The Nittsburgh Gusette.

THE O'CONNOR-TACK CASE.

Court of Quarter Sessions—Hon. F. Carrol Brewster, Associate Justice. To-day we resume the publication of the testimony educed by the Commonwealth in the trial of the Messrs. Tack Brothers for conspiracy, now going on in Philadelphia. The proceedings published to-day will be found very interesting, and will amply repay the reader's careful perusal:

[CONTINUED FROM YESTERDAY.]

Q. How much margin? A. The margin was to be two dollars a barrel while it was called for.
Q. Emil Schalk how much?

6,000 barrels. Q. How much did they want you to take?
A. They wanted me to take three or four

Q. Who did? Schalk.
Did he tell you who was in it? A. Well, he said there were several going to join them and buy oil in Antwerp. There would undoubtedly be a profit in it. Q. Please tell me the substance of the

paper.

A. Well, it was articles of agreement. It read thus, "We, the undersigned, agree to purchase the amount of oil set opposite

Q. Did it state_where they were to pur A. I think it said at Antwerp.

Q. How much margin? A. Two dollars a barrel, provided they were required.
Q. What names did Schalk give you as those that were in already?

A. Well, I don't know that he mention ed any particular names; he said there were several parties in New York going to

join it.
Q. Did you need or want to buy any oil?
A. I would say here that I was a dealer,

as well as a refiner.
Q. Did you subscribe?
A. I did subscribe. For how many barrels? Four thousand barrels.

Q. Did you put up the margin?
A. If it was required, we were to put up two dollars a barrel, but I never was asked for the two dollars. Q. You never put it up?

Then you were in the enterprise?
Yes, sir; I was at the time "short ir
oil was very high here, and low in

Antwerp.
Q. You thought to equalize it, did you?
A. Yes, sir; I had contracts here to fill at very low prices, and had to buy at very high prices, and I thought in all probability one would "offset" the other. Q. You did it?
A. I never heard anything more of the

Antwerpafter I signed it.
Q. They left you out, did they? So far as I know, they have

So lar as I know, they have.

They never paid you your share?

No, sir. I signed the mame, anyhow.

But you never got any profits?

I never got any profits.

Have you not claimed it from them?

Well, I have heard it talked of.

District Attorney offers to prove that A. Well, I have heard it talked of.
[District Attorney offers to prove that
this witness claims his share from these
parties, and that they declined to give him
what was coming to him from this enterprise. Objected to. Objection sustained.]
Q. [By Mr. Mann.] What become of
that names after Schalk showed it to you? Q. [By Mr. Mann.] What become of that paper after Schalk showed it to you?

A. The last I saw of the paper was then; I neverafterwards saw the paper.

Cross-examined by Mr. HUGERT. Q. In the first place, tell us what time this occurred?

Mr. Mann. One moment; who else was present at this?
A. Charles Burk, I think. Q. Any body else? A. I think not.

A. I think not. Mr. HUGERT. Please tell us the date of this interview you speak of.
A. Well, it was in August sometimeabout the middle of August. Where abouts On Duquesne Way.

Q. Where did you first hear of any such roposition? Or of purchasing oil in Antverp, and from whom? Charles Burk was the first.

A. On the wharf, Duquesne Way. Q. Where did you next hear of it? A. From Emil Schalk. Q. Where did you next hear of it from

A. I never heard any more of it.
Q. Tell us exactly what that proposition A. It was drrwn up in lead pencil, a kind

To purchase oil in Antwerp? Yes, sir. Q. You were going on, lost all the reason of the arrangement. You had stated about the relative prices of oil here and at Antwere, and that you were "short," and you pleaded to go into the Antwerp market to purchase. State what all that amounted to. What was the arrangement? What was

the price of oil here at that time? A. I had lots sold here at twenty-two and twenty-three cents.
Q. What was the price at Antwerp, lower

12.0

A. At that time it was lower, or about the same price, but the price of oil was some twenty-seven or thirty cents.

Q. Consequently, if you had filled your contracts, you would have had to go into the market and buy at thirty cents?

A. Yes. sir. A loss of what? Two dollars or three dollars a barrel. Q. You found you could purchase oil in Antwerp at twenty-three cents, about the price or value you had agreed to furnish it? 2. And you thought it would be profits-

