through accepting worthless securities and notes. Mr. Hoguet having died suit was brought by Mrs. Whittlesey against his executors for the alleged deficiency. The case was referred by Judge Lawrence and the referee reported that the executors of the late trustee were liable. Judge Lawrence yesterday confirmed this report. In his opinion he considers that whatever wrong may have been done by other parties that the claim was clearly a just one.

GENERAL SESSIONS—PART 1.

Before Recorder Hackett.

MALARIAL ATMOSPHERE OF THE COURT ROOM,

Opening the proceedings yesterday was a charge to the Grand Jury. Recorder Hackett, after giving his views in regard to the frauds perpetrated by saving banks and their duty in regard to finding indictments against the derelict officials, which is published elsewhere, called the attention of the Grand Jury to chapter 371, Laws of 1875, and chapter 207 of the Laws of 1874, and went on to say that on three occasions grand juries, after experiencing the vile, pestiferous and malarial atmosphere at all times of Part 1 of the Court and surrounding rooms devoted to the confinement of prisoners awaiting trial, witnesses, relatives and friends of the accused, had presented the place as a nuisance. The court room was constantly crowded with spectators desirous of hearing the testimony in sensational cases. The prison pen was often filled with as many as sixty prisoners brought from the Tombs, whose clothing reeked with filth and exhaled offensive odors, which increased the poison in the atmosphere and disastrously effected the health of every person compelled to inhale it. No one frequented the court room constantly without suffering serious illness, and during the eleven years in which he had had the honor to occupy the bench his health had suffered severely, and eminent physicians had advised him that he endangered his life by sitting there. Judges Sutherland and Gildersleeve and the District Attorney, who were compelled to transact business in the court, suffered from the poisonous atmosphere as severely as he did. The Board of Aldermen had the power to redress this wrong and give the judges of this important court decent rooms by allotting to their use the first floor of the building, where proper ventilation could be obtained. Although the building was erected expressly as a Court of General Sessions the Aldermen had, for some unaccountable reason, assigned one branch of the court to a room 135 feet from the ground and turned the judges out of their comparatively accessible chambers into rooms approached by confined stairways, traversed annually by hundreds of thousands of persons who left unmistakably filthy traces of their presence. In conclusion, the Recorder asked the Grand Jury to examine the matter for themselves, and if they found the place to be, as he had represented it, unfit to be occupied as a court room, to express their opinion in a presentment. The Grand Jury then retired.

REMANDED FOR SENTENCE.

Frederick Buckingham was arraigned for trial by Assistant District Attorney Bell, charged with having forged a check for $5,548 78, which purported to have been drawn by Messrs. Hatch & Foote, No. 12 Wall street, on the Phœnix National Bank, and indorsed by the bookkeeper of that institution, W. H. Bigbley. The check was presented to the cashier of the Tenth National Bank and the forgery was detected. The prisoner was arrested and taken to the Tombs, and was at first supposed to be Chauncey Johnson, a well known swindler, but the supposition proved to be incorrect. On motion of Mr. Bell the prisoner was remanded for sentence.

GENERAL SESSIONS—PART 2.

Before Judge Sutherland.

The Court was occupied during the day with a number of minor cases, the most important being that of Ann Rosenbercher, of No. 36 Bowery, who is charged with the larceny of a gold watch and chain on the 15th of September last. The further hearing of the case will be resumed to-day.

THE RING SUITS POSTPONED.

The adjourned circuit for January, 1876, of the Supreme Court, which was postponed until yesterday for the purpose of trying the Ring suits, was further postponed until the first Monday in December.

COURT CALENDARS—THIS DAY.

SUPREME COURT—CHAMBERS—Held by Judge Barrett.—Nos. 67, 104, 110, 112, 115, 118, 119, 134. Call from No. 138 up to and including No. 200.

SUPREME COURT—GENERAL TERM.—Adjourned until next Monday.

SUPREME COURT—SPECIAL TERM.—Held by Judge Van Vorst.—Law and Fact.—Nos. 501, 48, 554, 556, 561, 566, 569, 570, 571, 122, 604, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 599, 600, 601, 602, 603, 605, 606, 607, 608, 610, 611, 612, 613.

SUPREME COURT—CIRCUIT—Part 1—Held by Judge Donohue.—Nos. 4528⅛, 1, 2719, 3389, 3413, 3385, 3577, 3175, 3273, 3362, 3431, 3573, 2743⅛, 1381, 3673, 3641, 3551, 3495, 1057⅛, 777, 3887, 2188, 1895, 175, 911⅛, 912¼, 1160, 2693, 1553, 2627, 1548, 804, 459, 2464, 1621⅛, 1729⅛, 775, 4630, 1726, 1834, 1076, 1959, 434⅛. Part 2—Held by Judge Lawrence.—Nos. 247⅛, 1398, 1944, 4860, 2402, 2150, 1744, 2162, 1932, 2596, 1694, 2616, 2638, 2086, 2420, 2122, 2572, 2454, 3953, 3922, 500, 2256, 2634, 4576, 4964. Part 3—Held by Judge Van Brunt.—Nos. 1026⅛, 413, 419, 453, 953, 1798, 1362⅛, 379, 1057⅛, 328⅛, 1663, 4351, 1428, 884, 3730, 811, 4583, 1671, 4373, 656, 2175, 2161.

