NEW LIQUOR BILL.

Temperance Men and Dealers Disposed to Compromise.

THE SUNDAY QUESTION.

Claims of Wholesale Dealers Against Retail Sellers To Be Outlawed.

It is no secret that frequent consultations have been held by the leading temperance men of the State with representatives of the liquor dealing interest of this city concerning legislation affecting, more especially, the sale of liquors in this city, and it is believed that such an understanding has been reached as should satisfy every one except the total abstinence party.

EMBARRASSMENTS.

There are several embarrassments in the way of equitable legislation, some of which, it is believed, can be overcome, while others are apparently stubborn. For instance, the next year's election includes the choice of a Governor, and timid republicans in the interior of the State fear that if they do anything to further moderate excise legislation, they may so offend the extreme temperance people, that in revenge they will run a third, or temperance ticket. This course, it is said, would suit republicans more than democrats. The former will have a large majority in the next Assembly and in the Senate also. As a rule democratic members vote for liberal excise legislation, but as some of them are returned from rural districts and are amenable to rural discipline, it is considered safe to count on a loss of five or six votes from the democratic strength of 28. This would leave 23 democratic votes, but as 65 are needed to pass a bill it is evident that the rest must be made up from the republicans. The estimated vote stands as follows:—Democrats, 23; New York republicans, 5; Kings county, 5; Albany, 3 or 4; Buffalo, 4 or 5; Rochester and the rest of the State, 8 or 10. Total, 49 or 53.

It will be seen that, if this estimate is correct, it will be necessary to convert at least twelve, and possibly sixteen, republicans in order that a bill of any less stringent nature could be passed in the Assembly. This necessitates—if such a course were not already approved—the cordial co-operation of the "straight" liquor dealers with the moderate temperance men, and secures a law to which no honest dealer can object. The advisers of the liquor dealers think that there would be no trouble whatever with the Legislature this coming session if it were not for the gubernatorial campaign, in which A. B. Cornell, Chester A. Arthur, John H. Starin and Congressman John Ketcham are already considered entered.

THE HOTEL SECTION.

One of the chief among them said yesterday, "it is a mistake to suppose that the reputable liquor dealers want a free liquor bill. We see the force and influence of the temperance sentiment and acknowledge it. We are willing to meet the temperance people half way and to compromise on an equitable basis. We think the hotel section should be struck out. There are at least 150,000 people who leave their homes in the morning and spend their day down town. Is it fair to say that these people must hunt up a hotel before they can get a glass of ale with their lunch? We don't care about sensible restrictions—the more the better. Look at the Union League Club, where Judge Noah Davis and District Attorney Phelps are Hitchcocks. Every time a glass of wine is drunk there, law is violated. Just so in the Manhattan Club, where Judge Brady is one of the 'top sawyers.'"

"Are they not licensed?"

"What if they are? It must be improperly, for they are not hotels, and it is the same with Delmonico's."

THE PROPOSED BILL.

Ascertaining that the draft of a proposed bill had been prepared a HERALD reporter sought and obtained a sight of it. It resembles somewhat the bill introduced by Mr. Daly. The following is a digest of its provisions, and though subject to changes here and there, is substantially what the two parties are agreed upon. It is styled "An act to regulate the sale of intoxicating liquors, wines, ale and beer in the city of New York":—

To authorize the Board of Excise of the city of New York, to grant any license, a written application for such license, signed by the applicant and addressed to said Board, must be filed with said Board; and, in addition thereto there must be filed a certificate, signed by twelve respectable citizens residing within the election district where the applicant intends to conduct his business, certifying as to the good character of the applicant; and not more than one license shall be granted on the memorial of the same persons or any of them. Such application must state accurately the number and street in which the place is located for which such license is applied, the full name or names of the applicant or applicants, and also of every other person interested or intending to be interested in the business for which such license is applied for; also, whether the application is for a license authorizing the sale of strong or spirituous liquors, wines, ale or beer to be drunk on the premises mentioned in said application, or for the sale of said liquors, wines, ale or beer, not to be drunk at such place.

2. If the application is for a license authorizing the sale of such liquors, &c., to be drunk on the premises, a bond of $250, with two sureties, must be filed, that the place will not be disorderly and that no gambling will be carried on therein.

3. If the application is for a license authorizing the sale of liquors, &c., not to be drunk on the premises, the bond to be filed at the time of filing the application, shall be for $500, and the sureties shall each justify in the sum of $1,000, and the condition of said bond shall be that the applicant will not sell nor suffer to be sold any of said liquors, &c., to be drunk on the place for which said license is applied for.

4. The fee for a license for the sale of ale and beer only shall be not less than $30, nor more than $100; the fee for a license for the sale of liquors, wines, ale and beer, to be drunk on the premises, shall not be less than $150, nor more than $350; and the fee for a license for the sale of liquors, wines, ale and beer, not to be drunk on the premises, shall not be less than $100, nor more than $150.

5. If the Board of Excise approve of the application and bond, and are satisfied the applicant is of good moral character, the said Board shall have power to grant the license.