A. Being a dealer, I thought there was a profit in buving there. Q. And you make up your losses here?

A. Yes, sir. Q. Was that the purpose of the arrange-

A. That was my purpose. I didn't know the purpose of the others. Mr. Schalk ex-plained that oil was much cheaper there than here, and in all probability it would Q. Raise there up to the prices of the

A. That was the general impression.
Q. In any case you did not expect the market here to get any lower, and expected the Antwerp market to get up to it? A. Yes, sir. Q. Therefore it was profitable to go into

A. Yes, sir. Q. And purchase to make yourself equal? O. You are a refiner—could oil have been

manufactured at that time at the price you could have purchased it at Antwerp. A. No sir, it could not. Q. In other words, it was cheaper to buy at Antwerp than to make it here?

Q. It was also cheaper to buy in Philadel phia than to make it here? A. Yes, sir Q. It was also cheaper to buy in Phila-delphia than to make it, at the refiners in

Q. Were not all the refiners, or most o

them, short of crude oil at that time?
A. I don't know about "short" in oil.
Q. How many refiners are there in Pivis-A. Some fifty or sixty. Q. Production is very large?

Yes, sir. How much does it amount to? about? A. I presume twenty-five or thirty housand barrels a week short at that time;

Q. Was not the supply short at that time;

A. I was under contract to receive and was that not time to the fact that the delivered

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river was very low, as stated by Mr. White in his opening? What was the state of the market at that time in crude oil?

A. Crude oil had advanced.
Q. I mean with reference to the stock.
Was it now, in July and August?

A. Yes, sir.
Q. What was this owing to?
A. The river had been low for some time, and that was the way we had of getting oil o Pittsburgh. Q. There was no railroad at that time?
A. No, sir. A. No, sir.
Q. Was it unusually low that season?

Q. Was it not low much later in the season than usual? A. Yes, sir; we had no rise that year.
Q. Has not the effect of that to affect the supply and prevent your fulfilling your contracts?

A. We expected a rise, but it did not Q. How did you fulfill your contracts? A. I had to buy oil. Q. When did you buy?

A. July, August and September.
Q. Didn't many others in the trade have o do the same thing? A. Yes, sir.
Q. What was the effect of that upon the market, when you all went into the market to fulfill contracts?

A. Every body was anxious to "cover" ip their "shorts" as soon as possible.
Q. All went into the market to cover up? Some staid out. Some took the chance intil the day of delivery. I went into the narket; there was an unusual demand; orices advanced nominally.

Q. Is that not the inevitable effect of a

large demand, that prices will go up when there is a short supply? When the oil is short and you have to go into the market o buy, is not the effect to put up the prices

A. Last year was the first time I had to Q. What was the effect then? A. The price went up. Q. You saw there was a short supply and

large demand?
A. Yes, sir.
Q. Was there not a large shipping de-A. I am not so well posted in the ship

ping demand?
Q. Was it not understood in the trade that there was a large shipping demand?
A. I saw the circulars stated that vessels were loading. So far as I am concerned; there was a large demand upon me. It came to Philadelphia; it was bonded oil; it must have been exported, for I re

ceived my release. Q. How is that? A. In shipping oil we have to give bonds for the oil. The oil comes to Philadelphia, and we get a permit, and after oil is taken out of the warehouse in Philadelphia, and as soon as the oil is ready for the vessel, we get a release from our bond.
Q. You know then that your oil was for

export, for your bonds were released? A. Yes, sir. Q. Do you know whether that arrangement or proposition was ever carried out, of your own knowledge?

A. Well, I don't know.

Q. You say you were called upon. Do you know whether the proposition was ever carried out? A. Nothing but what I read in the pa-

pers. Q. What do you mean by "in the pa-A. Telegraphic dispatches.
Q. I understand you say the date of this was the middle of August?

A. As near as I can recollect. Re-examined. Q. You have said here there was a demand made for oil for exportation, but you did not say it was exported, or that it was taken for export. I want to know whether that was not a demand made for the purpose of raising the price, and not for sending away. Have you not reason to believe that it was under the color of exporting, but really for the purpose of raising the

Mr. Cassidy. It is immaterial what he believed.
Q. Mr. Mann argued the adm Mr. Cassidy in reply said there was no objection to the District Attorney asking this witness if he knows the fact. If he does I would be glad to have it before this jury.