COMMON PLEAS—GENERAL TERM.—Adjourned until first Monday of November.

COMMON PLEAS—EQUITY TERM.—No day calendar.

COMMON PLEAS—TRIAL TERM—Part 1.—Adjourned until Monday, October 8. Part 2—Held by Judge Larremore.—Nos. 143, 229, 1285, 587, 761, 664, 1769, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327. Part 3—Held by Judge J. T. Daly.—Nos. 1302, 1306, 1315, 1247, 1295.

SUPERIOR COURT—GENERAL TERM.—Adjourned until first Monday of November.

SUPERIOR COURT—SPECIAL TERM—Held by Judge Freedman.—Nos. 4, 45, 50, 64.

SUPERIOR COURT—TRIAL TERM—Part 1—Held by Judge Speir.—Nos. 338, 270, 519, 16, 272, 94, 95, 97, 99, 102, 103, 104, 105, 109, 110, 111, 112, 113, 114, 115, 116, 117. Part 2—Adjourned until next Monday. Part 3—Held by Judge Sanford.—Nos. 45, 397, 470, 65, 66, 69, 72, 74, 75, 76, 77, 78, 81, 82, 83, 84, 86, 88, 90, 91, 92.

MARINE COURT—TRIAL TERM—Part 1—Held by Judge Sinnott.—Nos. 1666, 1613, 1692, 1693, 1766, 1770, 1774, 670, 1776, 1779, 1780, 1644, 1607, 1814, 1609. Part 2—Held by Judge Sheridan.—Nos. 1625, 2137, 1489, 1278, 1371, 1164, 1522, 1935, 1733, 1744, 1015, 1791, 1793, 1523, 1570. Part 3—Held by Judge Alker.—Nos. 1660, 3502, 1561, 1853, 1449, 1786, 1138, 1797, 990⅛, 1862, 1865, 1866, 1867, 1868, 1869.

COURT OF GENERAL SESSIONS—Held by Recorder Hackett.—The People vs. James Schofield; Same vs. Francis Shields, felonious assault and battery; Same vs. William Johnson, grand larceny; Same vs. Frederick Shaffer, receiving stolen goods; Same vs. George Rullman, assault and battery; Same vs. Tilford Stuyvesant, assault and battery; Same vs. James Simpson, felonious assault and battery.

KINGS COUNTY GRAND JURY.

The Kings County Court of Over and Terminer organized yesterday, Justice Dykman and Associate Justices presiding. The following grand jurors were empanelled for the term:—Stephen Vanderveer (foreman), D. D. Burnett, Thomas Glover, Smith Berian, Phineas C. Pearsall, Michael Byrne, John G. Jones, Jacob Ryerson, P. W. Kenyon, Alexander S. Chadwick, Michael Parsons, Edmond Butler, James N. Knapp, John S. Murray, Samuel N. Stebbins, John Errickson and William Byrnes.

The foreman of the jury was sworn in conformity to the new Code of Procedure with uplifted hand. The usual statutory change was made by the Court, and the jury retired to deliberate upon the business to be presented for their consideration.

BROOKLYN THEATRE FIRE SUITS.

In the Supreme Court, Circuit, Kings county, yesterday, the case of Josephine M. Veith, administratrix, against Sheridan Shook, and the suit of Kate Kleinshow, administratrix, against the same defendant, were called for trial before Justice Dykman. The actions are brought to recover damages in the sum of $5,000 each for the loss of plaintiffs' relatives by the Brooklyn Theatre fire, December 5, 1876.

COURT OF APPEALS.

NEW RULES FOR THE ADMISSION OF YOUNG MEN TO PRACTISE IN THE COURTS OF RECORD IN NEW YORK STATE.

ALBANY, N. Y., Oct. 1, 1877.

In Court of Appeals, Monday, Oct. 1, 1877.—Present, Sanford E. Church, Chief Judge, and Associate Judges Rapallo, Andrews, and Earl.

No. 99. Potter vs. Carpenter.—Argument resumed and concluded.

Owing to the sickness and absence of other members of the Court the Court adjourned till to-morrow, a quorum not being present.

COURT RULES.

