

# THE PROPHET!

A

FULL AND ACCURATE REPORT

OF THE

JUDICIAL PROCEEDINGS

IN THE

EXTRAORDINARY AND HIGHLY INTERESTING CASE

OF

MATTHEWS, *alias* MATTHIAS,



CHARGED WITH HAVING

*Swindled Mr. B. H. Folger,*

OF THE CITY OF NEW-YORK,

OUT OF CONSIDERABLE PROPERTY:

WITH THE

*Speeches of Counsel, and Opinion of the Court on the motion of the District Attorney, that a Nolle Prosequi be entered in the Case.*

ALSO,

**A Sketch of the Impostor's Character,**

And a detailed History of his Career as a "Prophet," together with many other Particulars, which have not hitherto been published.

BY W. E. DRAKE, CONGRESSIONAL AND LAW REPORTER.

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BY W. E. BRANT, CORRESPONDENT, AND NEW YORKER.

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## *Arrest of Mathies, alias Matthews, alias Matthias.*

As many readers of the subjoined "Proceedings of the Court of Sessions," in the case of this Impostor, may be unacquainted with his singular manners and habits, we shall first lay before them a few particulars, which may not prove uninteresting; and then proceed to give a more perfect and detailed history of his career as a "Prophet," and the circumstances which led to his apprehension, than have yet been presented to the public.

"The real name of this worthy," says an Albany paper, "is Robert *Mathies*, not *Matthias*." He commenced his career as a religious Impostor at Albany, about five years ago. He came to Albany from Washington County with his family, and worked as a journeyman house joiner. During a period of religious excitement in the church of the Rev. Mr. —, he took an active part, and applied for admission into the church, by certificate from Washington County, but was refused. He applied a second time, and was again refused. He then commenced preaching in the shop—proclaimed his divine mission—and was discharged by his employer. Subsequently to this, he strayed off with his children—was overtaken in Rensselaer, or Washington County, and supposed to be crazy. We next hear of him in this city, where his imposture has been so successful as to excite amazement, and the deeds imputed to him fill the mind with horror. No doubt, however, that greatly exaggerated statements are in circulation. "Mr. Folger, whose name so often appears in the statement," says the editor of the *New York Commercial Advertiser*, "we have known from his boyhood—is a most amiable and excellent man. True, he has been under an awful delusion, but we nevertheless believe him to be a good man."—Mathies is forty-six years of age—in height, 5 feet, 9 or 10, of very slight make, and sallow complexion; and wears moustaches and a long beard. He has a great profusion of hair, which he seems to be not a little proud of, as he is constantly brushing and putting it in order. It is combed back from the forehead and temples, and so arranged as to hang far over his coat collar and behind his ears, in no *small quantity*. He carries a hair brush in his pocket, and when he has the good fortune to meet with a looking-glass, proceeds to *beautify* himself. When asked why he wore a beard, and did not get his hair cut, he has replied, "Because God never intended that it should be, or He would not have given it to *man*. All men ought to wear their beards—they are Devils," [a very favorite expression of his] "if they do not." He would then go into a long and rambling argument, or dissertation, for the purpose of convincing his hearer, quoting the example of the Apostles and Patriarchs in proof of his assertions. Mathies wore remarkably long finger nails; for he never cut them, and would urge the same kind of argument in defence of them as in regard to the beard. He was very particular and singular in regard to his diet, and ate but sparingly. He never touched flesh meat, and gave as a reason why he did not—that it was unfit to eat, unless killed by a Jew! His principal food was fish, eggs, and fruit puddings and pies. He drank coffee, milk, and beer, and entertained the greatest abhorrence of *spirituous* liquors of every description. In his habits he was extremely regular. His conversational powers were very indifferent, though he was exceedingly fond of entering into what he would call an *argument*, on commonplace topics, into which he never failed to introduce the subject of religion, and to illustrate his discourse by passages from Scripture. He was undoubtedly fond of hearing himself talk; but he could not tolerate for a moment, any attempt on the part of his opponent to dispute his position. But if it was insisted upon, then he, "The Prophet of the God of the Jews" would rise from his chair, exhibiting at the same time, much ferocity of manner, scorn, and indignation—saying to the individual, "You are a Devil! you cannot talk with *me*;" and then would make his exit, amid the laughter and ridicule of the bystanders. He conceived the most sovereign contempt for clergymen of every denomination, and spoke of them with detestation. Mathies wore a cap, a green, and sometimes a brown-colored frock coat, with a straight collar; also a red regimental sash round his waist, and almost always carried an umbrella.—The Portrait on our first page is an accurate one, and represents him as he usually appeared in the streets of this city, (except that he had his head covered,) prior to September last.—He has a wife and eight children, who, until recently, resided at Albany; but they have been abandoned by him upwards of four years.



"This notorious individual was arrested in Albany, on Monday afternoon, (21st Sept.) upon the authority of an advertisement issued by Mr. Benjamin H. Folger of the city of New York. The expressed charge against him was, that he had left New York having in his possession a large amount of Mr. Folger's property; but he has been guilty, it is asserted, of many other malpractices, some of them of the blackest character, and worthy of the most severe punishment.

"Mathies commenced his career of fanaticism some two or three years since, in Albany, when he proclaimed himself "The Prophet of the God of the Jews," and asserted divine power. He shortly afterwards went to New-York, where he continued to proclaim his doctrines, but with little success at first. He soon, however, secured the favour, among a few others of less consequence, of three of the most wealthy and respectable merchants of Pearl-street—Messrs. Pierson, Mills, and Folger. These gentlemen received his doctrines in the fullest confidence, and believed him to be all that he declared himself. Their treasures were thrown open to the Impostor, and he lavished them upon himself most profusely. He purchased the most costly wardrobe. His robes of office were richly trimmed with gold and silver. He wore a sword of the finest workmanship, and his gold watch and establishment equalled the lustre of the most costly.

"The bondage of these gentlemen was complete: and the fact that three intelligent citizens of New York were thus deluded, will form one of the darkest pages in the whole chapter of modern fanaticism; but the chain with which they were bound is broken.—The following is a detail of the occurrences which caused it, and which exhibits perhaps one of the most extraordinary instances of imposture on the one side, and delusion on the other, that has ever been made public.

"For a considerable period prior to the year 1832, Mr. Benjamin Folger, of this city, was on terms of the most intimate friendship with a Mr. Elijah Pierson, also of this city, whose piety and good sense he highly respected and esteemed. A short time previous to the period adverted to, Mathies had announced to Mr. Pierson, that he (Mathies) "was the Spirit of Truth, that the Spirit of Truth had disappeared from the earth at the death of the Matthias mentioned in the New Testament; that the spirit of Jesus Christ had entered into that Matthias, and that he (the fellow then in Albany Prison) was the same Matthias, the apostle of the New Testament, who had risen from the dead and possessed the spirit of Jesus of Nazareth. That he (Jesus Christ) at his second appearance, was God the Father, and that he (Mathies) was himself God the Father, and had power to do all things—to forgive sins and communicate the Holy Ghost to such as believed in him."

"The above tissue of blasphemy and absurdity was, strange to say, believed by Mr. Pierson; and, regarding Mathies as the character he represented himself, he respected him accordingly, and took him into his house to reside with him.

