THE BURNED CITY.

THE NIGHT SIDE OF CHICAGO.

[FROM THE SPECIAL CORRESPONDENT OF THE TRIBUNE.]

OCT. 14.—The town is beginning to fill with æsthetic sight-seers. The artists of the illustrated papers are seated at every coign of vantage, sketching for dear life against the closing of the mail. Photographers, alarmed by the prospect of speedy reconstruction, are training their cameras upon every unprotected point of picturesque ruin. They are sure of a ready sale of all the shadows they seize in these days. There has rarely been offered to the pitying admiration of men a collection of pictures of more poignant beauty. If one could divest himself of all feelings of sympathy and pain he could gain from these smoking squares the finest intellectual enjoyment. Monotonous as the gray stretch of desolation appears at first, the longer you look and linger the more this uniformity of character and color breaks up and reveals to you an infinite study of lines and forms. Of course, these ruins lack the consecration which has come with the course of ages to the splintered monoliths of Thebes and the gnawed plinths of Paestum. But is there not an equal if not greater human interest in surveying these brand-new shards of a great city, and reflecting that the builders do not hide from our sympathies in the mists of immemorial time, but to-day live and breathe, think the same thoughts which found expression in these broken walls and melted columns, eat and drink and love and grieve and hope, and go on with work kindred to that which now has suddenly taken its place in the Past? Every one who has looked upon ruins has felt the keen, imperious desire to know what manner of men it was that built them and looked upon them when they were fresh in the sunshine of those older days. Half the joy and half the pain of travel is in this vain imagining. But here you look at these imposing wrecks, still Titanic and most impressive in a decay that already seems historical, and you reflect with a sudden feeling of surprise that you know by heart the sermon they are preaching. You are yourself a part of the life they symbolize, of the civilization which they express. You have heard the prayers and the oaths, the laughter and the cries, to the sound of which those walls went up. There is no unknown quantity in the problem they present. There it is—make of it what you will. If you come to nothing, do not blame time or history for the dust that is in your eyes.

Strolling through the town in the daytime, you see that it must have been a heat of singular intensity that melted down six miles of brick and mortar so soon into one undistinguishable mass. It took only about twelve hours to virtually finish the work; all that was done after that, was the aftermrath of the flame gleaning about the edges of the field it had reaped. But there has never been a fire which so completely attended to its business and slighted no part of its work. It seems like a mere figure of speech to speak of a quarter utterly destroyed. The phrase is always used about great fires, but usually means that all the houses are more or less damaged. In this case it is literally true. Most of the houses are level heaps of calcined building material. The walls of the Custom-House are still standing; the Court-House wings refuse to fall. The fire-proof *Tribune* disdains surrender, though only a phantom house. A few heavily buttressed church towers wait also for the hammer of demolition. But with these exceptions, the central region of Chicago has ceased to exist. You can look through it to the far-off waste of the North Division. In many places the solid granite has cracked and peeled in great flakes, like stucco in the frost. The iron castings are partly melted and partly twisted into forms of startling grotesqueness. I have seen fluted columns, bell wires, gas and water pipes, wreathed and twisted among the smoldering ashes of a cellar like a coil of snakes of assorted sizes. Even the pretty gratings of the Safe Deposit Company, the best preserved of all, are fearfully warped and bent, like a character which has resisted temptation with a woeful loss of temper.

These details we have been permitted to see for some days; for although the proprietors are eager to begin their work of reconstruction, the lack of water has thus far made it impossible to quench the smoldering flames. So that the light shimmer of the brooding heat hangs all day above the rubbish and the air is full of the pungent odor of coals. When night comes a strange and beautiful transformation is wrought in the scene. Every evening since I have been here I have watched with increasing interest this marvelous and fascinating change. As the sun goes down in the prairie, and the night wind comes in from the Lake this sleeping fire rouses and stirs in its slumber like a woman who shakes off the day's decorum, and flushes at the coming of her lover. The vast ignited coal-beds on the shore of the river throw red greetings to each other through the gathering shadows. The darkness slowly vails the lines of shattered walls, and one by one through the gloom twinkle out the delicate blue flames that spring from the anthracite coal-boxes of the burned mansions. They are so blue, and fine, and fragile, that they seem like forget-me-nots gemming the dusky field. They are very persistent, though. They have been pouring tuns of water through the sidewalk upon one small deposit in front of Gov. Bross's residence, and yet at night it blooms as bluely and vigorously as if it were refreshed by the watering. As the darkness deepens, the show increases in brilliancy, until, by a most lovely effect of reflection, the blaze from the unquenched fires strikes the clouds of smoke that hang over the city, and turns them a brilliant rose. The pillar of cloud becomes a pillar of fire, and all at once the dead luster of this reflected light falls back upon the ruins and brings them out into pale and singular distinctness. It is not possible to imagine anything more terribly beautiful than this wild commerce of the fire and the darkness. From my window I see the whole sweep of the vast illumination. On the left a coal heap stretches beyond the river like a shore of fire; a boat on this side is blackly painted athwart the blaze. The sky is flushed with the flame and mottled with driving clouds and against it loom the ragged and torn walls of the Pacific Hotel, the sturdy arch of the First Presbyterian Church, and further to the right the broken outlines of the Court-House, far more reverend and graceful than ever in their forlorn incompleteness. All along the red horizon the coal heaps blaze and the sky is on fire, and the sharp angles of broken walls, and the slim stems of black chimneys like minarets are drawn sharply on the crimson background. I do not know if it could be within the reach of painting to give any hint of the unutterable magic of this spectacle. No sunset was ever so rosy as that smoky sky. No frost-castle built on a window-pane out of a child's breath was ever more delicate than those fantastic ruins flung like tattered lace against the drifting clouds. On the extreme right just within the yellow blaze of the light that guards the breakwater the great Central Elevator towers above the shore shrugging its vast shoulders over the desolation, contemplating its mirrored bulk by the flickering blaze of its fallen companion. After all this revel of form and color it is a relief to look to the East where lake Michigan lies in his night dress of mist and whispers as peacefully to the sandy beach as he did in the days before Columbus, and as he will in the days after Jonathan.