The following rules were adopted in the Court of Appeals September 28, 1877, and filed in the office of the Secretary of State, as provided by section 57 of the new code of civil procedure:—

Ordered, that the following amended rules for the examination and admission of persons to practise as attorneys and counsellors in the courts of record in this State be and the same are hereby adopted in pursuance of the provisions of the code of civil procedure, all the judges concurring:—

First—No person shall be admitted to practise as an attorney or counsellor in any court of record in this State, except as provided in these rules, without a regular admission and license by the Supreme Court, at a general term thereof, after a satisfactory examination conducted by the judges of such court, or by at least three practising lawyers of at least seven years' standing at the Bar, to be appointed for one year at the first general term held in each year in the respective departments. The members of such committee of examination may be removed at any time by the Court, and vacancies for any cause or non-attendance may be supplied during the year.

Second—To entitle an applicant to an examination as an attorney he must prove to the Court—First, that he is a citizen of the United States, twenty-one years of age and a resident of the department within which the application is made, and that he has not been examined in any other department for admission to practise and been refused admission and license within three months immediately preceding, which proof may be made by his own affidavit; second, that he is a person of good moral character, by the certificate of the attorney with whom he pursued his clerkship, but such certificate shall not be conclusive, and the Court must be satisfied on this point on examination and inquiry; third, that he has served the clerkship or pursued the substituted course of study prescribed by the rules; the clerkship may be proved by the certificate of the attorneys, with whom the same was served, or, in case of their death or removal from the State, by other satisfactory evidence; the time of study allowed as a substitute for any part of the clerkship, may be proved by the certificate of the teacher or president of the faculty, under whose instructions the person has studied. In addition to the affidavit of the applicant the proof must be satisfactory to the presiding judge of the court, who alone shall make the order allowing a reduction from the regular term of clerkship by reason of such studies.

Third—No person shall be admitted to an examination as an attorney unless he shall have served a regular clerkship of three years in the office of a practising attorney of the Supreme Court. After the age of eighteen years an allowance of one year shall be made to applicants who are graduates of any college or university. Any portion of time, not exceeding one year for graduates receiving the foregoing allowance, and two years for other applicants, actually spent in regular attendance upon the law lectures or the law school connected with any college or university of this State having a department organized with competent professors and teachers in which instruction is regularly given, shall be allowed in lieu of an equal period of clerkship in the office of a practising attorney of the Supreme Court. But in no case shall an applicant be entitled to an examination as an attorney without having served a clerkship in the office of a practising attorney of the Supreme Court for the period of at least one year.

Fourth—It shall be the duty of attorneys with whom a clerkship shall be commenced to file a certificate of the same in the office of the Clerk of the Court of Appeals. The clerkship shall be deemed commenced from the time of such filing and a certified copy of the certificate and of the filing shall be produced at the time of the application for examination.

Fifth—The examination and admission provided for in the previous rule shall entitle the applicant to a license to practise as attorney only. At the expiration of two years from the time of his admission as attorney he may apply to the general term for examination as a counsellor. Upon such application he shall, by his own affidavit or otherwise, satisfy the court that during the two years since he was admitted as attorney he has been actually engaged in the practice of law as a clerk in the office of a practising attorney or otherwise or in attending a law school or law lectures, as provided in rule 3. It shall be the duty of the court to cause an examination of the applicant to be made by the judges holding the court or by a committee as provided in rule 1, and if satisfactory to license him to practise as a counsellor. Any person admitted as an attorney of the Supreme Court may practice as an attorney and counsellor in county courts.

Sixth—Persons who have been admitted as attorneys in the highest court of another State may be admitted to examination as attorneys and counsellors if they have served a regular clerkship of one year in the office of a practising attorney in the Supreme Court of this State and shall in other respects be entitled to such examination. If the time of clerkship served in another State, and the time that such applicant has practised law after his admission in another State, including the year of clerkship required in this State, shall not in the aggregate equal five years, then the applicant shall only be licensed as an attorney, and after such time shall aggregate five years he may apply for admission to an examination as counsellor and be licensed as in case of other applicants.

Seventh—Any person who has been admitted and has practised three years as an attorney and counsellor in the highest court of law in another State, may be admitted and licensed without examination, but he must possess the other qualifications required by these rules, and must produce a letter of recommendation from one of the judges of the highest court of law of such other State, or furnish other satisfactory evidence of character and qualifications.

Eighth—Not more than three months' vacation shall be allowed in any year in the time of clerkship, which shall be computed by the calendar year, and if the period of clerkship shall expire during the term at which application is made the applicant may be admitted on any day during the term. The same period of time shall not be duplicated for different purposes. The judges of the Supreme Court may adopt regulations for conducting the respective examinations, and may require a portion of either or both to be in writing.

Ninth—These rules shall take effect on the first day of October next.

CALENDAR.

The following is the calendar for Tuesday, October 2:—Nos. 147, 148, 21½, 344, 354, 150, 151, 155.

THE CRUSHED TRAGEDIAN.

A LARGE AUDIENCE BUT NO PERFORMANCE IN COURT.

From the publicity given to