6. The licenses issued under this law shall be in printed form and uniform in appearance; they shall be signed by the Chief Clerk of the Board of Excise and shall state that the applicant, having fully complied with the conditions required of him and having paid the fee fixed, is granted, authorizing the applicant to sell and dispose of said liquors, wines, ale and beer, in the place, to be drunk or not on said premises as applied for.

7. No license shall be granted to any felon or unpardoned criminal.

8. The said Board of Excise shall act on all applications within twenty days after the same are filed.

9. A license under this law shall be for one year only, and shall cease to have force and effect at the expiration of one year from the date appearing on said license, but such license may be applied for and renewed within thirty days before the expiration of said license with it.

10. The license shall be posted in a conspicuous position in the room or place where the sales of liquors, wines, ales and beer are made, and shall at all times be shown and exhibited to any member of the police force or Board of Excise, or its officers or agents demanding to see the same. The omission to post or exhibit such license as herein required, shall be held to be prima facie evidence that no license was granted or issued to the person against whom any complaint has been or may be made.

11. Within twenty days after the expiration of the license, or as soon as the license is revoked, it shall be removed from the place or room where the same was posted.

12. No liquors, wines, ale or beer shall be sold, disposed of or given away or exposed for sale in any public place, or suffered or permitted to be sold, disposed of or given away, to be drunk on the premises or otherwise, by any person or persons, without the proper license therefor.

THE SABBATH AND ELECTION DAYS.

13. No liquors, wines, ale or beer shall be sold, disposed of, or given away, or exposed for sale on the first day of the week, known as Sunday, nor on any election day as long as and while the polls are open, nor on any day between the hours of one and five o'clock in the morning; and at said times all places licensed under this law shall be kept completely and effectively closed; and it shall be the duty of the police to enforce the observance of the provisions of this section; but nothing herein contained shall be construed to prevent hotel and inn keepers from receiving or entertaining travellers and guests at said times.

14. No person shall knowingly sell, give, dispose of, or suffer to be sold, given, or disposed of, any liquors, wines, ale or beer, to any apprentice or person under the age of eighteen years.

15. No person shall knowingly sell, give or dispose of, or suffer to be sold, given or disposed of any liquors, wines, ale or beer to an habitual drunkard or to a person in a state of intoxication.

16. No person, excepting one holding a license under this act, shall have in or about his, her or their premises any sign, notice or token indicating that liquors, wines, ale or beer are kept there for sale, or permit any sign, notice or token to such effect to remain or continue in or about his, her or their premises, nor shall such person or persons give notice that he, she or they have such wines, liquors, ale or beer for sale or to be disposed of or given away.

17. Every person who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and on conviction shall be punished with a fine of not less than $50 nor more than $250, and with imprisonment for not more than sixty days.

18. No person shall be able to recover in any proceeding at law for any strong or spirituous liquors, wines, ale or beer sold in quantities less than five gallons on credit to be drunk on any premises in which the same is sold.

19. The conviction of any person for any violation of this act shall of itself forfeit and annul any license granted to such person.

20. The said Board of Excise shall have power to revoke any license for the following reasons, as hereinafter provided:—First, for the conviction of a licensee for a violation of this law; second, for a violation by such licensee of this law; third, for any false representation or statement in the application on which the license was granted; fourth, for any unlawful or improper act committed for the purpose of procuring said license; fifth, for the insufficiency of the sureties on the bond of such licensee.

21. If the Board have reason to believe that any ground for revoking a license exists, or if a complaint be made against any person holding a license for any violation of this law the Board shall prefer charges against him and serve him with a written copy of the charges, and the person so complained against shall be heard in his defence and witnesses may be examined for and against him. If after such investigation the Board of Excise is satisfied that the charges are sustained they shall revoke and annul such license, and may thereafter enter the premises of the party holding such license, and, without warrant or other process, take possession of and destroy such license. If the ground for revoking such license is the insufficiency of the sureties the same shall not be revoked until the person or persons holding such license have been notified by said Board to file a new bond within a time designated in said notice, and have failed or refused within such time to file such new bond, such new bond to be executed and approved as hereinbefore provided.

24. No license shall be granted to any person or persons whose license has been revoked under this law for any reason, excepting for the insufficiency of sureties, for a period of three years from the date of said revocation. If such license has been revoked for the reason that the sureties are insufficient a new license may at any time be granted, whenever the proper bond, with sufficient sureties, is filed with and approved by said Board of Excise.

25. It shall be the duty of every policeman and member of the police force to arrest any and every person actually engaged in his or their presence in the commission of any offence in violation of this act and forthwith to take such person or persons so arrested before the nearest magistrate, and it shall be the duty of every magistrate to entertain any complaint for a violation of this act made by any person under oath, and to issue a warrant causing such offender to be brought before him, and all such offenders shall thereupon be dealt with according to law.