The crowning evil of all times of tumult and disaster is suspicion. We cannot burn witches now, nor tear out the tongues of Jews for imaginary crimes. But we can shoot old women for pumping petroleum if we are Parisians, and we can resurrect them in back alleys if we live in Chicago. That famous South-Western verdict, which attributed a suicide to "accidence, incidence, and the acts of the incendiary," seems to have possessed the Chicago fancy; and though they do not positively hang or shoot their pétroleur population, they say they do in their newspapers, and occasionally seize a shivering vagabond whom they find skulking on the sunny side of a barn, and drag him before Gen. Sheridan for trial. Luckily this sagacious soldier has a cool head and an honest judgment, and insists on better evidence than poverty and dirt to hang a man, and the consequence is that not one case of incendiarism has been shown at headquarters. There have been two or three fires in regard to which the cry of incendiarism was promptly raised, but investigation at once made evident their accidental character. This general suspicion, however, has resulted in the establishment of an institution which is altogether laudable as long as the embers of the conflagration remain alive. A patrol of citizens has been formed in every block, and they all do sentry duty at stated hours. Every man out at night without cause finds it a little inconvenient to give repeated accounts of himself, and this of itself is promotive of the domestic virtues. The rule is certainly admirable in its application to that portion of the twilight population which always comes to the surface at such hours. In the day-time you may see them slouching about Wabash-ave., where their rascal faces and hang-dog air are never seen in ordinary times. It would certainly not be prudent to give the city up to them, and so at night they are kept in their own haunts on the West Side. It is astonishing to see how simple and provincial Chicago has become. Standing sentry is positively the only recreation of men of the world. There are no clubs, no restaurants, no theaters, no libraries. There is no need of going out—if you go, a wall falls on you by way of warning. A little while ago, as I sat here writing, I heard a loud crash, and looking out, I saw that the high wall of Mr. Scammon's house had fallen. A furious gale was blowing from the south and roaring among the ruins. As I looked another wall came sprawling over the sidewalk. As the white dust rose and fled away with the wind, I heard a pitiful cry, "Help over dere! A man's got his leg broke." A dozen persons ran from the hotel and brought in a poor German who was watching the building, and had imprudently taken shelter from the wind under the wall. After he was safely bestowed, I stood for a moment at the window looking westward at the fine arch of the Presbyterian Church, clearly and richly defined against the red glow of the sky. Full in my sight it tottered, parted with a dull report, and tumbled forward into the street. The gale increased in violence; the pale shadowless light faded from the city as the wind drove away the illuminated clouds. The blackness of night which had been hanging in the eastern horizon swept in over the Lake to the town. The whistling wind was thick with lime-dust and sparks of fire. The blue flames of the anthracite burned more gaily, looking now like the witch watch-fires on some unusually tempestuous Walpurgis-night. A gentleman with a white cravat and a black face knocks, and requests, with the compliments of the authorities, that lights may be put out and windows closed. And so to bed, with a gale lashing the calm Lake into discontent, and the intermittent rattle of falling ruins, reminding one of an artillery battle between two absent-minded armies. J. H.

THE COURTS.

CIVIL NOTES.

John Joyce recovered from the Central Park and North and East River Railroad Company in the Supreme Court Circuit of Kings County, yesterday, $5,000 for injuries received on Feb. 13, 1870.

The divorce suit of Mary L. Parsons against Henry F. Parsons, came up yesterday, in the Superior Court, Special Term, before Judge Jones, on a motion for alimony and counsel fee. They were married in 1865, and separated in April, 1871, by mutual consent, the plaintiff retaining two of his children and the defendant one, on the agreement that he should give her weekly $3 for support. Subsequently she brought this suit for divorce on the ground of adultery, and she now claims that defendant has a good income and drives a pair of horses. The defendant denies the income, but admits the horses, claiming, however, that they belong to another man who employs him at $12 a week as a hack-driver. Ordered to a referee.