I deny his allegation that there was no demand for export, and I assert that there Objection systemed Q. You say for export; you mean to say that it was really taken to be exported as good fail; or do you mean to say it was taken as if for export?

When I sent in one, I always expected t to be exported.

Q. Do you mean that the demand was rarely for export or as if to be exported?

A. That I don't know.

Q. You say that oil was choose.

You say that oil was cheaper in Antwerp than it was here? A. Yes, sir Q. Then it is the habit of Pennsylvania merchants to send goods from this market to where they are cheaper than here.

Mr. Cassidy objected. Question will be drawn. You had made contracts to sell oil? A. Yes. sir.

It was your interest for oil to be low?
In July it was. Q. This engagement for this Antwerp en-terprise, what was its effect, to make oil higher or lower here?

A. Well, we expected oil to stay at the same prices here and to go up at Antwerp.
Q. I ask you what was the effect to be produced by this enterprise on the price of A. I only knew so far as my own know-

edge—
Q. Was not the effect to raise the price of oil; was not the design and unleaded effect to raise the price of oil?

A. The idea was that oil would advance in Antwerp.
Q. Was not the intention to raise the

A. If I was interested I would like to see the price go up in Antwerp.
Q. I ask you if the intention was not to raise the price of oil?

Objected to. Objection overruled.

A. I presume the object was to have oil dvance in Antwerp.
Q. Were you to furnish oil here?
A. I had some contracts here.

Q. Explain to this jury how you were to be benefitted by raising the price of oil?

A. I had sold oil some time before, and during the month of July, oil advanced from twenty three to twenty-seven cents-it was June I sold oil for July, August, deiverable at twenty-two. In the month of July, it advanced twenty-seven and thirty cents. I had my July contract to fill, and I bought part of my contract in Philadelphia, back and I had my contract to cover and looking at the market saw the Antwerp market was lower than the Philadelphi

and not expecting oil to decline. I thought to make money by buying oil in Antwerp. Judge Brewster. You expected to cover-up your losses at home? A. Yes, sir.
Q. You had two sets of contracts, you had contracts to sell and contracts to buy?
A. I had about covered my contracts.

Q. You thought by raising the price of oil in Antwerp the parties would have to pay your share? No. sir. Now, you are telling what you didn't tell before; you told us that you had agreed to sell oil and we order to assist you—

Mr. Hagert, No. Q. Did you say, you went into these propositions—
A. In the first place, in June I was "short;" in the latter part of July, I was even, I had bought at a loss and covered my contracts and no more, until I signed these contracts for Aniwerp.

Q. When you were asked to go into this attempts you were still independent. enterprise you were still under contract to

A. I was under contract to receive and

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Were your contracts to deliver? Yes, sir.

And under contract to receive? Q. And they were about equally bal-

A. Yes, sir.
Q. If they were equally balanced, how could you lose anything?
A. In the first place! sold my oil at low prices, in the early part of the year.
Q. I was speaking of the future contract; were you bound in the future to furnish oil? A. I was.

Q. Had you also made contracts to receive oil in the future? A. Yes, sir. Q. What was the price you had agreed to A. I sold from July to December at 25 Q. What was the price you bought oil? You had agreed to sell at 25?

Q. Then you were said to gain?
A. Mr. Hagert. It was the other way.
Q. It was to make the people who were A. No, sir. I looked at the market and saw it was lower in Antwerp and it was coming to that time when oil was expected to advance, and not expecting the market

o decline I thought there was money in he arrangement. I don't of the others, Q. It was a speculation to make money? Q. Did you "go alone" or with others?
A. Several others—there was an agree

AFTEROON SESSION. DAVID KIRK, sworn . Where do you live? Pittsburgh. Q. Were you solicited to go into this of interprise—buying oil in Antwerp?

A. Yes, sir.
Q. Who solicited you to join?
A. Mr. Schalk, mentioned it. Q. Did he show you a paper? No, sir. Who was with him?

A. He was alone. Q. Did your see Mr. Tack? No. sir. A. No. sir.
Q. He produced the paper?
A. No. sir. I heard of no paper.
Q. Did he tell you of the scheme?
A. He told me—I met him on Chestnut treet in this city—he told me

knew that oil was cheaper in Antwerp than any place in the world, and that it would be a good speculation to buy oil there.
Q. Did he tell you who were in it.
A. I think he told me at the time that there were certain parties who proposed—Q. I want to know the name of the

A. I think he gave the name of—
Q. You say you can't give a single name as gave you?

A. No, sir,—the proposition at that time s simply—. L. Did he say at any time? . I had only one conversation?
. None with Theodore Tack?