27. In addition to the punishment herein provided, any person who shall sell, dispose of or give away, or permit to be sold or exposed for sale, any strong or spirituous liquors, wines, ale or beer, in quantities less than five gallons at a time, without having a proper license therefor, shall incur a penalty of $50 for each offence.

30. All companies and persons engaged in conveying passengers or property for hire in the city of New York, are required to refuse employment to all persons who, on good and sufficient proof made to him or them, are shown to indulge in the intemperate use of intoxicating liquors, and any company or person retaining in his or their employment such person as engineer, conductor, fireman, switch tender, commander, pilot, mate or foreman after such proof has been made to him or them, shall be liable to pay a sum of not less than $50 nor more than $100, to be sued for as herein provided for the recovery of any other penalty under this act.

31. It shall be the duty of every member of the police force to arrest any intoxicated person found by him in any public place or street, and take him before the nearest magistrate. If such magistrate shall find such person to be too much intoxicated to be examined or to answer on oath correctly, he shall direct said officer to keep him in some jail, lock-up or station house, until he becomes sober, and thereupon forthwith again bring him before the said magistrate, and it shall be the duty of such magistrate thereupon to examine such person under oath or affirmation as to the cause of such intoxication, and to ascertain the person or persons who sold or gave the liquor to such person, and to at once return to the said Board of Excise a certified copy of such examination. Such intoxication is hereby declared to be an offence against the provisions of this act, punishable, upon conviction, by a fine of $10 and costs, and imprisonment in the county jail, workhouse or penitentiary, not to exceed ten days.

COMPELLING UNLICENSED DEALERS.

32. No action shall be maintained by any person, persons, corporation or company, being residents of the city of New York, for the recovery of the price or value of any liquors, wines, ale or beer, knowingly sold to any person or persons carrying on the business of selling liquors, wines, ale or beer in the city of New York without a proper license therefor.

33. Persons not licensed may sell and dispose of spirituous liquors, wine, ale and beer, in quantities exceeding five gallons at a time, provided no part thereof shall be drunk or used in the building in which the same are given and disposed of or sold, nor in any garden or enclosure communicating therewith, nor in any public place or street contiguous thereto. If such liquors so sold and disposed of are drunk or used in violation of the provisions of this section, the party selling or disposing of said liquors shall be liable to the punishment provided in this law.

34. Each commissioner of excise of the city of New York shall give a bond to the people of the State of New York for the faithful performance of his duties and for the faithful custody of all moneys received by him under this act. The penal sum of such bond shall be $25,000 and there shall be required securities, each of whom shall justify in the aggregate sum of $50,000. Such bond shall be executed before and approved by a justice of a court of record of the State of New York, and shall be filed in the office of the County Clerk of the county of New York. The Commissioners of Excise shall not retain any such moneys in their possession for a longer period than five days. All license fees received by the Commissioners shall be paid over to the Comptroller of the city of New York within five days after their receipt. The Commissioners of Excise shall be jointly and severally liable for the faithful custody of such moneys received by them under this act.

35. It shall be the duty of the Board of Health of the city of New York to establish, within two weeks after the passage of this act, a standard of purity for all wines, spirituous liquors, ale or beer sold in the city of New York. This standard shall be published once a day, for ten days, in five daily papers published in that city, one of which shall be in the German and one in the French language, and it shall be the duty of the Board of Excise to see that all wines, spirituous beverages, ale and beer sold in the city conform to the published standard.

36. No person shall for any purpose enter under a false name or designation in any book, bill, account or memorandum any liquor, wine, ale or beer sold by him or on his premises, nor shall any person charge or collect or attempt to charge or collect from any other person the price or value of any liquors sold or disposed of under any false name or designation. Any person offending against this section shall be deemed guilty of a misdemeanor and punished as herein provided.

37. Every person engaged in the sale of strong or spirituous liquors to be drunk on the premises where sold shall have exhibited upon the outside of said premises a sign indicating the nature of the business there carried on; and there shall also be painted thereon the name or names in full of the person or persons engaged or interested in said business at such place. Every person violating the provisions of this section shall incur and be liable to a penalty of $10 for each offence.

38. Every husband, wife, child, parent, guardian, employer or other person who shall be injured in person, or in consequence of the intoxication, habitual or otherwise, of any person, shall have a right of action in his or her name against any person or persons who shall, by selling or giving away intoxicating liquors, cause the intoxication, in whole or in part, of such person or persons, and any person or persons owning or renting or permitting the occupation of any building or premises, and having knowledge that intoxicating liquors are to be sold therein, shall be liable, severally or jointly with the person or persons selling or giving intoxicating liquors aforesaid, for all damages sustained and for exemplary damages; and damages recovered by a minor under this act shall be paid either to such minor or to his or her parent, guardian or next friend, as the court shall direct, and the unlawful sale or giving away intoxicating liquors shall work a forfeiture of all rights of the lessee or tenant under any lease or contract of rent upon the premises.