"In the month of September, 1832, Mr. Pierson introduced Mr. Folger to Mr. Mathies, and at the same time informed him, who and what Mathies announced himself to be, and also of his (Pierson's) implicit belief in the truth of Mathies' divine attributes. Mathies having thus become acquainted with Mr. Folger, lost no time in endeavouring to increase the number of his dupes, and repeatedly called at Mr. Folger's counting-house to announce his divine mission, and strove to convert Mr. Folger to a belief of it. On one occasion he said to Mr. Folger, "I know the end of all things," and then made use of the following mode of illustrating his assertion. Taking up a piece of paper, he placed it in a drawer, so that one end of the paper remained outside the drawer, and then said to Mr. Folger, "You can see but one end of the paper, which is outside the drawer, and so the world sees; but I see the whole length of it—I see the end."

"He succeeded in impressing Mr. Folger, and a few others, with a firm belief that he was the Prophet he pretended to be, and having gained this point, he then began to execute the true mission he came upon, and informed Mr. Folger that "he was very poor and in want of money; that the world persecuted him, and it was instigated to do so by the devil, because there was no truth now in the world except in him (Mathies.)"

"Puerile and absurd as were these representations, they nevertheless induced Mr. Folger to give Mathies different sums of money,—and the latter, encouraged by his success thus far, determined to spare neither promises nor threats to make the best of the advantage he had gained. In addition to what he had already told Mr. Folger, he therefore informed him that he (Mathies) had commenced the reign of God on earth; that Mills and Pierson had been called into the kingdom, and although the devil had succeeded in suspending for a time its permanent establishment, he (Mathies) would now go on to overcome the devil and to establish the kingdom of God. Under these circumstances he called on Mr. Folger to contribute of his substance for his (Mathies) support, and the promotion of the kingdom, and threatened that in case he should refuse to provide him whatever money he wanted, he would visit upon him, (which he was empowered to do,) the wrath of the Almighty, but that if he (Folger) would believe in him and obey him in all things, he should be called into the kingdom, and he (Mathies) would forgive him all his sins, and he would enjoy eternal happiness.

"In this style Mathies continued preaching, until by dint of downright impudence he converted, or rather perverted, Mr. Folger to the firm belief that he was the personage he represented himself to be.

"In the month of August, 1833, Mathies went to Sing Sing, in West Chester county, where Mr. Folger had a furnished house, and where his family at that time resided. As Mathies



brought his baggage along with him, his intention of paying a long visit to Sing Sing was pretty obvious, and Mr. Folger invited him to take up his residence at his house. Having remained there a week, he got tired of such narrow accommodations, and told Mr. Folger that he and Pierson ought to hire a house for his own special use. Mr. Folger consulted Mr. Pierson on the subject, and they agreed to comply with the very reasonable request of Mathies, and so informed him. In the mean time the ambition of Mathies had so increased, that a hired house would no longer content him, and he intimated to his two friends that it would be improper for a person of his character to reside in a hired house, and that they ought to purchase a house for him. This also Messrs. Folger and Pierson agreed to; but before they could accomplish their purpose, Mathies imparted another revelation to Mr. Folger, and informed him that the house which Mr. Folger purchased some time previous at Sing Sing, and in which he then resided, had been purchased for him, Mathies, and that the Spirit of Truth had directed Mr. Folger in making the said purchase.

"As the house had thus been miraculously purchased for Mathies, he had of course a clear right to remain in it, and he did remain in it without further ceremony until October, 1833, when he required that Messrs. Folger and Pierson, who then resided with him should give up the house to his own charge, which they accordingly did.

"In the latter part of October, 1833, he required them to give an account of their property, and having obtained it, he demanded that they should both enter into an agreement to support him, which would ensure them the continued blessing of God. They accordingly entered into the required agreement and supported him, and supplied him with whatever money he demanded, until the month of August, when Mr. Pierson departed this life. He died in Westchester county, at his country seat, near Sing Sing, and the event is clothed in mystery. A short time previous to his death, and while in health, as we understand, Mathies prevailed upon Mr. P. to assign to him his whole estate. He was shortly after taken sick, and, although his friends who were with him insisted upon calling medical aid, they were deterred by Mathies, who told them that "he had power of life and death, and Mr. Pierson would not die!" But he did die; and a subsequent examination of his body, by three able Physicians, resulted in the conviction that he had been poisoned, and certificates to this effect were drawn up and signed by these physicians, and are now in New-York. *Who* poisoned Mr. Pierson is to be determined by the proper tribunal.

"Mr. Mills, under the strange delusion, became a lunatic. His friends removed him to the country, and from the society of Mathies, and his reason soon returned.—He is now convinced of his error, and has abandoned the delusion.

"On the death, however, of Mr. Pierson, Mathies came to reside at Mr. Folger's house in this city, and continued to be supplied with money by him, until last March, when Mr. Folger unfortunately became bankrupt. Notwithstanding this occurrence, Mathies continued to reside with Mr. Folger, until last September, when the latter intimated to him, that he could no longer continue to support him, and that they then must part. Mathies by no means liked the proposed arrangement, but being determined to make the most of the matter, and knowing that Mr. Folger had some money belonging to the estate of his wife, he told him very peremptorily that "he must not throw him destitute on the world, that if he did so the blessing of God would depart from him, but that if he gave him money to support him, the blessing of God should continue to him." Mr. Folger then gave him one hundred dollars in bills of the Bank of the United States. Mathies received this money a few days prior to the 18th of September, and on that day he told Mr. Folger that he was about to leave his house, but insisted on being supplied with more money before he took his departure. In order to obtain it, he had recourse to his old expedient of threatening and promising the wrath or blessing of God, according as his demand was refused or complied with, and so wrought on Mr. Folger, that in addition to the hundred dollars he had already given him in bills, he now gave Mathies five hundred and thirty dollars in gold coin; on receiving which he left Mr. Folger's house, and immediately after departed from this city. Besides the above mentioned sums of money, and those which he obtained at different other periods, from Messrs. Folger and Pierson, he also obtained a watch from the latter gentleman, and in the month of January last he informed Mr. Folger that some person had taken the watch from him, and that "it was Mr. Folger's duty to provide him with another, and that the blessing of God would rest upon him if he did so." Mr. Folger immediately purchased a fine gold watch, with a chain and seal, for which he gave one hundred and fifteen dollars, and gave it to Mathies.

"Soon after, Mathies left this city. The mysterious death of Mr. Pierson, and the accompanying circumstances, shook the confidence of Mr. Folger and his family, and they resolved to abandon Mathies and his principles. After his return to New-York, they announced their determination to the 'Prophet,' who then declared to them that if they did, "sickness, and perhaps death, would follow!" This threat was not sufficient to overthrow their resolution, and a day was fixed upon when Mathies should leave the house. Upon the morning of that day, Mathies partook of but very little breakfast, and scarcely tasted the coffee, saying, as an excuse, that he was not well. Immediately after breakfast, Mr. Folger, his wife, and children, were taken violently sick. Mr. Folger did not suspect the cause of the sickness until after the villain had left the city, when upon examination, he learned that the black woman who did the cooking for the family, had also abstained from the use of any coffee upon that morning, and, from other circumstances, he became confirmed that the woman was bribed by Mathies to poison the family.—From some cause, the effort was not successful. To none of the family



did it prove fatal, although all of them have not yet recovered from its effects. Mathies left the city, but where he had gone was not known.