CRIMINAL COURTS.

At the Jefferson Market Police Court, Charles Davenport was committed, yesterday, for stealing a watch from Alphonse Stumke of No. 204 West Thirty-seventh-st.

At the Tombs Police Court, Justice Dowling committed Margaret Scott of No. 310 Mott-st., yesterday, for stealing $96 from the pocket of Patrick Farrell, of Grand, No. 244 Mulberry-st., who had called on her to collect a bill. The woman sat on the knee of the complainant, and stole the money from his pocket.....Charles Wood of No. 731 Waverley-place, employed as clerk by William Hathaway, an expressman, of No. 356 Canal-st., was committed for appropriating a check for $84, and $54 60 in currency, which he had been given to pay James Y. De Wolf of No. 223 Hudson-st.

In the Court of General Sessions, before Recorder Hackett, yesterday, Owen Eaton, for stealing a chest of tea worth $35 from Albert H. Fornington of No. 33 Broadway, Sept. 29, was sent to the Penitentiary for four months.....George Banks, stealing a gold watch and chain worth $117 from Mitrice W. Venedas of No. 805 Broadway, Oct. 3, State Prison five years.....Charles Daniels, stealing a gold watch worth $90, from E. W. Ketchum of No. 213 Broome-st., 4½ years.....Wm. Carlin, charged with seducing Mary Dreyfoss, was found guilty, and settled the matter by marrying the girl in Court.

DECISIONS—OCT. 18.

Supreme Court—Chambers—By Judge Ingraham.—Stevens agt. Cattarch.—Motion granted.

By Judge Cardozo.—The People agt. Keil.—Motion denied. The People agt. The Tobacco Manufacturers' Association.—Motion for receiver granted. Mitchell agt. Reed.—Memoranda for counsel. Shaw agt. Harker.—Motion granted.

Superior Court—Special Term—By Judge Jones.—Winebrenner agt. Johnson; Yerck agt. Blumenthal; Lang agt. Blumenthal.—Orders granted.

Common Pleas—Chambers—By Judge Robinson.—Lansenberg agt. Kirkland.—Motion denied, with costs.

By Judge Larremore.—Shipman agt. Pielstriker.—Exceptions settled.

Marine Court—Part I.—By Judge Gross.—Hawthorne agt. The Old Dominion Steamship Company.—Action on contract, tried; decision reserved. Sundelmier agt. Hoffman.—Discontinued. Finnegan agt. Pumpwell.—Inquest taken. Burke agt. Attield.—Tried; decision reserved.

Part II.—By Judge Curtis.—Schmenger agt. Schultz.—Action to recover $1,000 for services as a real estate broker; judgment on verdict for the defendant. Fiegel agt. Eckerison.—Complaint dismissed. Henderson agt. Eastburne.—Action on a promissory note, the defense being that the work for which it was given has not been performed; judgment for the plaintiff for $311, costs and allowance. West agt. Gilroy.—Judgment for the plaintiff for $473 08, costs and allowance. Carpenter agt. Morrison.—Action for the rent of a part of the premises No. 9 Hassan-st.

Part III.—By Judge Alker.—Claflin agt. Hills, Taylor agt. Welsh.—Dismissed by default. Harrington agt. France.—Inquest taken.

COURT CALENDARS—THIS DAY.

SUPREME COURT—CHAMBERS—BARNARD, J.—Opens at 10 a. m.

53..Shaw & Wilcox Co. agt. Wilson.
76..Routh agt. Fowler.
88..Southern Express Co. agt. Cobb.
109..Shaw & Wilcox Co. agt. Austin.
136..Yocks agt. Curry.

SPECIAL TERM—CARDOZO, J.—Opens at 10½ a. m.

122..Westervelt agt. Ackler.
157..Funck agt. Davis.
154..Day agt. Day.
204..Ryan agt. Shay.
97..Corn Ex. Bank agt. Chatham Nat. Bank.
127..Westervelt agt. Westervelt.

CIRCUIT—PART II.—BRADY, J.—Opens at 11 a. m.

223¾..Gerding agt. Kobbe.
350..Robinson agt. Cattenden.
356..Fitzgerald agt. Colligan.
180¾..Smith agt. Cleese.
352..Stout agt. Stryhling.
360..Funsl agt. Bracker.
360¼..Focke agt. Ranke.
366..Guidet agt. Dingeldein.
368..Hoyt agt. Sibley.
270..Ivers surr't, &c., agt. Dennistoun.
378¾..Lakey agt. Boyer.
646..Leahy agt. Werner.
392..Peck agt. Gardner.
384..Gar agt. Ingersoll.
386..Sharpe agt. Lambert.
390..Cockroft agt. Claflin.
142..Bull agt. International Ins. Co.
324¾..Lavorini agt. Bull.
306..Alexander agt. Lewis.
136..Gordon agt. Westervelt.