39. Any license lawfully granted before the passage of this act may, at the option of the licensee, and within thirty days from the passage of this act, be surrendered; in which event a new license may be issued under this act to the licensee so surrendering his previous license, and, in paying for his new license, he shall be credited with the same proportion of the fee paid for his surrendered license as the unexpired portion of the term of said license shall bear to the whole term for which said license was granted. All licenses lawfully granted before the passage of this act and not surrendered as herein provided for shall continue in force during the term for which they were granted.

40. All acts and parts of acts and Excise laws, and all laws in so far as they relate to or regulate the sale of intoxicating liquors, wines, ale and beer in the city of New York, heretofore passed by the Legislature of the State of New York, excepting such laws and parts of laws as relate to the appointment of the Commissioners of Excise in the city of New York, and the composition and organization of the Board of Excise in said city, and the appointment by said Board of Excise of the clerks, deputies and employes of said Board, and the compensation of said Commissioners, are hereby repealed.

Careful reading of the foregoing digest will show that all the stringent provisions against which the strong fight was made in the last great contest are retained. This is done by the advice of ex-Judge Dittenhoefer, to whom the bill has been submitted and who pronounces it satisfactory to his republican friends as well as to his liquor dealing clients.

DEALERS AS DETECTIVES.

In reply to a question concerning the section which renders it impossible for wholesale dealers to collect their bills from debtors who are unlicensed, Judge Dittenhoefer said, "That is done to make every distiller and every brewer an interested agent of the law. No sane dealer will sell to an unlicensed purchaser when he knows that the law will give him no assistance in enforcing a claim against him. The Sunday clause is retained, not that any one has changed his ideas concerning the propriety of legislation affecting business in a country where religious beliefs are not subject to State interference, but in deference to prejudices of good men and women who conscientiously insist that Sunday traffic is wicked. As I understand the New York men, they don't object to heavy license fees, to stringent regulations or the Sunday section, but they do decidedly object to the hotel section. The temperance folks are willing to compromise in favor of restaurants. Well, what is a restaurant? There is no use in talk at all. When two great parties differ radically and absolutely on a matter of policy, the one way to secure equity to both is for both to give way a little and compromise. I believe that is the point to which these opposing parties are come, and I have good reason to expect that Mr. J. C. J. Langbein will introduce the bill of which you have the digest at an early date."

ERIE NARROW GAUGE.

The first through train of narrow gauge cars started from the Erie depot in Jersey City yesterday at forty-five minutes past nine A. M. It consisted of thirty-two box cars, drawn by engine No. 523. The engine weighs fifty tons, and is so ponderous that it looks top heavy. A train of twenty box cars, drawn by one of the new engines, started from Buffalo on Monday night, and will, it is expected, reach Jersey City this morning. The trains were all behind yesterday on account of the frost on the tracks and the roughness and friction of the new rails. There are now 200 narrow gauge cars at the Jersey City depot and 1,500 are *en route* over the Pennsylvania Railroad from the West.

MUTINOUS FIREMEN.

The Rahway (N. J.) Common Council has passed an ordinance taking from the firemen the right to elect their own officers, and the department, a volunteer one, has rebelled. On Monday there was a slight fire and some of the companies refused to turn out; others went to it on a walk and deserted their apparatus in the street. The Common Council has taken charge of the apparatus, which is owned by the city, and the firemen have removed their personal property from the engine houses.

THE BROADWAY RAILROAD.

THE PROPRIETOR OF THE ST. NICHOLAS HOTEL IN FAVOR OF THE PROJECT.

ST. NICHOLAS HOTEL, NEW YORK, Dec. 31, 1878.

TO THE EDITOR OF THE HERALD:—

I notice that the HERALD (always foremost in great enterprises) advocates a surface railroad on Broadway. The article in to-day's issue gives such sound views on the subject that I venture to express the belief that now the project would have the hearty approval of the business men and property holders. A very great loss to property owners has been caused by the defeat of former efforts for a road of this kind. Broadway below Union square is as well adapted for a road as it is above that locality, and at present the popular retail stores are all where the road is located. Most of this trade was until within a few years below Astor place, and would be at present had a surface road been located in time to prevent the removal. Much of it could be brought back to the magnificent buildings of this great thoroughfare with proper effort. Therefore I heartily approve of your views and certainly would advocate a Broadway railroad from Union square to the Battery, and the sooner the better. Very respectfully yours,

URIAH WELCH,
Proprietor St. Nicholas Hotel.

AMUSEMENTS.

THOMAS' OPERA HOUSE—JERRY THOMAS' MINSTRELS.

A fair audience assembled last night in what is called the Brighton Theatre to witness its opening, under the auspices of Mr. Jerry Thomas, of a series of minstrel performances, which he promises shall be among the best ever given in the city of New York. Mr. Thomas has the advantage of much social popularity, and he has secured several excellent artists, who are capable of illustrating his thought and achieving the success which he has in view. The programme last evening was well selected, and a number of Ethiopian absurdities were presented that kept the house in an uproar. Several of the performers were excellent in their specialties and were lively enough to satisfy any audience that appreciates rollicking fun. The programme comprised songs, dances, speeches and plantation sketches.