"Mr. Folger, in consequence of this transaction, more particularly, offered a reward for his apprehension, and the pretended prophet was arrested and committed to prison at Albany,

"Mathies did not expect thus suddenly to be stopped in his mad career, and expressed a good deal of surprise when arrested. He had in his possession two large trunks, which he acknowledged contained articles that *did* belong to Mr. Folger, but which, he said, Mr. F. gave to him when he left New York. Among the articles were sundry rich dresses, and \$600 in gold, besides a small amount of bank bills, which were found under the lining of his boot; a gold watch worth about \$150, a sword of great value, a massive golden key (six or eight inches in length,) with which he intended to unlock the gates of Heaven; and a rod with which he was going to measure the bounds of his paradise, "the gates thereof, and the walls thereof."—It is said that he wore a black velvet night cap, made in the form of a mitre, which was richly decorated with gold, and had on it the inscription, "*Jesus Matthias.*"

The Prophet was brought down to New York in the Steamboat Champion.

## Examination of Mathies.

Mathies was examined on the 1st October, at the Upper Police, before Justice Wyman. N. N. Hall, Esq. acted as the prisoner's Counsel. The "Prophet" seemed to be extremely subdued in spirit, and answered the questions put to him in a mild, low tone of voice. The following were the questions put to him, and his answers.

*Question.* What is your name, age, and place of birth?

*Answer.* My name is Matthias, which is the name I inherited from my father. I am forty-six years of age, and was born at Cambridge, in Washington county, State of New York.

*Q.* Where is your place of residence, and what is your occupation, profession, or calling?

*A.* I am a traveller. Zion Hill is my legal home. I am a Jewish teacher—priest of the Most High—preaching, saying, and doing all that I do, under oath, by virtue of my having subscribed to all the covenants that God has made unto man, from the beginning up to this time;—chief high priest of the Jews, after the order of Melchisedek, being the last chosen of the apostles, and the first of the resurrection, which is at the end of 2300 years after the building of Jerusalem by Cyrus, and 1260 after the birth of Mahomet, which terminated in 1830,—that being the summit of the power of the false prophet. I am now denouncing a judgment on the Gentiles, and that judgment is to be executed in this age. All the blood from Zechariah till the death of the last witness, is required of this generation, and before this generation passeth away, this judgment shall be executed. I am myself the Spirit of Truth, and I declare these things, and that the hour of God's judgment is come.

*Q.* Did you endeavor to impress the mind of Mr. Folger with the truth of what you have stated in your last answer?

*A.* In my general character of preacher, I endeavored to impress all men with the importance of what I have stated in my last answer; but not more in relation to Mr. Folger than to any other person.

*Q.* Did you ever tell Mr. Folger that you possessed the power of life and death, the remission of sins, and the salvation of souls; and that if he believed in you, he would be saved, but if he would not, that he would be damned?

*A.* In my character of preacher, I say that my person is a trumpet for the Spirit of Truth to speak by, and that this spirit, by this trumpet, declares that every person must believe in this said spirit of truth, and practice obedience, as did Jesus of Nazareth; and this obedience will secure eternal life. My general declaration was, that if they believed in the Spirit of Truth, they would be saved, and if not, they would be damned. To the question at large, I answer, No; but I said to all, that they must practice obedience in all the branches of the Spirit of Truth, as it dictates to themselves and those things around them.

*Q.* Did you ever receive any money or property from Mr. Folger, and if so, how much, and of what description?

*A.* In all my preaching, and especially to strangers, I have always declared that I could receive nothing from them as if their property, but that if they felt as though they had in their possession property which they believed belonged to God, and if they believed that I was the servant of God, then they could give me of that property whatever they pleased; and I have never received any property or money from any person in any other way, since I commenced preaching the everlasting gospel. Mr. Folger, Mr. Pierson, and Mr. M. frequently declared to me that they believed I was the *Father*, and that I was qualified to establish God's Kingdom upon earth, and that Zion Hill was transferred to me; with all the appurtenances thereunto belonging, for that purpose,—including horses, carriages, and furniture, of the house No. 8 Third-street, in the city of New York. And it was also agreed that the house and lot No. 8 Third-street, should be conveyed to me; and Mr. Pierson directed a deed to be made out accordingly, but died before it was completed. A bill in Chancery was afterwards filed against me, and a *ne exeat* obtained, by which it appeared that I must give security in the sum of ten thousand dollars; and I consented to rescind the contract and restore the property,



which I did, as I then believed I was obliged to do so; but I still claim the property as my own, for the purposes for which it was originally given: that is to say, for the purpose of establishing God's Kingdom on earth, and that *that* was the beginning.

Q. Did you ever reside in Mr. Folger's family?

A. I was there a short time previous to the transfer of the property above mentioned. Mr Folger said to me "When you feel disposed, come to my house and make it your home;" and as near as I can recollect, this invitation was given in June or July, 1833, at his office in Pearl street.

Q. Did you, a short time previous to leaving his house, receive from him, or from any member of his family, any number of eagles, and if so how many?

A. I have received from Mr. Folger, at different times, gold, in exchange for Bank notes of my own, and I believe that about eight hundred dollars were in gold of different coins. Some of it was in quarter, and some of it in half eagles; and the whole amount that I have received from Mr. Folger and Mr. Pierson, including a bond and mortgage to secure to Mrs. Folger the sum of about \$5000 of her own separate estate,—is about \$10,000, which I have paid at different times, in furnishing the establishment at Zion Hill and at No. 8 Third-street, for which Mr. Folger has the bills in his possession. In commencing the establishment at Zion Hill, and also the establishment in Third street, many transactions took place in money, between Mr. Folger, Mr. Pierson, and myself, in which we frequently accommodated each other, as occasion required, and in all these transactions I acted as the Father, in good faith in the sense above mentioned, and I continued to expend money for those establishments until the very day I left Mr. Folger's house. As to the five \$20 bills mentioned in Mr. Folger's affidavit, I believe it is a mistake; as I have no recollection of having received that sum in bills of that denomination, but have received from him different sums at different times, and at one time in particular, I received the amount of twenty-seven hundred dollars.

The prisoner was then committed.

We have, in the preceding pages, called the "Prophet" *Mathies*, not *Matthias*, taking it for granted, that the Albany papers were much more likely to be correct in their statement than those of New-York, as this worthy was better known there. Perceiving however, that he has been indicted under the name of "Matthias;" we shall, of course, so designate him in the remainder of this Pamphlet, though we have been credibly informed since the previous pages were printed, that his real name is "Matthews."

## COURT OF SESSIONS.

Thursday, October 16, 1834.

*Robert Matthias* was arraigned this day on an Indictment, charging him with having on the 18th December last, defrauded Benjamin H. Folger, of this City, out of various sums of money: [See Indictment in one of the following pages].

MR. WESTERN, of Counsel for the prisoner, then rose and said: "If the Court please, I have been employed as his Counsel, although I cannot—I do not intend to advocate any of the polemics of that gentleman. He is entitled, however, as an American artizan, as a human being, indeed, to a fair and impartial trial. If I were to proceed in my own legal course in regard to the indictment, I should demur to it, because I do not believe there is any allegation, that the representations were such as to impose upon a man of ordinary prudence. Upon presenting that sense of my legal duty to my client, I would now state, that he expressed his unwillingness to permit that course to be taken, which amounts to an acknowledgment of guilt. He says, the allegations in the indictment are substantially untrue in every part. He cannot consent that a demurrer shall be put in, as it would be a concession of the truth of the charges made against him. Hence, he prefers pleading in chief; hence the pleas is—the "General Issue." He is ready for trial,

The COURT said: To-morrow is the last day of term. The demurrer will come up in arrest of judgment.