No. sir. None with Augustus Fack?
No, sir. o cross-examination. CHARLES LOCKHART, sworn; Q. What is the name of your firm?

4. What is the name of your firm?
4. I am in a good many firms—Lockhar
5. I am in a good many firms—Lockhar
6. What is your Pittsburgh Houses?
6. These are both Pittsburgh Houses?
6. What is your Philadelphia House?
6. What is your Philadelphia House?
6. Are you engaged in refining oil?
6. Yes, sir, as Lockhart, Frew & Co.
6. Largely engaged? Largely engaged? Tolerably so.

Do you know Mr. Schalk? 2. Do you know Tack Bros.? Were you asked by either of these ntlemen to join an enterprise to purchase pretend to purchase oil at Antwerp?

At what time. Some time in the summer of 1807. Did you enter or did you decline? I declined. Q. Tell us about the time you declined and told these gentlemen that you would

not go in? can't name the name of the monthsomething along the middle of the sum or the same mer, sometime in July or August.

Q. Who was it you said saw you?

A. I saw Mr. Shalk and Mr. Theodor

Q. Were they together?
Cross-examined: By Mr. Hagert.
Q. What did they say to you?
A. I don't remember all that was said.

Dietrict Attorney asked yo Were they together? A. I don't remember all that was said. Q. The District Attorney asked you whether you were invited to go into a purchase or pretended purchase, and you answered "yes." Say what they said. He (District Attorney) put it in an ingenious

A. It was to purchase and not to pretend. Q. You have one of the largest refineries? A. Yes, sir. By Mr. Mann:

O. He said to purchase—what was the A. It was to purchase and sell again.
Q. Did you intend to buy it?

A. To buy it in Antwerpand sell it again Q. When you speak of buying and selling an article, do you mean to purchase A. Yes, either purchase and receive it or

A. The idea was to sell it again?

A. That was implied—no one wants to keep it. Somebody buys to use?

Somebody does? A. Yes.
Q. Between the people who buy to sell and those who sell there are parties who

Would two dollars buy a barrel

A. No, sir; it was to make a margin. [Cross-examined by Mr. HAGERT.]
Q. Please explain what is meant by put-ing up this \$2 as margin. Is it not given in case oil should go down and make the party suffer?

A. The party was security—them are who sell oil on the other side. Q. Why was the oil to be purchased in Antwerp?

A. Because they thought the Antwerp market the lowest market in the world.

Q. How much lower than the market at

A. Loan't tell exactly several cents. Q. Therefore it was a profitable specula mir mail to margy . Was it not understood that the market here was more likely to advance than ne Antwerp market to recede?

A. Our opinion differed about that.
Q. That was the reason you declined Yes, sir. Q. You exercised your own judgment. Q. Was this not based upon the large de-

A. I think not, for they were buying too far ahead for the fall months.
Q. It was not "spot" oil? A. No, sir, Q. How are these foreign sales—buyers sellers option?

Q. What was the state of the grude oil at that time—was it large or small?
A. Which market?
Q. At Pittsburgh. At Pittsburgh.
A pretty fair start.
How was the river? Were there not many refiners out? Yes, there any other mode of bringig crude oil execrt by river?

A. Yes, sire your bicode with any

duint selviland oritin out door

tursmis and to be to your wife and to be to your

Q. How was the weather—was it dry? A. It was usually dry. Q: What time does the rise in the river take place?

A. Generally in September, and from that

Q. In 1867 was it delayed? We had no rise until December Q. The result of that was that the stock crude oil got very low. A. There was considerable stock of crude oil, but it was held in a few hands, and a great many refiners had no oil at all.
Q. In the month of August was there not a large demand for shipment.

A. The demand for shipment.

A. The demand was very heavy in July and a great deal shipped, I think.

Q. If the supply was short on the one hand, and the demand on the other large, what was the effect upon the price?

A. The effect was to go up—that is the laws of the trade.

Q. [By Mt. Mann.] Was not oil cheaper in November than in August?

n November than in August?