SUPERIOR COURT—SPECIAL TERM—JONES, J.—Opens at 10 a. m.

39..Frederica agt. Guardian Mutual Life Ins. Co.
35..Bassett agt. Prescott.
44..Grant agt. Barr.
45..Barr agt. Gregory.
46..Davis agt. Pearsall.

TRIAL TERM—PART I.—BARRETT, C. J.—Opens at 10 a. m.

648..Milgrim agt. Kentship.
625..Dumont agt. Hickett.
605..Taylor agt. Perrin.
885..Julian agt. Hillier.
1011..Thurber agt. Wormser.
1135..Wheeler agt. N. Y. Mutual Insurance Co.
1139..Robertson agt. Atlantic Mutual Ins. Co.
869..Smith agt. Frost.
797..Mehrbeck agt. Koehler.
725..Barber agt. O'Brien.
411..Myers agt. Butler.
1075..Folsamm agt. Benner.
671..Housework agt. Jones.
1193..Horey agt. Novelty Iron Works.

PART II.—Opens at 10 a. m.

172..Morgan agt. Skiddy.
1008..Brown agt. Walker.
1010..Magnn agt. Dissmore.
1012..Hayes agt. Brender.
1154..Wheeler agt. N. Y. Mutual Insurance Co.
720..Willis agt. O'Brien.
930..Coleman agt. Livingston.
180¾..Kobbe agt. Gerding.
1212..Kelly agt. Hughes.
1216..Lockwood agt. Sharpe.
990..Dalton agt. Scanlon.
1060..Schneider agt. Knol.
1150..Eastwood agt. Smith.
1226..Moore agt. Baker.
1228..Breding agt. Bleecker-st. and Fulton Ferry R. R. Co.

COMMON PLEAS—TRIAL TERM—PART I.—VAN BRUNT, J.

737..Kidney agt. Walsh.
345..Wise agt. Broadway and Seventh-ave. R. R. Co.
68..McCauley, admr. agt. Gans.
987..Roome agt. Scribner.
992..Stewart agt. Sloane.
1012..Merchant agt. Horgan.
1013..Roosevelt agt. Nooney.
777..Eckerson agt. Washington.
933..Smith agt. McGovern.
944..Archer agt. Elkins.
1002..Tyson agt. Curry.
974..Meldinger agt. Godfrey.
942..Hess agt. O'Brien.
922..Banister agt. Same.

MARINE COURT—TRIAL TERM—PART I.—GROSS, J.—Opens at 10 a. m.

6319..Rand agt. Carlton.
6230..Wilson agt. Fairbanks.
6780..Smith agt. Sheppard.
6782..O'Neil agt. Roth.
7640..Wermser agt. Fibel.
4569..Haughwout agt. Cooper.
5939..Monaghan agt. Lewis.
6236..The Ninth National Bank agt. The Ninth Ward Bank.
6409..Levy agt. Schreyer.
6714..Corlies agt. Mackinley.
6723..Schnobel agt. Kleinbechek.
7463..Morris agt. Steinberg.
6814..Harl agt. Oberle.
6815..Hofman agt. Guylfoyle.
6816..Schloerb agt. Goldsmith.
6817..Walter agt. Sherwood.

PART II.—CURTIS, J.

6740..Lehare agt. Kelly.
6826..Floppiani agt. Vanni.
6843..Templeton agt. Bilgen.
6846..Rosenstein agt. Welsh.
6863..Alling agt. McCollough.
6864..Cherville agt. Sabatana.
6877..Levy agt. Rosenthall.
6880..Mattlage agt. Adams.
6440..Hughes agt. Mahon.
6491..Heaney agt. Roahworth.
6550..Allen agt. Hutchinson.
6522..Klein agt. Urban.
6519..Mohr agt. Eckermann.
6665..Anderson agt. Anglin.
6766..Gerlach agt. Gierlet.
6700..Bissinger agt. Herfelder.
6718..Hermann agt. Walter.

PART III.—ALKER, J.

6714..Corlies agt. Mackinley.
6736..Farley agt. Leech.
7066..Graham agt. Ulmer.
6318—Wilson agt. Outtender.
6319..Fitzsimmons agt. Brady.
6820..Smyth agt. Bernhardt.
6821..Murray agt. Jennings.
6824..McLerson agt. Harrison.
6827..Coffee agt. McSweegan.
6828..Bolnton agt. Gadsband.
6831..Heikemeyer agt. Byrnes.
6832..Ely agt. Bartlett.
6833..Weyrich agt. Stuttenheimer.
6830..Whitney agt. Warren.
6834..Johnston agt. Bounden.

COURT OF GENERAL SESSIONS—Before Recorder HACKETT.—Opens at 11 a. m.

1..Wm. Rudd, homicide.
2..Henry Hays and John Corpugh, robbery.
3..Frederick Ortwein, grand larceny.
4..Stephen A. Ogden, grand lar'y.
5..Same, receiver of stolen goods.
6..Levy Kurtz, grand larceny.
7..Same, petit larceny.
8..Michael Russe, felonious assault and battery.
9..Patrick Kane, felonious assault and battery.
10..Malchi Buckley, felonious assault and battery.
11..Susan Lavery, felonious assault and battery.
12..Ernest Bornstein, felonious assault and battery.