The DISTRICT ATTORNEY observed: The great difficulty is, whether the case is indictable at all.

MR. WESTERN: If he can be admitted to bail, upon an inconsiderable amount, there will be no objection on the part of Matthias to take his trial at the next sessions. But, if he has to lie in prison, it is a difficulty— If, however, your Honor will say what bail you ask, then—



The DISTRICT ATTORNEY intimated that Mrs. Folger was not in good health—that she was “in that state in which ladies wish to be who love their lords.” By consent, however, her examination might be taken.

MR. WESTERN: Yes.

The DISTRICT ATTORNEY: I cannot say whether the other parties concerned would be willing that bail should be given, for there is now a warrant from Westchester County against Matthias on a more serious charge there;—and, if bailed here, he would have to be sent to Westchester.

MR. WESTERN: That we did not know.

The DISTRICT ATTORNEY: It is an attempt to poison.

MR. JUSTICE LOWNDES: As accessory to the death of Mr. Pierson.

MR. WESTERN: Then we will consider the trial as put off for this month—as going over to the next term. It is a most important matter, and to be in too much haste, would be unkind towards him.

The Trial was accordingly postponed until the next term, and Matthias was remanded to prison.

The Prophet was dressed in a brown camlet cloak, (which is said to have cost an enormous sum,) with a gilt clasp, a handsome green frock coat, black pantaloons, figured vest, grey stockings, and pumps. His beard, of a dark grey color, was about four inches in length only, being much shorter than it was three months ago, for he had then the *misfortune* to fall in with some “devils,” as he would designate them; in the neighbourhood of Sing Sing, who took it into their wicked heads to have a “frolic” with him, and make him submit to their *unhallowed* purpose of *clipping* his beard. The poor Prophet was, as may be supposed, greatly exasperated at such *barber-ous* treatment, and particularly mortified at having lost what he considered the greatest ornament of his person, and one of the most distinguishing ensigns of his divinity.

His appearance in Court excited much curiosity, and he was quite social with those who gathered around to converse with him. There was no betrayal of fear manifested by him, for the result of the investigation into the serious charges which have been preferred against him. He was in good health and spirits, and looked forward to an immediate acquittal.

### BLANKETING THE PROPHET.

On Friday, the 17th of October, the companions of Matthias, in the prison at Bellvue, suspecting the Prophet had money in his possession, made an attempt to blanket him. The Prophet threatened them with eternal torment, if they proceeded. They assured him that he must submit, as it was an ordeal through which all of them had to pass, and he was no better than the rest of them. They then put him into a blanket, several of them holding the corners of it, and gave him two or three tosses. The poor Prophet, finding that they were determined to carry their threat into further operation, agreed to pay them 25 cents apiece to let him off. After they had liberated him, he declared that he believed he had been “thrown into a den of thieves!”

*Anecdote of Matthias.*—The Prophet was staying at a certain Hotel in this city, about 16 months ago, where a gentleman of the name of F., was also sojourning. He had been but a few days in the house, when he was one morning very familiarly and abruptly accosted by Matthias, with whom he had not heretofore exchanged a syllable. “Mr. F.” said he, “how long do you think I have been upon this earth?” “Indeed, I have no idea, Sir,” was the reply. “Well, I will tell you,” rejoined the Prophet, “why, more than eighteen hundred years!” Mr. F. it may be imagined, was much surprised at so extraordinary an annunciation, and after scanning him from top to toe, involuntarily exclaimed, “The devil you have; you don’t tell me so!!” “I do,” observed the other. “Then, all I have to say is, that you are a remarkably good looking fellow for your age!” Matthias put on a satanic grin—was very indignant, and said angrily, “You are a devil, Sir;” and then walked off.



# COURT OF SESSIONS.

FRIDAY, OCTOBER 8, 1834.

*Before His Honor the Recorder, and Aldermen Cornell and Ferris.*

Immediately after the opening of the Court, *Robert Matthias* was ushered into the Court Room, and placed near the door of the Grand Jury's chamber. He was dressed in an elegant brown cloth cloak, lined with silk; a green cloth frock coat of the finest cloth, lined with pink silk, with a silver sun on the left, and silver stars on his right breast; pointed lace ruffles to the wristbands of his shirt, a handsome buff vest, fine brown cloth pantaloons, and a beautiful crimson-colored sash about his waist. His beard, which had been suffered to grow on his chin and upper lip, was of a mixture of black and white, and about two inches in length. He appeared perfectly composed and talked freely with those around him, unawed by the circumstances in which he was placed.

Shortly after the entrance of the District Attorney into Court, he rose and enquired of the Court, what course they intended to pursue, in regard to the case of *Matthias*? and observed, at the same time, that he entertained doubts of the validity of the Indictment.

MR. WESTERN, of Counsel for the prisoner, rose and addressed the Court to the following effect:

It is due to this man, that he should know what the nature of the evidence against him is, and in what shape it is to be presented, particularly as the community entertain very mistaken, very erroneous, very unjust ideas in regard to him. Although I am perfectly aware that he is here to answer to this Indictment, I also know, that there is a charge of a more serious character against him in a sister County, and, therefore, it is but fair that he should have an impartial and patient hearing, at least, in that case. Now, judging from the existing state of feeling in this community, he can hardly expect to have a fair trial in the more serious charge of "murder" alleged against him, whilst he is viewed by this moral community as a religious impostor of the worst kind. I therefore owe it to that man's safety—I owe it to the due administration of justice in this country—I owe it to myself as a fearless and independent advocate—to use all the means within my reach and power, to give him a fair and impartial trial, (and I hardly think that he can have it elsewhere unless tried here)—to the end that the community may see who is really the corrupt individual, the prosecutor, or the party prosecuted. We waive our right to demur, and we prefer going to the facts; in the imperative language of the Revised Statutes, we "demand a trial," in order that the community may have an opportunity of judging of the truth or falsehood of the charges imputed to *Matthias*. Under these circumstances, as his Counsel, I now state that it is highly expedient an investigation should be entered into, to the fullest extent, and that explanations of the whole matter should be given, for the purpose of putting it on the proper grounds, and, at least, undeceiving the community and rendering them impartial betwixt him and his prosecutors.

The DISTRICT ATTORNEY explained. He supposed, although the learned Counsel might waive his right to demur, he could not, by any wish of his own, compel him (the District Attorney) to proceed to trial—he had laid all the facts of which he was possessed before the Grand Jury, to whom he took occasion to express his doubts as to whether an indictment could be founded upon them, but they had seen fit to find one. In laying the testimony he did before the Grand Jury, it was in order that *Matthias* might have the benefit of it—that it might throw some light on the matter, and also, to show whether he (the District Attorney) was wrong in the expression of his doubts as to its being an indictable offence. The indictment, he was willing to admit, was as correctly drawn as it could be, under all the circumstances of the case—looking to the facts which had already been given, and the testimony which might be expected to be adduced.