A. I think it was, towards the last of No-Q. There was no more oil in November than in August?
A. I don't think there was as much,
Q. The river had not rise?

The river had not risen? A. No, sir. Q. No oil had come? A. No, sir. Q. What made it lower? A. I can't tell; there are a great many hings about the oil trade that I can't exlain. [Mr. Mann.] We propose to enlighten

Q. [By Mr. Hagert.] Can you explain the decline in November? A. No, sir.
Q. Is there not great fluctuation in the price in the course of a year? A. Yes, sir.
Q. Is there not great fluctuation in the

A. Yes, sir.
Q. In the course of a day?
A. Yes. Not so much in a day as in Q. If you know the fact, state it. This oil does not come by river. Do you know whether any of it went to Cleveland for re-

fining?

A. There is a railroad connection with Cleveland all the time—it don't depend on Q. What market does it supply?
A. New York, and a little to Philadel. phia.
Q. Was there not, in the months of Octo-ber, September, and November, consider-able amounts shipped from Cleveland to New York, which brought the prices down

A. That I can't answer, as I was not in A. That I can't answer, as I was not in New York or Cleveland.
Q. [By Mr. Mann.] Were you in Philadelphia on August 9th?
A. I don't know.
Mr. Mann offered in evidence dispatches, one of Tack's and one of Grierson's on the subject of Mr. Lockhart—Aug. 9, and Aug.

Mr. Cassidy objects.
Mr. Lockhart recalled—[dispatch shown

Q Are you familiar with that handwriting?

A. I am not—without the —gnature I would not have reconstituted it.

Mr. Cassin, admits that the dispatch sign—Mr. Cassin, admits that the dispatch sign—admits the other to be in the Mr. Hagert admits the other to be in the handwriting of Mr. Grierson.

Mr. Mann puts dispatches in his hands

and reads to the jury.
Q. [To Mr. Lockhart.] Were your business relations in Pittsburgh extensive?
Q. You were largely in the business?
A. We handled a great deal of oil.
Q. You are one of the largest refineries A, Not the largest but among the largest Q. Largely and actively ongaged?

GENERAL ALEXANDER CUMMINGS, sworn Q. Are you Collector of Internal Revenue for the 4th District? A. Yes, sir. Q. Were you so in July and August, 1867?

A. Yes, sir.
O. Mr. Forbes is an assistant of yours? A deputy. Familiar with the details of the office? Q. Have you any personal knowledge of the seizure of large quantities of oil, or of any part of it, bound for the city and switching off the cars in West Philadeiphia?

A. I have seized some lots of oil since I have been in office, last summer. Q. To what extent?
A. Not large quantities.
Q. Do you know the figures and amount A. I think Mr. Forbes can tell you.

Seized?
Q. In July, or the latter part of June what amount had been seized?
A. A small amount at any time.
Q. A thousand barrels?

A. At no time a thousand barrels. The seizure were made with reference more to ascertain what would be the result of the eizure on account of irregular shipment I was under the impression that large amounts were coming into the city, upon which the tax was evaded, and I communi cated that impression to the department at Washington, and I made some seizures with a view to ascertain whether the procedure did not prevail and whether it could not be stopped. The amount seized was nore with a view of testing the question. and it was generally understood that my pur-pose was to make extensive seizures. Lintinated to several dealers that I would seize ill that came that was not marked regularly.

Q. Did you ever order the cars witched off? Cross-examined by Mr, Hagert. Q. General, when was this you intimated to the oil dealers that you would seize large amounts of oil that was not marked?

A. I think in June. Q. What time in June? A. I can't tell accurately.
Q. Can you tell us to whom you commu-A. I had two or three interviews with Holbrook and Morse and one of the Tacks, Augustus.)

Q. What others? A. That is all I can re-call.
Q. Can you re-call what you said to Au-A. Pretty much what I have said-that under the cover of transportation bonds, a large amount of oil was coming into the narket and escaping taxation, and my purpose was to prevent it, and in pursuance of that I should seize all the oil that was not

regularly marked. regularly marked.
Q. What was the difficulty?
A. My objection was that it did not bear the marks of having been in a bonded warehouse. I said it should have been worked as coming from a warehouse. aarked as coming from a warehouse where t had been placed. Q, Was this not about the latter part of

A. I can't tell, but Mr. Forbes can tell. Q. Did Mr. Tack and other gentlemen call upon you and have an interview with you in reference to the matter? A. Yes, sir. I can't fix the time. . What was the result?