MUSICAL AND DRAMATIC NOTES.

Mrs. Scott-Siddons commences a series of readings on Friday evening at Chickering Hall.

Miss Rose Eytinge has been obliged to cancel her engagements by reason of illness, and is confined to her city residence.

The Florences opened last night in San Francisco to what is telegraphically described as the largest house of the season.

"M'liss" with Miss Kate Mayhew and Mr. Edmonds in the cast, will be the feature at the Standard Theatre on Monday next.

Brignoli may sing in Boston or Chicago with the Mapleson company, but has surely been engaged for appearances in Great Britain.

Mme. Marie Roze and Miss Minnie Hauk are still indisposed. Their sickness has seriously interfered with the presentation of the opera in Boston.

The third public rehearsal of the Symphony Society of New York, conducted by Dr. L. Damrosch, will take place on Thursday afternoon, January 2, at Steinway Hall. The soloists are Wilhelmj and Miss Anna Drasdil.

Signor Campobello is said to be negotiating an engagement for his wife, Mme. Sinico, and himself with the director of the Covent Garden Theatre, London. Should the arrangements be concluded it will make her fifth season at that place.

The theatrical matinées to-day are full of promise. While thousands of people will be on foot making New Year's calls there will be other thousands who will seek rest and enjoyment in the several theatres. The announcements for the afternoon and evening will be found in the proper columns.

Attempted interviews both with Messrs. Harkins and Fiske, of the Fifth Avenue Theatre, yesterday, failed to elicit any information beyond that which is conveyed in the official documents published elsewhere. They respectively declined to make any statements that could be used journalistically until their differences are decided in court.

It is said that Colonel Mapleson pays the following salaries:—To Mme. Gerster, $600 per week; to Mlle. Hauk, $200 per week, as against 225 which she received in London; to Signor Campanini, $3,000 per month; to Mme. Sinico, 7,000f. per month, with expenses; to Signor Foli, $500 per week; to Frapolli and Mme. Pisani, $900 per month; to Signor Del Puente, $150 per week; to Parodi, $50 per week; to Signorina Lido, $40 per week, and to Signor Pyatt, $100 per week. The expenses in America are described as about the same as those of London. The average cost of raising the curtain has been about $2,200. His average nightly receipts are said to be about $4,500.

THEATRICAL TROUBLES.

HARKINS AND FISKE OF THE FIFTH AVENUE THEATRE AT LOGGERHEADS—AN INJUNCTION, ACCOUNTING AND RECEIVER APPLIED FOR.

Messrs. Daniel H. Harkins and Stephen Fiske, lessees of the Fifth Avenue Theatre, the former well known as the stage manager and the latter as the business manager, have, it appears, evolved from their mutual management a little unpleasantness, and evidently there being no way to effect an amicable settlement of their differences, the arbitration of the courts has been finally evoked. Mr. Harkins, who claims to be the aggrieved party, has taken the initiative in the legal proceedings and asks for an injunction restraining the further prosecution of the copartnership in the conduct of the theatrical business, and also demands an accounting by Mr. Fiske of all the receipts and disbursements and the appointment of a receiver of the theatrical properties and effects.

MR. HARKINS' COMPLAINT.

The complaint of Mr. Harkins is both voluminous and explicit in its details. After setting forth the copartnership agreement entered into between himself and Mr. Fiske on the 3d of June last he alleges that Mr. Fiske has wrongfully converted about $3,000 more than he was entitled to under the terms of the copartnership, and in consequence that the business cannot be carried on without additional capital; that Fiske has failed, after a demand to furnish his share of the additional capital; that the paper of the firm will go to protest; that they will be dispossessed unless such additional capital is furnished, and the business be irreparably injured; that under the agreement Fiske was required to deposit each day in the Second National Bank the receipts of the previous day and pay by check on that bank the expenses; but that instead of so doing he has paid the expenses and disbursements directly out of the cash received, and drawn loosely from the box office receipts; that Fiske has kept no books of account, so it is difficult to find a proper account and check on the financial branch of the business, and that the same has in consequence drifted into hopeless confusion. He alleges, further, that an understanding between himself and Fiske, that former attaches and employes under the former and individual administration of Fiske be dismissed, has been violated by their being retained. He next avers that at the time of entering into the copartnership Fiske had the reputation of being offensive in his manner and behavior, and insulting to persons having business with the theatre; especially "that in his intercourse with persons having business with the theatre, and with the members of the press, he has been offensive and insulting, which has been a great injury to said business;" that Fiske promised to come at ten o'clock in the morning daily to attend to business, but that he rarely arrived at the theatre before twelve or one o'clock, so that he (Harkins) had hardly any opportunity to consult with him; that Fiske has charged against the business matters of expense arising before the partnership, and has altered the dates of bills for that purpose, and that, in consequence, the copartnership cannot continue in its present form.

CONTESTED ITEMS.