MR. WESTERN: I fully concede that this is the best—the very best Indictment that could have been drawn under such circumstances. We do not take any objection to it in any point of form. It is as good an indictment as the subject matter alleged against my client will admit of, or that can be drawn under the present state of things. On the subject of the demurrer, I here say as a lawyer, that had I been left to my own volition, I should have rested the case on the legal ground of its being untenable, and that it must be quashed. I went to the individual, and told him that by raising the question on demurrer, a stop might be put to all further proceedings. He then inquired of me, what was the meaning of the term "Demur-



rer," for he seemed to think that it admitted the truth of the allegations made against him in this indictment,—the truth of which he totally denied, and insisted on being tried. He forbids me to demur to the indictment, and wishes his guilt or innocence left to a jury of his country. I perceive that the District Attorney chooses to raise the question himself, and I do not now see how I can further meet it; if he will not prosecute, I cannot defend; and here, from necessity, the case must end.

The DISTRICT ATTORNEY said, he had no doubt, as the learned Counsel had observed, that the Indictment was as good a one as could be drawn under the circumstances. The Court were aware of three things which it was necessary for the public prosecutor to prove; the one was, whether the pretences were false, as made use of by the party charged. The second thing was—were the pretences credited? The third; that the pretences were of such a character as would impose upon a man of ordinary prudence and understanding; and, fourthly, the most material point was—that it must be proved that those pretences were false. [Here the learned Gentleman read the averments in the Indictment; but as that document is a curiosity in itself, we shall publish it *in extenso*.]

City and County of } ss.  
New York,

THE Jurors of the people of the State of New York, in and for the body of the City and County of New York, upon their oath present: That ROBERT MATTHIAS, late of the 11th Ward of the City of New York, in the county of New York aforesaid, being a person of an evil disposition, ill name and fame, and of dishonest conversation, and devising, and intending, by unlawful ways and means, to obtain and get into his hands and possession, the moneys, goods, chattels and effects, of the honest and good people of the State of New York, to maintain his idle and profligate course of life. On the 18th day of September, in the year of our Lord one thousand eight hundred and thirty-four, at the Eleventh Ward of the City of New York, in the County of New York, aforesaid, with force and arms, on the day and year last aforesaid, at the Ward, City and County last aforesaid, with intent feloniously to cheat and defraud one BENJAMIN H. FOLGER, did then and there feloniously, unlawfully, knowingly, and designedly, falsely pretend and represent to the said Benjamin H. Folger, that he, the said Robert Matthias, was God the Father, and that he was the Spirit of Truth, and that he had power to do all things, to forgive sins, and to communicate the Holy Ghost to such as believed in him, and that he must not be thrown upon the world destitute, that if he was, he, the said Benjamin H. Folger, would not have the blessing of God; but, that if he provided for the support of him, the said Robert Matthias, by providing him with money, he, the said Benjamin H. Folger, would have God's blessing; and that by supplying him, the said Robert Matthias, with money, God's blessing would rest upon him, the said Benjamin H. Folger, and his family; and that he, the said Robert Matthias, possessed the Spirit of Jesus of Nazareth. And the said Benjamin H. Folger, then and there, believing the said false pretence and representation so made as aforesaid, by the said Robert Matthias, and being deceived thereby, was induced, by reason of the false pretence and representations so made as aforesaid, to deliver, and did then and there deliver to the said Robert Matthias, one hundred pieces of gold coin of the value of five dollars and thirty cents each, five promissory notes, commonly called bank notes, for the payment of twenty dollars each, then and there being due and unsatisfied of the proper moneys, goods, chattels and effects of the said Benjamin H. Folger, and the said Robert Matthias did then and there receive and obtain the said money of the said Benjamin H. Folger, of the proper moneys, chattels, and effects of the said Benjamin H. Folger, by means of the false pretence and representation aforesaid, and with intent feloniously to cheat and defraud the said Benjamin H. Folger of the said money.

Whereas, in truth and in fact, the said ROBERT MATTHIAS was not God the Father, and whereas in fact and in truth he was not the Spirit of Truth, and he had not the power to do all things, and forgive sins, and to communicate the Holy Ghost to such as believed on him; and whereas in truth and in fact, he did not possess the Spirit of Jesus of Nazareth. And whereas in fact and in truth the pretence and representations so made as aforesaid, by the said Robert Matthias to the said Benjamin H. Folger, was, and were, in all respects, utterly false and untrue, to wit. on the day and year last aforesaid, at the Ward, City, and County aforesaid. And whereas in fact and in truth the said Robert Matthias well *knew the said pretence and representation* so by him made as aforesaid to the said Benjamin H. Folger, to be UTTERLY FALSE AND UNTRUE at the time of making the same.

And so the Jurors aforesaid, upon their oath aforesaid, do say, THAT the said Robert Matthias, by means of the false pretence aforesaid, on the said eighteenth day of September, in the year of our Lord one thousand eight hundred and thirty-four, aforesaid, at the Eleventh Ward of the City of New York, in the County of New York, aforesaid, *unlawfully, falsely, knowingly, and designedly*, did receive from the said Benjamin H. Folger of the said money of the proper moneys, goods, chattels, and effects of the said Benjamin H. Folger, *with intention feloniously to defraud him of the same*, against the form of the Statute in such case made and provided, and against the Peace of the People of the State of New York, and their dignity.

HOFFMAN, District Attorney.

The DISTRICT ATTORNEY resumed: Now, supposing he could prove that these representations were made, in the first place;—and secondly, that Mr. Folger believed them, were they such representations as were calculated to impose upon a man of ordinary prudence and understanding? But, supposing that difficulty was got over in regard to the representations and credit given to them; he, (the



District Attorney), was called upon to prove them false. And he wanted to know by what testimony a single averment in the Indictment could be falsified. Could it be proved that he was not God the Father? Could it be proved that he was not the Spirit of Truth? Things might be averred which might not be believed; the majority of the community knew them to be false; but *where* was the testimony upon which the Court was to rely, that there was no truth in the declarations of the accused? Proof was required to establish justice; but the moment the jury heard the allegations, testimony was not required. As to the pretence—it was a complete absurdity on the face of it, and required no proof. Now, was such a pretence calculated to impose upon a man of ordinary understanding? These were his (the District Attorney's) doubts about the matter, and they were expressed by him to the Grand Jury before the bill was found. So far as the complainant was concerned, he had to say that *he* did not wish the case to proceed any further. [The learned Gentleman here read an extract of the following letter from Mr. Folger to R. C. Wheeler, Esq. his Counsel:—

“Dear Sir:

New York, October 23, 1834.

Mr. Hoffman, as I understand you, having expressed strong doubts in regard to the Indictment against Matthias, being sustained, and it being likewise your own, as well as that of several other lawyers, in whose opinions I have confidence, I think it would be best to discontinue the proceedings altogether. If you think it is proper, do so, I should think it would be best to ask the District Attorney to dismiss the case—the offence charged upon him not being an indictable one—and release the creature entirely. His day,—so far as passing himself for a *pure* and *upright* man,—has passed, and there is no danger of his imposing upon one here or elsewhere.

With respect and esteem, yours,

BENJAMIN H. FOLGER.”

He then continued: “We do not wish to stand here to criminate or recriminate;” and having, himself, doubts of the law—believing the indictment could not be sustained, and having expressed the wish of Mr. Folger, and believing that the inquiry would tend to make that gentleman and his family more unhappy than they were at present, he could not proceed any further, but would move the Court to enter a *nolle prosequi*.

