JUDGE CARDOZO'S CONFLICTING DECISIONS.

Interesting to Pilots—When a Ship must Take a Pilot, and when she may Not—Curious Rendering of the Pilot Laws.

On the 23d of October, 1868, the case of Thomas Conley against Christian F. Funch was tried in the Supreme Court Circuit, before Justice Cardozo. The following report, published a few days later by the *New York Times*, is a fair statement of the facts presented, and the ruling of the Judge:

OFFSHORE PILOTAGE—INFORMAT TO SHIPS.—Thomas Conley, agt. Christian F. Funch. This action was brought to recover from the defendant $80, as consignee of the Swedish bark E. Bergman Olsen, under the 12th, 14th, 18th, and 20th sections of the Sandy Hook Pilotage act of June 28, 1853. The evidence showed that on the 19th of May, 1868, the plaintiff hailed the bark at sea, at such distance south of Sandy Hook that the Lighthouse could not be seen from the deck in daytime and in fair weather, which by section 18 entitled the pilot to offshore pilotage, being one-fourth in addition to the ordinary rates. The plaintiff offered his services as pilot; the captain hove to to take the pilot, but informed him in substance that he would not pay him offshore pilotage. The plaintiff replied: "Then I will be off," and left the bark. It was proved that the plaintiff was a pilot, and duly licensed by the Board of Pilot Commissioners; that at the time of hailing the bark she had no pilot on board, and that he was the first pilot speaking the vessel; that subsequently, and when close to the Hook, she took a pilot, to whom defendant, as consignee of the bark, paid $72 inshore pilotage. Held by the Court—that evidence of taking another pilot and paying pilotage to him was immaterial; and that refusal by the captain to pay the pilotage defined by the act as offshore pilotage was a refusal to take plaintiff on board the bark under the act, and the jury was directed to find a verdict for the plaintiff for the amount claimed.

On the 28th day of January, 1869, in the same Court, before the same Justice and a jury, the case of James O. Sullivan against the Pacific Mail Steamship Company was tried. The following report, found among the legal items of the *New York Herald* of Jan. 30, is a fair statement of the latter case:

TRIBUNE OF SEAMEN SHOULD BE MADE AT THE HOOK—Sullivan act. The Pacific Mail Steamship Company. The plaintiff is a Sandy Hook pilot, and brought this action to recover the amount of the fee for conducting a steamship from Sandy Hook to New York. It appeared that the plaintiff hailed one of the defendants' steamers about twenty-five miles outside the Hook, and offered his services to pilot her in. The commander of the vessel declined to take him, and Sullivan claims that under the law he, being the first pilot who offered to perform that duty for the vessel, was entitled to be employed, being duly licensed and authorized by the Board of Pilots. The Court dismissed the complaint on the ground that the vessel was not compelled to employ a pilot at all until she had reached Sandy Hook, and it did not appear that the plaintiff had offered his services when the defendants' vessel had reached that point.

It will be observed that the facts are the same in both cases. It is also worthy of notice that the jury participated mechanically in both. In the first the instructions given by the Court to the jury amounted to this: "Gentlemen, the law is so strong in support of the pilot's claim that there is nothing for you to decide. A verdict must be found for the plaintiff." In the second the decision amounted to this: "Gentlemen, there is no law to support the pilot's claim, and hence there is nothing for you to decide. The defendant must have judgment." This is a remarkable instance of judicial consistency. The Hon. Judge disagrees with himself. Whatever the effect may be on the weight of his decisions, the law remains where it was established formerly by the Court of Appeals.

Will Judge Cardozo please say what he means when he says that the vessel need not employ a pilot until she has reached Sandy Hook? Sandy Hook is three nautical miles inside the buoys of the bar where the danger of entrance begins. The Court of Appeals of this State have decided that a vessel must take the first pilot offering, without limitation of distance. PILOT.

THE CITY GOVERNMENTS.

New York Board of Aldermen.