In an affidavit annexed to the complaint Mr. Harkins charges Mr. Fiske with having paid a gas bill of $94 73 incurred under his previous management. Other objectionable charges are also particularized in the affidavit. Among these are Lotos Club, $23 30; Victoria Cameron, $40; clothes, $65; cigars, $36. There is a gas bill for $101 19 charged as paid, on which, it is charged, there had been an abatement of ten per cent. It is also charged that Fiske deposited $1,100 of the receipts of the business to his own personal account instead of the joint account of the partners, and that there is a deficiency of $79 77 in rent, and numerous other irregularities.

PROCEEDINGS IN COURT.

The case was on the Supreme Court Chambers calendar for a hearing yesterday, and on being called ex-Judge Dittenhoefer answered "Ready" for Mr. Harkins, who was present in court, his very natural interest in the proceedings having induced him to put in an appearance. Mr. A. H. Hummel, of Messrs. Howe & Hummel, who had been retained by Mr. Fiske as his legal representative, said he was compelled to ask an adjournment of the motion in consequence of his not having been served with a copy of the moving papers until ten o'clock on the evening previous. He supplemented his request for an adjournment by his affidavit to the effect that Manager Fiske is confined to his sick chamber and utterly unable in the brief time allowed him to properly prepare his specific denial of the statements made by Manager Harkins in the affidavits on which an injunction and receiver is sought.

Ex-Judge Dittenhoefer insisted on having the matter heard at once, urging that when Judge Donohue signed the order returnable yesterday morning he intended it should be heard at once.

Mr. Hummel replied that he wanted sufficient time to prepare affidavits in rebuttal, and Judge Van Vorst said that he saw no reason why the matter should not go over under these circumstances. He accordingly postponed the argument until to-morrow morning, at half-past ten o'clock.

The theatre will remain open under the management of Mr. Harkins, and Jefferson continues to play "Rip Van Winkle." All the novelties announced will be produced.

THE DRAWING ROOM FUSS.

CARD FROM MR. GIFFORD.

TO THE EDITOR OF THE HERALD:—

Will you kindly allow me a little of your valuable space to vindicate myself and reply to the letter of Miss Minnie Cummings? The statement of Miss Cummings is to the effect that I was engaged by her to construct the requisite scenery and effects necessary to produce the plays she desired at her performances in the Drawing Room Theatre. The truth and "my plain unvarnished tale" is simply this:—I entered into an engagement with Miss Cummings for a stated salary per week to make and work the scenery requisite for the plays she desired to produce, provided she furnished me with a sufficient number of men to aid me in my undertaking, my salary, including that of my assistants, whom I employed (at her direction), to be paid on each Saturday during said engagement, which she consented to. On the first Saturday, as above, I presented my bill. The money not being paid, I refused to continue until I had received the amount due me. In the interim Mr. Reed, her "business manager," came and entreated me to go on with the work, stating that Miss Cummings was very ill and had no method of obtaining the money. Being doubtful of a settlement I refused to continue. After a great many ineffectual attempts to procure the money a compromise was effected by Mr. Barnard coming forward and paying a portion of the amount due me, with the understanding that the remainder should be forthcoming at noon on Monday, the 23d of December. Monday came, but no money until four o'clock, when the balance was received. The Sunday night previous and a portion of Monday my men and myself worked with superhuman efforts to produce the pieces which were advertised for the evening and which we succeeded in mounting. It was an understanding between Miss Cummings and myself that I was to be retained as master carpenter of the establishment, which I can verify (her statement to the contrary notwithstanding). I continued to "work the house" the week under Miss Cummings' direction until Saturday, December 28, when I presented my bill (which is the usual custom). I was refused payment and ordered to leave the theatre under threat of arrest. I refused to do so. An officer was obtained, who, after listening to Miss Cummings' statement, refused to arrest me and departed. No compromise was effected, as Miss Cummings was not open to argument. Previous to the matinee on Saturday last she (Miss Cummings) procured the services of one William Shaw to set the stage, and while I was explaining the facts of the case to him Miss Cummings appeared on the stage with an officer and immediately ordered me into custody. The officer, after hearing my statement, and Miss Cummings not choosing to prefer a charge, left the theatre. I simply asked for what was due me in a gentlemanly and firm way and was denied. I have no redress except to vindicate myself, through the columns of your valuable journal, in the eyes of the managers and theatre-going public of the city.

Yours, most respectfully, W. H. GIFFORD,
Master Machinist (and not a Member of any Secret Society), No. 130 West Twentieth Street.

CARD FROM MR. MOLLENHAUER.

TO THE EDITOR OF THE HERALD:—

I do not wish to enter into any controversy with one of the weaker sex, but must state that I have been a much abused man in connection with the production of my opera comique, "Love Among the Breakers," which cost me both time and money, and also left me responsible for a week's salary to the orchestra, through the non-fulfilment of agreement by Miss Cummings. However, in justice to myself, allow me to simply state that the kind friend mentioned by her in the public journals, who loaned her money to pay her stage carpenters, &c., was myself and partner. On December 22 we loaned her $38 for carpenters who refused to go on without the cash; on December 23 we loaned her $11 to pay for braces to hold up the scenes; also $2 to pay a messenger boy, who refused to deliver his package until it was paid. I purchased six tickets ($6), which leaves her indebted on these charitable advances $45. Respectfully yours, EDWARD MOLLENHAUER,
No. 23 East Fourteenth Street, City.