MR. N. N. HALL was inclined to reiterate a part only of the facts adverted to by the learned Counsel associated with him. If this case went to trial now, there would be such a developement of facts as would enable them, when they should come before the tribunal in a sister county, to try another charge, to defend the accused against the allegations set forth. He wished to put the man in a proper light before the public, for he was really, as he now stood, a much injured man.

MR. WESTERN: Of course, I acquiesce in the application as now made and as explained; but I must be permitted, as a matter of justice to myself and this individual, to make a remark or two further. When called upon as Counsel in this case, I cautioned my client that I could have no connexion with the polemical part of the case—that the accused must answer for himself in regard to it, but I would pledge myself to stand forth in his defence, and see that he, as a human being, an American citizen, and the father of a family, should have a fair and impartial trial. But if he had committed blasphemy, or that his doctrines were untenable, (as I believed they were, I could not undertake to defend nor palliate them.) The first thing to be established on the part of the prosecutor in the Indictment, would be that he is not God the Father. He (the accused,) would have proved that he never represented himself to be such: the language of Jeremiah the Prophet, is—“Thus saith the Lord,” and in preaching, my client insists that he used the same language only in the same sense. He never pretended that *he* was the Lord; but only professed to speak through the Spirit of Truth, the language of truth—that he was a trumpet through which God spoke. So, in regard to the Spirit of Jesus Christ, which he claimed to possess. Putting himself on the ground of a Christian Teacher, I say he instructs me that he was prepared to prove that the doctrines which he professed to Mr. Folger, were not those which are alleged in the Indictment, but such as are based on and taken from the Scriptures. I am not disposed to defend nor even to excuse the tenets of this man's religion; if they are of a blasphemous, or outrageous character, let it be established on his trial, if they are innocent and true, why not hear him? I owe these remarks and explanations to him; they are due to the man for the reasons I have stated, and in order that he may be put on a fair and impartial footing before the community.

The DISTRICT ATTORNEY then moved that a *nolle prosequi* be entered.

The Court said they would take the Indictment under advisement, and decide on it definitely by Monday next.



The Prophet's wife, in company with two other ladies, was in Court; and he held a temporary conversation with them with apparent hilarity.

### LETTER FROM MR. FOLGER.

On the evening of the day on which the Report of the Proceedings in the Case of *Matthias* was published, (October 8th,) the following Letter appeared in the *New York Commercial Advertiser* —

*New York, November 8, 1834.*

MESSRS. EDITORS:—I am informed by my friends that the notice in the morning papers of the proceedings in Court in reference to Matthias, has led some to suppose that I have relapsed into a belief in him and his blasphemous doctrines. Lest it should be so supposed, will you do me the favour to state distinctly in your paper of this evening, that I have long since renounced his doctrines entirely, and believe him to be one of the most base and deceitful beings on earth. This is likewise the opinion of every member of my family, and my object is now to rid myself of him and those connected with him, with as little trouble as possible. Mr. Pierson, myself, and family, have been deeply, very deeply deluded, deceived, and imposed upon; and I regret exceedingly that the former could not have been spared to witness the deep deception. We are sensible of our error—we repent it sincerely; and although we cannot expect to recover, at present, the situation we held in society previous to our acquaintance with this vile creature, yet, in time, we shall be able to show that we are enemies to him, and all who undertake to sustain him in his wickedness and plans to destroy us.

BENJ. H. FOLGER.

### COURT OF SESSIONS,

TUESDAY, Nov. 11.

*Before his Honor the Recorder, and Aldermen Cornell and Ferris.*

The DISTRICT ATTORNEY rose, and stated that the Court some days since, had, in consequence of the suggestions of the Counsel who appeared in behalf of *Matthias*, taken the Indictment under advisement. He (the District Attorney,) would respectfully ask the Court, whether they were now prepared to deliver their opinion?

The RECORDER said: The Court has deliberated maturely on the subject as to whether you should proceed to trial now, or that it be postponed until a further determination is had in a sister county. This morning the Court has received a formal warrant from Mr. Yeo, a Justice of the Peace for the County of Westchester. This affidavit His Honor then read, the substance of which is embodied in the following paragraph:—

“Mrs. DRATCH testifies, that on the 11th of August, 1834, she came from New-York, with the intention of visiting Mr. Pierson, he having been many years her particular friend. When she reached his house, she saw Matthias, who appeared to be much excited, and told her that Mr. Pierson was sick, and that she could not then see him. But on repeating her request, was put off, and answered by Matthias, that when Mr. Pierson came from the bath, she might see him. When night came on, she was urged by Matthias to go to bed, which she did from fear, and slept but little, and in the morning was told that Mr. Pierson was dead, but no one could tell by what means; but she heard him utter several groans during the night, and in the morning when she arose, was told by Matthias that he was dead. No person in the house could tell how he came by his death, and she has the impression on her mind, that Matthias has, by some means, been instrumental in his death. And having seen the certificates of four respectable Physicians, that some unwholesome or deadly substance was found in the stomach of Pierson, she founds her belief thereon that he has been poisoned, and therefore on this evidence the undersigned gave his warrant.

“CHARLES YEO, Westchester County.”

The RECORDER resumed: According to the statute, it is rendered imperative that when a warrant is issued from a neighbouring county, it must be endorsed by the magistrate to whom it is sent. Accordingly, the following endorsement appears at the back of this warrant, “Let this warrant be served in the city and county of New York. JAMES HOPSON.”

He continued: The Court have taken into serious and deliberate consideration what is their duty in this case. Matthias is indicted for a crime committed in this county—alleging he is God, and various other things—imputing to himself a spiritual power—a supernatural power, &c. If convicted of that offence, the punishment, of course, would be a fine and imprisonment not exceeding a year. Our sister county (Westchester) has claimed his person for the crime of Murder; the Court have weighed the whole subject matter, and they are of the unanimous opinion that they ought to act with becoming respect to their sister county, and should yield him for the higher offence first. And, therefore, we shall not try him for the misdemeanour first—until the Grand Jury of Westchester county have disposed of the serious charge made against him. If he is acquitted of it, it will be



time enough for this Court to act; but if he is convicted, then he will undergo the just penalty of the law.

Mr. WESTERN said: If your Honors please, the Court in Westchester county sits in a fortnight from to-day. Now, I appeal to the Court, whether it ought not, as an act of common fairness, to try him on the minor offence first. And I ground my appeal to the Court upon the fact, that the public mind ought to be disabused of the prejudice and erroneous opinions which have been formed in regard to the professions, and pretensions, and views, of my client. The only way, indeed, in which he can expect to have a just, fair, and impartial trial—free from prejudice—at Westchester, is, that he should have an opportunity before this community, of showing what his pretensions have been, in order that it may be seen whether they were not as much deserving of credit as of animadversion and condemnation. If this individual is sent to the county of Westchester, with the present prejudices against him, I conceive it hardly possible how he can have a fair trial. I make these remarks, because there is a fortnight intervening, and I do not know of any instance in which there was a major offence to try, but where no indictment had been found, or might be found, and where an indictment was found, as in this case, for a minor offence, (though not tried) of keeping an individual in close confinement for two terms. We ask the Court to go on and try our client: we ask to purify ourselves of the imputation made against us, before we are sent to another tribunal, perhaps, to answer for our lives, and in doing this we strongly appeal to the humanity and magnanimity of the Court. We think, your Honors, regarding the due and impartial administration of justice, even to the vilest wretch that lives, or can be imagined, will grant this to us as a matter of right. Your Honor labours under a mistake (I speak of his being indicted for having represented himself to be God the Father,) it is not so. As I understand it, no indictment has been made against him on that score. He is indicted for having obtained money under false pretences. There is no indictment for blasphemy.