UNITED STATES DISTRICT COURT IN ADMIRALTY—BLATCHFORD, J.—Opens at 11 a. m.

229..Willis agt. Woodbury.
72..Dunham agt. 1,365 vitrified pipes.
219..Brown agt. Lund.
166..Chase agt. The bark Alice Taintor.
219..U. S. agt. The propeller Thos. Swan.
131..Austin agt. The canal-boat Enterprise.
206..Boyle agt. The schooner Breeze.
211..Gladwin agt. Lond.
223..Smith agt. Brown et al.

SUPREME COURT—CIRCUIT—KINGS COUNTY.—Nos. 99, 261, 412, 103, 171, 232, 299, 300, 323, 325, 371, 14, 180, 206, 270, 291, 322, 345, 356, 390, 430, 431, 417, 432, 433, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450.

THE GREAT RAILROAD CASE

DECISION OF CHANCELLOR ZABRISKIE.

THE INJUNCTION DENIED—THE DIRECTORS HAVE POWER TO LEASE.

TRENTON, N. J., Oct. 18.—Chancellor Zabriskie delivered, to-day, an opinion in the Railroad Lease case. The conclusions to which he arrived were, first, that the act of 1870 gave authority to the directors of the united companies to connect with other roads; second, that their lines formed both connected and continuous lines with railroads in other States; third, all the property of the road and their appendages may be leased and operated without the consent of all the stockholders; fourth, the directors have such power by the consent of the State; such lease is within the power delegated by the Legislature to the directors; sixth, that the purposes of the lease are a public use; seventh, even if the directors have not the power to make the lease, the making of it is not a taking of property without compensation; eighth, that the Pennsylvania Railroad has power to consummate this lease. The injunction must be denied and the order restraining the defendants vacated.

The following is the opinion in full:

THE CHANCELLOR'S OPINION.

IN CHANCERY.—October Term, 1871.—Black and others agt. The United Companies of New-Jersey.

The Chancellor—The complainants in this case are stockholders in the three corporations who are the defendants. The object of the bill is to restrain these corporations from executing a contemplated contract with the Pennsylvania Railroad Company, by which the works of the defendants are to be leased to that Company for 999 years, for an annual rent of 10 per cent on the amount of their capital stock. The matter before the Court is an application for a preliminary injunction.

The aggregate capital stock of the three defendants consists of 189,904 shares of $100 each, of which the 21 complainants own 3,455 shares, being a little more than one-fifty-fifth of the whole. The bill is filed for the benefit of the complainants and all other stockholders of the defendants who may join therein.

THE POWERS OF THE COMPANIES.

The defendants are the Delaware and Raritan Canal Company, the Camden and Amboy Railroad Company, and the New-Jersey Railroad and Transportation Company, all incorporated by special charters, the first two by charters passed Feb. 4, 1830. They were consolidated by an act passed Feb. 15, 1831, and have since been commonly known by the appellation of the Joint Companies. In their business affairs and in legal proceedings the joint name was retained and their affairs were managed by a joint board composed of the directors elected by each company according to its charter. The charter of the New-Jersey Railroad Company was passed March 7, 1832, and it was consolidated with the joint companies by virtue of an act of the Legislature authorizing it, passed February 27, 1867, confirming an agreement made on the first day of that month. By this they were only consolidated in interest, the stock and corporate existences of each remaining as before, but were governed by a joint board, composed of the directors of all. They have since been commonly known by the name of the United Companies of New-Jersey, but have not adopted or assumed a corporate name, for the consolidated companies, as authorized by the act. The Canal Company was authorized to construct a canal from the Delaware to the Raritan, and a feeder to supply it with water from the Delaware. The Camden and Amboy Railroad Company were authorized to construct a railroad from the Delaware, opposite Philadelphia, to Raritan Bay, with steamboats at both extremities to convey passengers and freight from the City of New-York to the City of Philadelphia, so as to "perfect a complete line of communication from Philadelphia to New-York," was authorized after the main line was completed, to construct a lateral road from the main road to the Delaware at Bordentown. The New-Jersey Railroad Company were authorized to construct a railroad from some point in the City of New-Brunswick to the Hudson River, opposite the City of New-York, with power to construct a branch to any ferry on that river opposite the City.

In the act of 1831, to consolidate the joint companies, it was provided that any stockholder of either, who dissented, should be paid back the price of his stock with interest—neither work being then constructed. And in the act of 1867, to consolidate the United Companies, it was provided that each dissenting stockholder should be paid the value of his stock, to be appraised by Commissioners.