ALPHA DELTA PHI.

The annual dinner of the Alpha Delta Phi Secret Fraternity will be held on Wednesday evening, January 8, at seven o'clock, at the Westminster Hotel, corner of Sixteenth street and Irving place. The committee of arrangements consists of Messrs. John Jay, Joseph H. Choate, Theodore W. Dwight, Everett P. Wheeler, Adolphe Werner, Russell Sturgis, E. Darwin Hudson, George N. Hale and Rev. E. P. Rogers. A large representation of all the colleges in which the Alpha Delta Phi has chapters is expected.

CITY NEWS ITEMS.

The number of emigrant arrivals at Castle Garden last year was 79,802, against 63,855 in 1877.

Jane Sullivan and Catharine Harris, of Brooklyn, were each held in $1,000 bail by Judge Wandell at Essex Market Police Court yesterday for shoplifting in the Bowery.

Joseph Doyle and William Kelly were held in default of $1,000 bail each by Judge Kilbreth at the Tombs Police Court yesterday, charged with stealing from Morris Isaacs, of No. 6 Mott street, eleven cloaks, valued at $55.

Mr. Miller, of No. 72 Maiden lane, called at the house of William O'Neil, the gallant newsboy, last night, and offered to present to the Volunteer Life Saving Corps a life saving raft, such as are in operation at Coney Island beach.

The Board of Managers of the Produce Exchange decided yesterday that the question of the investment of the surplus fund of the Exchange in real estate for a new building shall be submitted to a vote of the members on Tuesday, January 21.

Daniel Doran, of No. 32 Greenwich street, in the Tombs Police Court yesterday charged his cousin, Francis Mead, with having assaulted him the night before on the Battery and robbed him of $9. Mead was required to furnish $1,000 bail to answer.

John L. Davenport, of No. 208 West Fifty-third street, a conductor on the New York Elevated Railway, fell from the platform to the pavement on the corner of Cherry and Pearl streets yesterday and was seriously injured. He was taken to the Chambers Street Hospital.

At the last call of grain at the Produce Exchange yesterday it was resolved to ask the Committee on Grain to add, on and after January 2, the month of May to the options of grain to be called, with a view to being prepared for business operations at the opening of navigation on the canals.

At a late hour yesterday no tidings had been received at the office of Field & James of John W. Hull, whom they charge with having swindled them out of $30,000 in bonds on Friday last. The driver who removed Hull's trunks from the Park Avenue Hotel has not yet responded to the advertisement inserted in the HERALD by Mr. Field.

A verdict of accidental death was yesterday brought in by a Coroner's Jury in the case of Ranero Rebecchini, the musician, who was killed by falling from the Eighty-fourth street station of the New York Elevated Railway on December 24. A recommendation was made that some guard be placed around the platforms of the railway stations in order to prevent passengers from attempting to enter moving cars.

Parties owning $102,000 and representing $60,000 in stock of the defunct National Trust Company have issued a notice inviting a full meeting of their fellow stockholders, to take place at the Coal and Iron Exchange, Cortlandt street, on Tuesday, January 7. The object of the meeting is to discuss the desirability of taking the company out of the hands of the court and placing it upon a substantial basis, and to take such action as the stockholders in attendance shall decide will be to their interest.

A third examination was held yesterday before Judge Kilbreth in the case of Mary Moore, a good looking young woman, who charges Cameron Smith, a real estate dealer, with seduction under promise of marriage. The girl's relatives are members of Dr. Tyng's church and people of excellent social standing. The accused is also said to be a man of society and well to do. He is about thirty-seven years of age, young looking and dresses fashionably. The complainant, defendant, Dr. Tyng and a number of richly attired ladies were present in the Judge's private room, where the examination was held. The case was adjourned for a further hearing.

SUBURBAN NOTES.

The expenses of the Directors of Education of Jersey City, for the fiscal year ending December 1, amounted to $222,364 01.

An infant child of Mr. John Peel, of Bayonne, N. J., died yesterday from the effects of scalds received on Monday by falling into a tub of boiling water.

George Bush, driver for Hill & Piez, brewers, was thrown from his wagon on West Grand street, Jersey City, yesterday, and received injuries of a fatal nature.

Jeremiah Tuomey, aged sixty years, residing in Eleventh street, was struck by an Erie Railway engine at the Grove street crossing, Jersey City, yesterday, and fatally injured.

Charles Hensel and Ferdinand Marks, the two remaining victims of the rendrock explosion at Preakness, near Paterson, N. J., last Saturday, were buried yesterday afternoon.