The COURT: We do not mean that.

The DISTRICT ATTORNEY: It is not, *eo nomine*, an indictment for blasphemy.

The COURT: The indictment avers that he said he was God the Father—that he was the Spirit of Truth—had power to do all things—to communicate the Holy Ghost, &c. Under those pretences he obtained a large sum of money. It is not blasphemy that he is indicted for, but the obtaining of money under false pretences.

Mr. WESTERN: With due submission, and that point being corrected—I asked the Court to give a decision. It was not a question of expediency—not a question as to whether or not we should go to trial; but a decision as to this—whether upon the matters set forth in the indictment, it could be maintained.—The District Attorney, with his usual candor, and much ability, has presented his views on the subject to the Court. I presume there is no lawyer at the bar who differs in opinion with that gentleman. The only questions for your Honors to decide is—Can the indictment be maintained? and whether you will be supporting the law of the land by keeping the accused in custody, and without granting him a trial in this case, so necessary and important to clear away the existing prejudice against him, so that he may have a fair and impartial trial elsewhere. Your Honors have not said whether it is a good or bad indictment—whether it is well or ill founded. If you mean to say that it is a good indictment—then we ask you to put us on our trial, and assign us to-morrow for that purpose. We ask it as a matter of common right, to which every criminal—every individual, having been imprisoned two terms (as this man has) is entitled. We demand to be put upon trial to the end that justice may be done us. We ask whether it is a good, or bad indictment? If it is a bad indictment, we ask the Court to acquit him, and pass him to Westchester, in order that we may ask there, what we have asked here—a *fair trial*. If you say, on the other hand, that it is a good indictment, then we have a right to ask that we may be put on trial here, to the end, as I have before stated, that we may go free from prejudice to an adjoining county, where justice will be done. I am sure in making this appeal to the Court, I make only an appeal to the laws of the land, in defence of the rights of my client—rights, which I feel assured



your Honors are not at all disposed to trifle with, and lightly disregard. The accused has a right to one of two things—either to be tried, that justice may not be deluded, or be discharged. But, if your Honors mean to say it is a good indictment—try him to-morrow morning. If, however, you assert that it is a bad indictment, as most certainly it is—even if he were tried here, this Court, or the Superior Court, would quash it. Now, this being the state of things, I would ask your Honors, in order that no prejudice—no unjust imputation shall hereafter be alleged against him in regard to his pretensions and real character, that he be tried before being sent to Westchester county. This is all we request.

Mr. N. N. HALL said, the warrant from Westchester had laid in the Upper Police Office as long as the present warrant by which Matthias had been arraigned here. With due respect to the Court, he could not avoid stating that he could see no reason why the affidavit of a female expressing her suspicions should have been read, as the impressions they were calculated to make, by going before the public, would be injurious to him where he was not arraigned. We asked for a decision of the question—whether he can, or cannot, be tried on this indictment. The Court said they would take time to consider on the subject, and would give judgment on Monday. Tuesday had now arrived, and they were not inclined to give an opinion. He asked, according to the laws of the land—as Counsel for the accused—whether the Court were not bound to discharge him on this indictment, if they refused to grant him a trial? His (Mr. Hall's) associate (Mr. Western) had demanded a trial to-morrow. They were prepared, for they had an abundance of testimony to rebut the charge of "false pretences" alleged to have been used by Matthias in order to obtain the money, and showing that a contract was made, and that, like all other contracts. He asked the Court, in behalf of the prisoner, that the excitement which was at present raised against him might not be increased by any act of its own, as it might operate in a sister county, with all the prejudices of the people there, perhaps to his utter destruction. He (Mr. HALL) requested that a day might be assigned for his trial, or, that a motion be made at the end of the term for his discharge.

### OPINION OF THE COURT.

The COURT said, they were unanimous in their views, and the decision they were about to make would be according to law. There were two grounds assumed by the Counsel for trying the accused; *First*, that the Court ought to pronounce whether the indictment was good or bad. *Second*, there ought to be a trial in order to remove the existing prejudice against Matthias, which might influence the jury at Westchester.

*First*, as to the Court being called upon to decide whether this was a good or bad indictment. Whenever it was alleged an indictment was bad, there were two ways in which the Court was called upon to do its judicial duty in regard to declaring whether an indictment was good or bad. The *first* was, where it was very obviously bad; then the Counsel for the accused might address the Court, and regularly move to have the indictment quashed. The Court were then compelled (speaking judicially of its duty) to decide whether it was their duty to acquiesce in the motion. Such motion had been made by the District Attorney, on the ground that the matter was not clearly indictable.

There was another way in which an indictment might be got rid of, and that was, when on its face it was charged and of a questionable character; the Counsel might then demur, and compel the Court, unaided by a jury, to say whether the indictment was good or bad. A demurrer, as every lawyer knew, admitted the facts stated in the indictment, and in that case, if the Counsel were sure the law was with them, they might compel the Court to decide whether the indictment could be sustained. But the Counsel for the prisoner had put it out of the power of the Court to say whether the indictment was bad, by pleading the "general issue;" and the District Attorney had moved to enter a *nolle prosequi*. The Court concurred that, in the present state of things, they must proceed to try the accused, or must have some reason for not trying him, or he would be dis-



charged at the end of the term. He was not held in prison under this indictment, but under that at Westchester county; and the Court was as much bound as the police magistrate for the safety of his person. Would not the authorities at Westchester have reason to complain if the Court did not take care of him? The Court could not pronounce the indictment bad; the only way to do that was after a jury had convicted, then, in that manner, it might be overturned.

Now, as to the prejudices—The Counsel had said they wanted a trial in order that they might be removed, if there were prejudices existing; and it was to be hoped that they who tried the accused would do so, as free as possible from them. Would it be gracious in that Court to say, that a grand and petit jury would yield themselves to any unworthy prejudices? Would it be becoming in a Court to state that one reason why the minor offence should be tried first, when there was a greater offence, was, because they were apprehensive that the petit jury might be prejudiced? acting as they were under the solemnity of their oaths? For his, (the Recorder's) own part, and he could answer for the whole bench—they wished it to be distinctly understood, that they put the most implicit confidence in the grand and petit jury. The Court begged it might be recollected, that they were anxious to be understood distinctly; that they entertained the opinion that the same fair and impartial justice which would be dealt out here would be dealt out at Westchester.

Mr. N. N. HALL said, he understood His Honor to say, that where there was no further demand made, according to the Revised Statutes, the prisoner's Counsel had a right to move for his discharge at the end of the term. That he, (Mr. Hall,) took to be the law of the land.