The joint companies, by an act passed March 15, 1837, were authorized to construct a railroad from the southwesterly end of the New-Jersey Railroad in the City of New-Brunswick to Trenton, and thence to connect with their road at, or south of, Bordentown, with a spur to the Trenton Delaware Bridge. This act made no provision for dissentient stockholders. In 1835, the joint companies, by an agreement with the Trenton Delaware Bridge Company, of which they owned a majority of the stock, were allowed to lay rails upon the bridge over the Delaware, at Trenton, and to use it for their trains. And, in 1836, they made an agreement with the Philadelphia and Trenton Railroad Company, whose road ran from the west end of that bridge to Philadelphia, by which that road was used as part of the line of the joint companies to Philadelphia, and by which the clear profits of these three companies should be divided among all their stockholders, share and share alike.

The joint companies constructed a canal from the Delaware to the Hudson, a railroad from Camden through Bordentown to South Amboy, and provided steamboats at either end, to New-York and Philadelphia, so as to make a complete line of communication from one city to the other, and also a railroad from the western extremity of the New-Jersey Railroad in New-Brunswick through Trenton to Bordentown, with a spur to the Trenton Bridge, and laid rails on that bridge to connect with the Philadelphia and Trenton Railroad. The New-Jersey Company constructed its road from the west boundary of New-Brunswick to the Hudson at Jersey City near the ferry of the Jersey associates, but did not construct a branch to any other ferry. These works were all completed as required by the acts authorizing them.

In this manner, beside the canal from the Delaware to the Raritan, three complete lines of communication between New-York and Philadelphia were perfected. One from New-York to Amboy by steamboat, from Amboy to Camden by rail, and from Camden to Philadelphia by steamboat. The second from Jersey City through Newark and New-Brunswick to Trenton, and over the Trenton Bridge and the Trenton and Philadelphia Railroad into Philadelphia. And the third by using the second to Trenton, then by the road from Trenton to Bordentown, and passing over the first thence to Philadelphia. Each of these lines was a continuous line from New-York to Philadelphia.

Each of these companies had, with the authority of the Legislature but without the express assent of its stockholders, varied and changed its located route, and constructed branches not authorized by its original charter. And had purchased stock of other corporations deemed auxiliary to its own, guaranteed their bonds, and leased their works; each had established and maintained a ferry at the termination of its road over the Hudson and Delaware respectively, not for its own passengers merely, but for the public. And for this purpose the New-Jersey Railroad Company had purchased, at the cost of nearly $600,000, the capital stock of the Jersey Associates. These things were done sometimes with, sometimes without, special authority of the Legislature, always without the express assent of the stockholders.

LEASES, ETC., OF THE JOINT COMPANIES.

These lines were the only canal and railroad routes authorized by the State, by which passengers and freight coming to Philadelphia from the West could cross the State to New-York. The Pennsylvania Railroad Company owns or controls the railroads which are the chief means of communication from the Western States, including California to Philadelphia. This Company made an agreement with the joint companies in 1863, by which freight and passengers coming over its road, and the roads controlled by that Company to Philadelphia should be carried to New-York over the roads of the joint companies, without change of cars, and the fare and freight received should be divided according to the distance passed over the respective lines.

The depot and other terminus accommodations at Jersey City, barely sufficient for the proper business of the united companies, were found inadequate for the freight business from the West, which was coming over the Pennsylvania Railroad. The united companies, to provide for this need, in the Autumn of 1867, purchased of the owners the Harsimus Cove property of Jersey City, extending from South Second-st. to South Seventh-st., giving them a front of 1,300 feet on the Hudson, opposite New-York, and containing about 70 acres. This purchase was made at the cost of near half a million of dollars, without any special authority from the Legislature, and without any express assent of the stockholders.

By virtue of an act approved March 30, 1868, the right of the State to the lands in this purchase, with the right of reclaiming lands under water was conveyed to the united companies for the price of $500,000. This act authorized them to construct a branch road from this property to the New-Jersey Railroad at Bergen Hill. To this act the assent of the stockholders was not required or obtained. And, as is alleged, the united companies have expended about $600,000 in procuring the right of way for the branch so authorized by this act; and the improvement of this property for use will require several millions more.

By an agreement made between the joint companies and the Pennsylvania Railroad Company, in 1863, that Company agreed to construct, and did construct, a railroad, called the connecting road, from the Philadelphia and Trenton Railroad at Frankford to its own road at Mantua. By this a continuous and connected line of railroad was completed from Jersey City to Pittsburgh, and further West, so that passengers and freight could be transported from Jersey City, and also from Amboy, in the same cars in which they were there placed to Pittsburgh. The Pennsylvania Railroad had a branch road to the Delaware at the foot of Washington-st., in Philadelphia, and the joint companies connect with it there by a ferry from the terminus of their railroad at Camden.

THE PROPOSED LEASE.