President Conan was in the chair yesterday afternoon. Resolutions were adopted designating the *Metropolitan Record* and the *Evening Press* as corporation newspapers; to pay the keepers of the public parks $100 per month for their services, instead of $3 per day as heretofore; directing the Comptroller to draw his warrant in favor of Jno. J. Griffiths, Treasurer of the Macdonald street Baptist Church for $195; authorizing the clerk of the Common Council to appoint a clerk to the City Library, who shall receive a salary of $1,500 per annum; directing the Comptroller to draw his warrant in favor of Benjamin F. Brody for $175, for engrossing the resolutions complimentary to Maj.-Gen. Geo. B. McClellan; appointing a joint committee of five members from each branch of the Common Council, to make suitable arrangements for the celebration of Washington's birthday, and appropriating $200,000; to pave Nineteenth street, from Second avenue to the East River, with Belgian pavement; directing the opening of Eighty-first street, from Second avenue to the East River; giving $482.51 to the Treasurer of St. Luke's Hospital; to pave Forty-fifth street, from Tenth avenue to the Hudson River, with Belgian pavement; appointing a special committee of five members from each branch of the Common Council to go to Washington and urge upon the proper officials there the necessity and propriety of refunding the money to the city of New York for moneys expended by the Union Defence Committee in raising troops during the war. The President appointed as such Committee Aldermen Coulter, Miller, Hardy, McGrath, and McQuade. The President then appointed Aldermen Repper, Moore, Cuddy, Ward, and Farley as the Committee for making the arrangements for observing Washington's birthday. The Board then adjourned.

Board of Assistant Aldermen.

MISCELLANEOUS BUSINESS.

Resolutions were adopted that Tompkins street, from Stanton street to Eighth street, be opened according to law; directing the Clerk of the Common Council to furnish the members of the Common Council with maps and stationery; directing the Clerk of the Common Council to procure certified copies of all bills adopted by the Legislature.

BADGES FOR THE COMMON COUNCIL.

A resolution was offered to procure badges and staves of office for the members of the Common Council for the present year. Adopted.

BELGIAN PAVEMENT.

By resolution it was decided to pave the following streets with Belgian pavement: Sixth avenue, from Forty-second street to Fifty-ninth street; Forty-fifth street, from Lexington avenue to Fourth avenue; Eighty-first street, from Third avenue to Hudson River; Charlton street, from Macdougal street to West street; Twenty-third street, from Third avenue to East River; Second avenue, from Twenty-third street to Forty-second street.

Brooklyn Board of Aldermen.

The Board met yesterday afternoon, Alderman Bergen in the chair. The Committee on Salaries presented a list of 485 candidates for Commissioners of Deeds, and all were confirmed. Alderman Elliott presented a protest against opening Boerum street, between Graham and Smith streets, E. D. The Corporation Counsellor submitted an opinion in relation to the power of the Board to reduce certain taxes or assessments after the same had been imposed. After a careful investigation it was ascertained that the Common Council possesses no power of such a character, and that the whole authority had been vested in another department.

THE VERMICULAR NUISANCE.

Ald. Whitney, Chairman of the Committee on Measure Worms, stated that the solution prepared by Mr. Grant is "death on the worms." The Committee asked Chief Engineer Cunningham to place an engine at their disposal, so that the solution might be thrown over the trees. A resolution was adopted that $100 be appropriated to pay for the experiment.

RIDGEWOOD WATER.

The annual report of the Board of Water Commissioners was presented, showing the net receipts for the year ending Dec. 31, 1868, to have been $917,702 02, being an increase of revenue over that of 1867 of nearly $80,000.

STATEN ISLAND.

SUICIDE ON TOWNSEND AVENUE.—On Sunday morning Mr. H. M. Evans was found dead in his barn, suspended to a beam. He was a well-known butcher and dealer in provisions, having one or two places on Staten Island, and formerly had a meat store in Whitehall street, New York. He was last seen at 6 A. M. yesterday, when he went out from his house. The family at 10 o'clock having missed him, instituted search.

Contemplated new Depot for the New Haven Railroad.