Mr. WESTERN asked, would the Court permit him to inquire whether one branch of this matter had not escaped the recollection of His Honor? His Honor intimated that the question—whether it was a good or a bad indictment, was not presented to the Court. His Honor enumerated the different modes in which the prisoner's Counsel could present that question. But it seemed to him, (Mr. Western,) that His Honor had lost sight of the real way in which it ought to be presented. There was a third way in which it had come up in this discussion. The District Attorney had a right to give his legal opinion on the matter, in the impartial and independent discharge of his duty, as he had done; but, as a prosecutor for the virtuous and good, he, (Mr. Western,) would ask his Honor, whether under the circumstances, (that it was not a bad indictment)—though he did present the question for the Court to decide; was not the question presented to them by the District Attorney? Was it not clearly presented to the Court by that gentleman that the indictment was illegal, invalid, improper? His Honor ought not, *ex necessitate rei*, to enter a *nolle prosequi*. If he, (Mr. Western,) understood the object the District Attorney had in view, it was a correct and intelligible one. Now the question was put—whether it was a good indictment or not? No question came from their side; why should there be, when the other side allowed that it was a bad indictment, when the District Attorney conceded the very ground? Surely, therefore, if their Honors pleased, this Court had the question presented, valid or invalid, legal or illegal, it could not be more fully—more properly or fairly placed before them for their decision; and he regretted the Court seemed carefully to avoid that point. He had a right to demand for the accused as an American citizen, as a father of a family and a husband, full and ample protection. A man was, and ought always to be, presumed innocent until convicted. He (Mr. Western) had a right to claim His Honor's protection on his behalf, which ought always to be extended to men in the same unfortunate situation. A part of his duty was to protect him, and likewise to decide fairly the question put by the District Attorney, who had said, "I am too proud—too honest—too upright, to put a man on trial, when I find no substance for the offence. I am unwilling to put him on trial; I am not inclined to place him on his defence, when I know the result of all this must be his acquittal." Now, if their Honors pleased, this was the question: he (Matthias) had a right to demand a decision—he did demand it—and he (Mr. Western) appealed to the



Court not to allow of any temporizing—not to be swayed by the etiquette of the county of Westchester, whether or not the question would entangle it—nor be guided by any other considerations than those of a grand and elevated character, which he had always found to sway their Honors. He trusted they would look to this question on its true, isolated, and distinct merits. What was the case? Here was an indictment confessedly bad; here was the District Attorney conceding that it was illegal; here was the District Attorney asking the Court to decide whether it was a good or bad indictment. The Court, instead of answering the District Attorney, turned round and said, “We entangle the sister county.” He (Mr. Western) would say that they had a right to move, at the end of the term, for the discharge of the accused. If their Honors pleased, he would ask them to decide, according to law, whether this was or was not a good indictment. That was the only question presented by the District Attorney for the consideration of the Court. If there was a requisition from Westchester for the accused, in God’s name send him there; he would find protection there as well as here; he was not in greater danger there than here. In mentioning that there was much excitement against the accused, he did not mean to say it was a legal objection. He merely stated it as a thing which all men knew was natural to the human passions. He mentioned it as a matter which their Honors knew prevailed among the religious community. If the pretensions which were laid to his charge were justly laid, he (Mr. Western) would ask what kind of feeling—what sort of views that portion of the people would entertain in regard to his client—whether they would not think annihilation to be his due? He (Mr. W.) imagined they would think they were meting out to him unbounded justice!

The learned Counsel, in conclusion, observed that the question had not been answered, and he had a right to ask their Honors (on the application of the District Attorney) whether it was a good or bad indictment? If bad, then the accused was entitled to his discharge, but if it were a good one, he had a right to a trial at the earliest convenience of the Court.

The DISTRICT ATTORNEY rose, not with a view of throwing light on the subject, but merely to say that terms had been used by the Court and Counsel implying a different meaning to the language he had used. The indictment was as good a one as could be drawn under the circumstances; it was framed by him with care; and the question was not whether the indictment was good, but whether the matter of it was indictable. If this was not decided, then, of course, the indictment could not be sustained, and it was that question which was submitted to the Court.

He would now beg to correct a little error into which the learned Counsel seemed to have fallen—that the Grand Jury had found a bill against his wish. When the complaint was laid before the Grand Jury, he (the District Attorney) expressed strong doubts to them whether any indictment could be sustained. He was of opinion there could not; but it was the opinion of one man, liable to error. Notwithstanding his doubt, he drew a bill from necessity, and as perfect a one as his abilities would allow him, but before proceeding to trial he thought he would submit it to the judgment of the Court, and upon that judgment act.

The Recorder said there could be no doubt as to the true course of the law. If they meant to have the opinion of the Court before the case was put to the jury, they had a choice of two things, one was a motion to quash the indictment—the other, a demurrer.

MR. WESTERN: But has not the District Attorney taken the proper course?—

The COURT: Whenever this case comes on to be tried, you will have a perfect right to call for the opinion of the Court. It will then have to lay down the two following rules, the first is, to tell the jury that, according to well settled principles of law, the pretences used must be such as would deceive a man of ordinary prudence. Now, whether a man of common sense would have been deceived, or not, is not a question for the Court. The second is, that they must not convict this man, unless the pretences used would impose upon a man of ordinary prudence; yet it is a question of fact, which we cannot take from a jury, whether the pretences did not deceive us.

Mr. WESTERN: I would put the point of the case on this—that the District Attorney has a right to rise in his place, and ask the Court whether this be a good or a bad indictment, and if the latter, move to enter a *nolle prosequi*. The District Attorney has already done that, and left it for your Honors to decide. I admit the other two modes. Now, if your Honors mean to say that he had no right to make the application—that I had a right to overrule him—then you decide against the District Attorney. But I ask you, if you intend so to decide, to state it distinctly. If the Court decide thus, we have a remedy. But we have a decided disposition not to be forced to take that course. I ask the Court to view it in this isolated light: the District Attorney rises in his place, and asks the Court to decide whether the indictment be good or bad, to the end that a *nolle prosequi* be entered.—[Mr. N. N. HALL said, it was formerly the case that the District Attorney had the power to enter a *nolle prosequi*. By the Revised Statutes, however, it is now left to the Court.—[The RECORDER explained, that the prosecutor had a right to enter a *nolle prosequi*; but the Court was not bound to do so.

Mr. WESTERN: Your Honor falls short of the mark. The first proposition is—is it a bad or good indictment?

The COURT: The Court have very clearly before decided. The power of the District Attorney has been abridged, and now a *nolle prosequi* must be entered by the permission of the Court. Now, the Court are perfectly clear that they might advise a *nolle prosequi*, and are equally certain that they are not bound to give advice. And it is quite clear to all, that we are not bound to give it. But if the parties go to trial, they may carry the case up to the Court of Errors. Now, which is the wiser mode? Suppose we have decided, or let it go to a jury, and permit them to decide on the question of facts: if it be not indictable, you then move the Court and compel it to give judgment. The rule of law was founded in great wisdom. What would not impose upon a man of sound understanding, might impose upon a very silly man; and should the defrauder, on that account, be permitted to escape punishment. The Court are of opinion that this man should be given to the County of Westchester.

[MATTHIAS will be sent forthwith to Westchester, there to await his Trial at the next Sessions for that county.)

The Court was crowded long before the Recorder took his seat, by those who were curious to get a glimpse of the Prophet, and a great many were women. He was splendidly dressed. He had on a claret colored coat, green pantaloons, and yellow vest. The coat was decorated on each side the breast with seven silver stars of small size, with two larger ones—one on each side. His much-to-be-pitied wife was in Court among the spectators.