In this situation of their works, connections, and contracts, the defendants, jointly with the Philadelphia and Trenton Railroad Company, agreed with the Pennsylvania Railroad Company to enter into the proposed contract with that Company. The terms of the contract had been settled and agreed upon, and the joint board of the directors of the united companies has by resolution entered on its minutes directed its execution. By that contract the canal, railroads, and all the other property, real and personal, and the franchises of the united companies, and the Philadelphia and Trenton Railroad Company, are leased to the Pennsylvania Railroad Company for 999 years, for the annual rent of $1,948,500, being ten per cent on the capital stock of the united companies, and the 4,946 shares of the capital stock of the Philadelphia and Trenton Railroad Company, not held by the joint companies, and so not represented by their capital. The lessee agrees to assume and perform all the duties, obligations, contracts, and liabilities of the lessors, and to save them harmless from all existing or future claims. The lessors agree to furnish the lessee with 22,250 shares of their capital stock and mortgage bonds, on an executed mortgage for $20,000,000, to the extent of about $4,000,000 more than is required to pay their debts now maturing, such stock and excess of bonds to be used in the improvement and development of Harsimus Cove, and to be advanced in installments after the amount of the installment had been expended. The lessee is to keep the works in repair, and the contract contains a clause for reentry upon non-performance of any stipulation by the lessee, and that thereupon its estate and interest shall cease and be void. An act approved March 17, 1870, is relied on as giving power to make this contract.

The act of 1870 declares "that it shall be lawful for the united companies, by and with the consent of two-thirds of the stockholders of each, to consolidate their respective capital stocks, or to consolidate with any other railroad, or canal company or companies, in this State, or otherwise, with which they are or may be identified in interest, or whose works shall form with their own connected or continuous lines; or to make such other arrangements for connection or consolidation of business with any such company or companies by agreement, contract, lease, or otherwise, as to the Directors of said united companies shall seem expedient." If provided that any stockholder who should be dissatisfied with such arrangements, and should give notice of his dissatisfaction within three months after it should be made, should be paid the full value of his stock, to be appraised by commissioners appointed for the purpose.

To entitle a party to protection by injunction, it must clearly appear that he has some right which is about to be violated, as well as that the threatened injury is irreparable or cannot be adequately compensated for by suits in the law courts. The right of the complainants claimed here is the right to have the works of the defendants remain under the present management, without being leased or transferred to any person or corporation at a fixed rent, instead of the possible profits to be made by the management of the Directors. The right of the complainants to their stock is not disputed. The only question is whether this gives them the right to control the action of the Directors and the majority of the stockholders in such disposition of the works and franchises. It is contended that the act of 1870 does not authorize this lease, and that if it gives any authority in this case this lease extends to objects not within it.

It may be considered as settled that a corporation cannot lease or alien any franchise, or any property necessary to perform its obligations and duties to the State, without legislative authority.

Bonsall v. Rufford, 1 Sim, N. S., 559; Johnson v. Shrewsbury and Pa. R. R. Co., 3 De Gex, McN. and G., 914; Shrewsbury and Birmingham R. Co. v. North-Western R. Co., 6 H. L. C., 131; South Yorkshire R. Co. v. Gr. North-Western R. R. Co., 3 De Gex. Mc N. & G., 576; Michigan and Birkenshead R. Co., 5 De Gex & Sn., 562; Great Midland R. Co. v. Eastern Counties R. Co., 9 Hare, 306; Troy and Rutland R. R. v. Kerr, 14 Barb. 601; Ohio and Miss. R. R. v. Ind. and Cin. R. R., 14 Am. Law Reg., 733; Lanman v. Leb. Vall. R. R., 6 Casey, 43; York and Md. R. R. v. Winans, 17 How., 39; Com. v. Smith, 10 Allen, 455; Richards v. Libby, 1 Allen, 60.

This rule is founded on reason and principle, the franchises granted by the State are often parts of the sovereign power delegated to a subject, and always privileges to which other citizens are not entitled. In these grants the State is supposed to regard the character of the grantee, or the guards and restrictions placed upon the corporation, when the grant is by a charter to persons continually changing by transfer of stock. In this case the franchise of maintaining a canal and railroads across public highways and navigable rivers, of taking tolls and rates of fare fixed by themselves without control, are with others a material part of the property leased; these cannot be leased or aliened without consent of the State.

THE LAW ON CONSOLIDATION OF STOCK.