A. It was at that interview I communicated my views.

Q. What did they?

A. They avowed their purpose to go to Washington, and I understood they did go.

I understood that the the gentlemen who called at my office went with Mr. Mander-field—he is a gentleman connected with the oil business—perhaps, he is an oil broker. Q. Where dld you get the information?
Objected to:
Q. What did he state was his object in A. To procure a decision of the department, maintaining that my decision was

number of barrels of oil athough the whole was subject to gone objections? A. Yes, sir. Walled the highest to.
A. Yes, sir. Walled to be subject to.

Your decision—in order not to make diffi-

4. When the van me then?

eighedwoods wo em to morse their

culty you seized only a limited quantity to test the question?
A. Yes, sir.

Q. You intimated that you intended to seize all the oil not branded in a particular A. I don't know how far I intimated my decision, but I intimated my detarmination to maintain my position until the Departnent at Washington decided.
Q. By Mr. Cassidy: Did your subordinates detain oil?
A. I think there was one or two deten-

tions of oil for a period.
Q. For some considerable period?
A. My deputies could tell that more efinitely. Q. Who are they?

A. Mr. Young could tell.
WILLIAM F. FORBES, sworn.
Q. You are a Deputy Collector of the ourth District? A. Yes, sir.
Q. Are you able to say how much oil was seized in the month of June in your

district? A. Yes, sir, I have the official record which I keep. 160 barrels seized in June and July, of which all but 67 barrels were

Q. How many belonged to Tack Brothers? A. We can't tell who the positive owner of the oil is, can only tell to whom it was consigned,
Q. To whom was it consigned?
A. Tack Brothers.

Q. How many barrels? A. Three barrels.
Q. A barrel contains 40 gallons? A. Yes sir. Q. You don't know of any shock produced by this?

Mr. Cassidy. Never mind. A. I don't know anything about it one way or the other. Q. How long was it before you released

A. I think they were allowed within one or two days to be taken to the warehouse, with notice that they would not be allowed to leave until the question was decided. We took possession of it first, but the time was very short. Q. Did you switch off any cars, or do you know of any such violent thing

A. Not that I know of.
Cross-examined by Mr. HAGART:—
Q. Just a date—this seizure? A. 25th of June.
Mr. Marn :—When was it released?

A. Same day. I meant it was allowed to to the warehouse until the question was ecided in Washington.
Q. When was it decided? A. Within a week.
Mr. Hagart:—How was it decided? A. Adverse to the Collector.
Mr. Mann:—Have you anything on record to show when it was released?

A. The decision of the Commissioner idated July 1st, and the oil was released f nally July 5th. Q. Of that oil seized as a test question, luded these three barrels?

seizure? A meat was the opinion of the Country Augustus Menino, sworn.
Q. Did you pay any money on account of Mr. O'Connor in regard to taking up con-

A. I did. Q. How much? A. \$10,000 and upwards.
Q. Can you state the parties to whom you paid it? A. Yes sir. Tell us the parties and the amounts. A. I gave my check to Daniel Burke, dated September 19, for \$1,704.43. On October 1st I paid a check to the same order or \$5,023.72. I paid a check on the 21st of September to the order of Wightman & Anderson, for \$2,000. On November 6th I paid a check to Messrs. J. C. Kirkpatrick & Co., for \$4,100. On the same day I paid on the same of the same of the same order of the sa

check to Messrs. J. C. Kirkpatrick & Co., for \$4,100. On the same day I paid one to Messrs. Brewer, Burke & Co., for \$3,000. I think that sums \$16,028.15.

Cross-examined: By Mr. Hagert.
Q. Who settled these contracts with the several parties? I don't mean who actually handed the money over—who arranged the terms. runlly handed the money over—who arranged the terms, you or Mr. O'Connor.

A. I arranged the account of Messrs.

Brewer, Burke & Co. personally for \$3,000, also that of J. C. Kirkpatrick for \$4,100, both of the date of September 6th.