On Sunday night Jacob Ketcham, of Oyster Bay, lost fifty-nine chickens. They were found in the house of William Levi. Yesterday he was sentenced to fifty-nine days' imprisonment, a day for each chicken.

Daniel Dougherty, of Brooklyn, was yesterday convicted in the Court of Quarter Sessions, at Jersey City, before Judge Garrettson, of having committed the burglary at the house of Charles Meisel, on Webster avenue, three weeks ago. He was remanded for sentence.

Mayor Howell, of Brooklyn, has refused to sign the payroll of the Department of Arrears for the past month, on the ground that the salaries of the employes were unlawfully increased by Registrar Scott, who divided among them $150 01, the amount appropriated over and above their salaries.

William Ellsworth, of Bayonne, N. J., a wealthy oyster dealer, found large sections of the beds in New York Bay, off Bayonne, cleaned of oysters, and set a watch. James Wood, of Communipaw, secured a boatload before daylight yesterday, and was arrested when he landed. He gave bail to answer before Judge Dilloway.

Detective William H. Folk, of the First precinct station, Brooklyn, assisted by Special Officer John McConnell, arrested Charles Stoddard, of No. 163 Meserole avenue; Charles Hirschfeldt, of No. 288 South Fifth street, Williamsburg, and Robert Primrose, of No. 69 Franklin street, Brooklyn, last night, on the charge of swindling Charles Pratt & Co., oil refiners, of No. 128 Pearl street, this city.

On Sunday afternoon last four of Newark's business men repaired to Waverly and engaged in athletic sports, as follows:—The big insurance agent ran a race (carrying the cashier of one of the national city banks on his back) against the Pennsylvania Railroad freight agent, while a junior partner in one of the leading clothing firms held their garments and did the honors, the insurance man with the cashier on his back winning the race. Distance not mentioned. No time taken.

MEXICO.

ADJOURNMENT OF CONGRESS—DARING ROBBERY OF A RAILWAY TRAIN.

CITY OF MEXICO, Dec. 19, 1878.

The first session of the Ninth Congress adjourned on the 15th inst. after a three months' existence, mainly remarkable by the frequent announcement, "No session for want of quorum," and for not having passed a single act of general interest to the nation. President Diaz, in adjourning Congress, had the frankness to inquire what good to the country had been done by the session.

A TRAIN ROBBED.

The trains between Mexico, Puebla and Vera Cruz carry a strong military escort in a car bringing up the rear. This ought to make shipments by rail over this route safe enough; but it does not. On the night of December 15 the passenger train from Puebla for Vera Cruz carried its usual supply of well armed warriors in the rear car, preceded by the first, second and third class passenger cars, the baggage wagon and the engine. Among the baggage were a number of boxes containing silver coin to the amount of $28,015 50, which had been shipped by Puebla merchants en route to Europe. The third class passenger car, next to the baggage, had on board, among its more miscellaneous cargo, thirteen "greasers," who bought their tickets just as the train was on the point of leaving. After half an hour's ride from Puebla these men drew out the coupling pin, disconnecting the escort and first and second class passenger cars from the rest of the train, and the cars mentioned were left standing on the track. The slumbers of the passengers and warriors continued for some time.

KILLING FOR FUN.

Meanwhile the robbers, clambering along and over the cars, sprang upon the engineer, compelling him to put full steam on the locomotive till he saw a red light, when he was promptly to pull up. They stood over him with revolvers until, five miles further, the red lantern was seen. He stopped the engine among twenty-five armed men. In a moment the doors of the baggage car were broken and the boxes containing the silver dollars were passed from hand to hand to the pack mules standing in readiness.

Of course, to make it more interesting, a little murder had to be committed. So the baggage master was killed by a shot through the bowels; and James Young, an inspector on the line, was also murdered in cold blood. This work accomplished, the gang rode off quite contentedly, and, as usual, the authorities "look mysterious but say little," which means they have not as yet the least idea who were the perpetrators of the daring crime.

MEXICO PAYS THE BALANCE OF HER INDEBTEDNESS TO THE UNITED STATES.

The steamship City of New York brings $194,000 in Mexican silver dollars, of which $75,000 are for the Mexican Consul in this city. This amount completes the $300,000 instalment due this month from Mexico to the United States, under the decision of the Mixed Commission. A great portion of this money has been voluntarily contributed by citizens throughout Mexico.

CHURCH OF THE MESSIAH.

A gloomy meeting of the Church of the Messiah Society took place last evening. Mr. Dexter A. Hawkins stated that the church debt was $123,000, and that $98,000 had been pledged if the remaining $25,000 could be raised. The Unitarian Association had pledged $25,000, the creditors of Dr. Bellows' society $23,000 and certain gentlemen of the Church $50,000. The mortgage held by the New York Mutual Life Insurance Company would probably not be foreclosed until April, and meanwhile temporary service should be provided. A number of suggestions were made—one to dispense with the choir and have music by members of the church; another to have volunteer clergymen and not to pay them anything; a third to have lay sermons by church members, and so on. It was also suggested by Mr. Dwight H. Olmstead