The New York and New Haven Railroad Company have purchased the large vacant plot of ground, stagbont two hundred feet square, on the northwest from ner of Fourth avenue and Forty-25th street. It is not an that it is the Company's intention to erect thereon. His na new depot, but inquiry at their office does not confirm this rumor. It is certain, however, that the Company intend to build a new depot somewhere up town, on the line of the Fourth avenue; but whether the plot of land they have just purchased is to be used for that purpose is, as yet, a mooted question. The constantly increasing valuation of land below Sixty-fifth street may lead the Company to dispose of their new purchase for business purposes, and, by improving it, bring a handsome revenue into their treasury in the shape of rentals, while land for the new depot can be purchased in some more northwardly section of the island at a much cheaper price than that paid for the Forty-25th street property. The present depot, corner Twenty-sixth street and Fourth avenue, offers altogether too small facilities for transacting the immense amount of business that daily falls to the share of the New Haven road, and the procuring of better accommodations therefor has become an imperative necessity. The probabilities are that the Harlem Railroad will also soon be obliged to remove its depot further toward Spuyten Duyvil Creek, as the constant push up-townward of the city, who recently came from her home in Elizabethtown, Monmouth county, N. J., to find employment in the city. At about 11½ o'clock on Saturday night while she was walking in Grand street near East Broadway, in search of a cheap lodging place, she was accosted by Kenny, who, she says, persuaded her to go to James Gilroy's liquor store, at 1 Ridge street, representing the place to be a cheap hotel. The girl's affidavit runs about as follows: Kenny rapped at Gilroy's door for admission, and it was opened after a brief delay by the barkeeper, Thomas Dalton. By this time Mary had learned that the place is not a hotel, as she had been led to believe, and when she refused to enter, Kenny seized her by the arm and pushed her headlong before him into the bar-room. He then made an improper proposal to her, and, being repulsed, swore that he would compel her to submit. Dalton then gave to his bed behind a screen, and was rudely ordered out by Kenny, of whom he seemed to be afraid. Mary was then seized by Kenny. She turned to Dalton and implored his assistance. Dalton asked Kenny to desist, but Kenny ordered him to hold his tongue, threatening to shoot Dalton at the same time flourishing a large knife. Mary struggled heavily with Kenny, who at length dealt his victim a blow with his fist, knocking her to the floor almost unconscious. Two policemen heard the girl's cries for help; but they might as well have been a thousand miles away. One of these officers—James R. Martin—actually walked down to the Delancey street police station to inquire of the sergeant in charge whether he could hunt Gilroy's door. The Police Commissioners will put these officers on trial.

Court of General Sessions.

MURDERERS HIGHWAYMEN OUT ON THE WAY.—Recorder Hackett discharged the Grand Jury until to-day. James Smith and Dennis Connor, who pleaded guilty of robbery in the first degree, were sent to State Prison for five years each. These men one night robbed a Mr. Mathews of $130 in a liquor store, and were dragging him to a pier, intending to throw him overboard, when they were arrested.

FINANCIAL AND COMMERCIAL.

MONDAY, Feb. 1—P. M.—The gold market has been dull and lower. Opening sales were made at 136½, from which the price rose to 136¾, after which it settled to 136½, at which point it closed at 3 P. M. Later sales, however, were made at 132¾. The carrying rates were 6¼, 6, ⅞, 5½, and 5 ⅌ cent. This decline is generally favored by those parties who believe that gold will reach higher figures, in order to buy in, in anticipation of an immediate rise. The disbursements of coin interest were $213,115.50.

The exchanges at the Clearing House were $118,171,891.52, and the balances $3,501,741.13. The day's business at the Sub-Treasury was as follows: Receipts for customs, $261,000; receipts for gold notes, $98,000; total receipts, $311,323.38; total payments, $916,326.09; balance, $83,188,271.46. The total clearings at the Gold Exchange Bank were $31,057,000, the gold balances $1,177,341.22, and the currency balances $1,619,201.85.

Henry Clews & Co., 32 Wall st., report as follows:

A. M.	Bd.	Asd.	P. M.	Bd.	Asd.	P. M.	Bd.	Asd.
10	136¾	136¾	1	136	136¼	2	135¾	136