Who arranged the others? A. In my office I paid Messrs. Wightman & Anderson \$2,000, and received their note therefor. The account of two checks given to the order of Daniel Burke, for \$1,704.43 to the order of Damer Burke, for \$1,704.25
I did not settle.
Q. Did you make these arrangements under the instructions of Mr. O'Connor?
A: Under the instructions of Mr. O'Connor, as per advice of his Counsel, Mr. White

Q. They were his counsel in this matter at the time? A. I believe they were.
Q. Was that before or after the commencement of this prosecution?
A. I think about the time; near Novemer 6th was about the time.

Q. Was it after Mr. O'Connor filed his A. I can't recollect. The dates are there which will give data to the matter.
Q. Do you know that Mr. O'Connor at this time had filed a bill against these parties for a conspiracy to cheat and defraud him?

Mr. Mann objects.

Mr. Hagert. I want to show that when he was settling with these parties he had charged them with conspiracy to cheat and defraud him. Judge Brewster. That is a matter of record evidence Mr. Hagert. I am only asking as to the fact.
[Question withdrawn.]
Q. Can you tell us the date of the settlement? When these arrangements were made; the time these checks were given.

Were there any anterior arrangements prior to the time the checks were I am not cognizant of any. A. I am not cognizant or any. Q. Now you have said that in your set tlement with Wightman & Anderson, you

agreed upon \$2,000, or rather you paid him \$2,000 and accepted his note?

A. Yes sir. It was for four months. Explain why that note was given? Under whose instructions and direcions was that note given?

A. Under the instructions of Mr. O'Con

Q. Do you know where that note is? It was deposited for collection. Q. Was it paid? A. Yes sir. Q. Who paid it? Q. Who paid it?
A. It was paid at the Western Bank. It was extended on the bank book and passed to the debit of the Western Bank.
Q. What become of the proceeds?
A. I credited the proceeds to the account

of James O'Connor. And the state of the Connor of Anderson have A. I received my \$2,000, but whether they have been I can't tell Somebody, paid their note: and housembars I can't nid their note. And however the benefit of it? Q. Mr. O'Connor keeps an account with

A. He does. Q. You gave him credit? Was that \$2,000 in full settlement of A. From what I understand; it was not.
Q. What about the balance? A. I don't know anything about it.

Q. Then, so far as you know, they have not received a sything about it, except I have not received. I have not received a sything about it, except I received a switch I give to Wightman & Anderson, and I got their note. It was a kind of swapping jackets?

A. I didn't understand whether it was a swapping jackets or not.

[Swapping jackets or not.] I don't know anything about it.

to select you to negotiate this matter? (AvT can't say, ny riph set of sew it but to like you to negotiate this matter? (AvT can't say, ny riph set of sew it but to like you any previous transactions?) (AvT can't had you any previous transactions?)

Q. What sort of transactions? I have had intimate friendly transa

Mr. Mann objects.
Witness, I will reply. It was principally a banking transaction.

Mr. Hagert pressed his right to ask the questions in order to ascertain if this was a probable transaction.

Objection sustained. Q. Had you any oil dealings with Mr. Mr. Mann objects.

Mr. Mann objects.

Witness, I can answer that question. I had some dealings. Mr. Hagert argued the objection. The prosecution was based upon the theory that Mr. O'Connor was an innocent confiding man, who put himself in the hands of these men, that he was ignorant of these transactions. The defence want to show that he was not such a man. He was a shrewd man, who had had dealings in oil and was not in a position to be cheated and and was not in a position to be cheated and defrauded by these men.

Judge Brewster. This will be proper

when the defence call their witnesses. Mr. Hagert proposed further to show that Mr. O'Connor, and this witness, and certain other parties in the city, formed a combination nation, "a ring," to buy oil stock, in order to show that Mr. O'Connor had knowledge of "rings," as Mr. Tack told him. Judge Brewster. That falls under the

revious objection. Mr. Wightman recalled. Q. I want to ask you exactly what was lone about the note to Mr. Marino? A. He handed me his check. Q. What did you do with it? A. I drew the money and took it home. Q. When he gave you the check, you

gave him some paper? A. I gave him a note at four months.
Q. Did you receive notice of that note?
A. I did.
Q. Did you pay it?