The act of 1870 clearly grants the power to the United Companies to consolidate their own capital stocks, and to consolidate their stocks or business with any other connecting railroad in the State; but it is contended that it does not authorize such consolidation or connection of business with any corporation of another State. The question depends upon the meaning and effect of the word "otherwise." This is certainly an inapt word to designate companies out of the State by being placed in opposition to the words "in this State." It is inapt, because its proper meaning is to express the difference between two things not of place. The word is used here in a way that admits of no change of place in the sentence, even if such change can ever be permitted. "Companies *in this State*" are one subject of the provision, the word or plainly denotes that some other subject is to be indicated. If the word elsewhere or otherwise had been used, it would have appropriately expressed the meaning intended. The radical meaning of the word "otherwise," which is always a relative word, is different from that to which it relates; and the phrase to which it relates in this case, both from location and the sense, is clearly the words "in this State." It means companies different from or other than companies in this State. This is the meaning that I think would strike every one upon the first reading of the sentence; but any one conversant with the correct use of language would be struck with the inappropriateness of this word to express the meaning. It is a case of bad grammar, and not of doubtful meaning. The maxim "*mala grammatica non vitiat chartam*," applies to statutes as well as to deeds. If a statute provided, "That if any father or mother should chastise a child so as to maim it, he or her so doing should be guilty of felony," a guilty mother would hardly escape on the ground that the word *her*, by which alone she was included, could not be applied to "be guilty" because the rule of grammatical construction and the settled use of language would it. Everything was intended by the use of this word, and a settled rule of construction requires that no part of a statute shall be disregarded if any effect can be given to it. Den. v. Dubois; 1 Harr. 293. And where the intention of the Legislature is plain, the words of the statute must be construed according to that intention. No one can read this statute, either in a cursory manner or with deliberation and repeated reading, without being convinced that such was the intention, and that the words used express it, although awkwardly, inappropriately, and ungrammatically.

It is a rule of construction that all grants from the State, and grants of franchises and exemptions in charters, must be construed strictly and most strongly in favor of the public, and against the grant. The object is to protect the public against improvident grants, and grants made by implication without clear intention. And such grant will not be sustained by doubtful words, or words of doubtful meaning or violation it. But this rule is qualified by another—that such grant and the statute making it must receive a reasonable construction, and not be so construed as to defeat the intention of the Legislature, and that the ambiguity must be such as is not removed by the settled rules of construction.

1 Sedgw. on Stat., 259 and 327; 5 Dutch. 253, State v. Newark; 3 Dutch, 76, Wright v. Carter; 2 Zabr., 544, Briggs case; Bridge Proprietors v. Hoboken 2 Beas., 81; 1 Del. and Rar. Canals v. Rar. and Del. R. R. Co., 1 C. E. Green, 372; Richmond R. R. Co. v. Louisa R. R. Co., 13 How, 81; Perrine v. Ches. and Del. Canal Co., 9 How, 172; Peacock v. Coe, 23 How, 132; Rice v. Rail Road Co., 1 Black, 380; Phil. and Erie R. R. Co. v. Catawissa R. R. Co., 53 Penn., 62 and 68.

This act can hardly be considered a grant from the State, or to fall within the reason of the rule requiring strict construction in all such grants. The State in these parts with no property, and creates no new privilege or franchise that can affect the public. It simply permits a new arrangement or contract as to privilege and franchises already granted. It enlarges none. It clearly allows such arrangement with companies in this State, and the only question is whether it shall be allowed with like companies of another State.

IS THE PENNSYLVANIA COMPANY WITHIN THE ACT?

It is also urged that the Pennsylvania Company is not within the purview of the act; because their works do not form connected or continuous lines with the works of the defendants. I think that they are both continuous and connected. The works of the Camden and Amboy Railroad Company extend from New-York to Philadelphia. It was so held in the Briggs case, 2 Zabr., 624, and the Delaware and Raritan Canal Company agt. The Raritan and Delaware Bay Railroad Company, 1 C. E. Green, 531 and 3 do. 546. They extend to the foot of Washington-st. at Philadelphia to the railroad of the Pennsylvania Railroad Company. Thus their works, though not their railroads, form a continuous line. The road of the Camden and Amboy Company at Trenton is *connected* at Trenton, is *connected* by three intervening roads with the Pennsylvania Railroad. They are not continuous; that implies without interval or interruption. Railroads can be connected either directly or by intervening roads. The provisions of the acts of Pennsylvania show this; their phrase is, "connected directly or by intervening roads." To other ways they are connected, if directly or by intervening roads, they are also continuous. And the fact that this act uses the word connected after continuous, for the obvious purpose of adding something to the extent of the provision shows that the intention was to include roads connected not directly, but by some intervening or connecting road.

THE LEASE NOT A SALE.

It is also urged that the means proposed are beyond the powers in the statute; that the authority is to lease, but that the proposed lease for 999 years is, in reality and substance, a sale, though in name a lease. This term is, no doubt, practically equivalent to the fee, but it differs radically from a sale, because it is for rent reserved during the term, with power of reentry. The distinguishing feature of a sale is that it is for a consideration paid, and extinguishes all right to the property. This is in substance as well as in form a lease. The act of 1870 is, in my opinion, authority for the State to make the proposed contract and lease. The complainants further insist that even if the act authorizes the making of this contract, as far as the State is concerned, yet that against them it is invalid, as it impairs the obligation of a contract existing between them and the defendants, arising out of the charters and their subscription to the stock; this contract they claim to be, that the roads and canal shall be maintained and operated by directors chosen by the stockholders for their benefit, and the whole net profits divided among them as dividends; and that this contract continues without limit of time, unless every stockholder shall consent to change or terminate it. It is settled that a charter without reservation of the power of repeal is a contract between the State and the corporators, which cannot be altered without their consent. It is also settled by many decisions that a corporation cannot use the capital stock of the company for any enterprise substantially