A. Yes, sir. Q. You went to the bank and paid \$2,000. A. Yes, sir, Q. Where did you get the \$2,000? A. From Mr. O'Connor. Q. Then the transaction resulted in giv-

Q. Then the transaction resulted in giving a piece of paper and getting \$2,000, and then getting this piece of paper? First, you got that \$2,000, and gave this note that you gave to the firm; after that, was it understood that you were not to be pressed or it?
Mr. Cassidy. Never mind that.
Mr. Mann. That is all, then.
Mr. Hagart. Ask the proper question.
Mr. Mann. No, I won't ask anything

about it. Mr. Mann offers in evidence dispatch July 6, 1867. [Objected to—not in defendant's hand-Uniting.

Mr. Mann offers dispatch July 3, 1867.

[Writing acknowledged; but objected to as long after the date of the alleged con-

spiracy.
Daniel L. Miller de [dispatch] shown] want you to look at this dispatch. Are you familiar with the writing? Do you know Emil Schalk? A. I know him.
Q. Do you know his handwriting?
A. I think I do; I have seen his writing

A: I think I do; I have seen his writing frequently.

Q. Do you believe, from your knowledge, that that is his writing?

A. I would not affirm that these are his signatures, but I think they are. I have seen considerable of his writing, and believe I know it; I may say I do know.

Mr. Cassidy. Did you ever see him write? A. Yes, sir. Q. When and how often?

I have rarely seen him write.

More than once?

I won't say positively, but I think Q. You say upon that that you knew his writing?

A. I have seen contracts of his.

Q. How did you know it was his writing?

A. He told me it was his contract.

No; upon that presumption, I don't know anything! Mr. Cassidy. I thought so! Mr. Mann. Mr. Mann. What is your belief upon the subject of that being his writing?

A. The ink signature I have no doubt is his; but the other signature I won't say positively, but I think not; the one dated July 25th I see is in his writing. [Mr. Cassidy renews his objection.] Mr. Mann offers in evidence—

Dispatch September 7, 1867, "July 25, 1867. September —, 1867, September 18, 1867. July 8, 1867. July 27, 1867. July 18, 1867. July 26, 1867. September 4, 1867. September 4, 1867. No date, 1867. July 24, 1867. October 3, 1867.

July 1, 1867 July 9, 1867. Detective Tryon sworn, and proves the ervice of subpoena. Attachments issued. P. F. Chase affirmed: You are a clerk of Tack Brothers? Q. Are you able to read their dispatches

Look at that one. [Dispatch exhibitd.] Reads:
"We have refused all day," &c. "We have refused all day," &c. [Witness produced key of cypher.]
Mr. Mann offers key in evidence.
Mr. Cassidy objects. Admits that the ury have the right to look at it and use it, but objects to the Commonwealth or jury taking property belonging to defendants.

Judge Brewster decides that it is competent to read key, and, during the session of the Court, the key remains. At the adjournment the key is to be given back to defendant. The whole of it may be read, and there is no power in the Court to prevent it being taken by phonographer.

Mr. Mann reads the key, first requesting the phonographer to make a note of it as he reads.

[Contents of book read.] Mr. Chase, re-called, and identified a duplicate in the handwriting of Mr. Grierson. Cross-examined by Mr. Hagart. Q. When was that cipher prepared? You say you prepared it for the use of the Tack Brothers, for use in your business?

A. It was prepared three years ago.
Q. Has it been in use ever since, in their general business? general business?

Q. Constantly and daily?
A. Yes, sir.
Q. It is used in sending their dispatches from one point to another?
A. Yes, sir. It is used for economical purposes, for, one word here, may thus save the expense of nine words.
Q. Give an example from the book.
A. Instead of writing, "We can get refusal of the lowest prices;" all that can be implied by the word "wicked."
Q. What would be difference in the expense?

A. Yes, sir.
Q. Constantly and daily?

pense?
A. It would depend upon the length of the dispatch; as they charge the first ten words. If it was the tenth word, it would save seven words, or about 35 cents.
Q. Have you frequent necessity?
A. Every day;
Q. To a considerable extent?
A. It depends upon the business done.
Q. I mean when the business is brisk?
A. About \$3 to \$5 in day;
ye Q. With the use of the cipher?

A. Yes, sir.

A. Yes, sir.

Q. What would your bills amount to without the use of the oppher? Mr. Mann objected, Question withdrawn. Q Is it constomary for the trade to use the cypher, or is it peculiar to the Tack Bros.?

A. It is now customary, and it has been

(Continued on Eighth Page.)