NATIONAL AND STATE POLITICS

Our Washington Correspo[ndence].

WASHING[TON, ...], Nov. 24, 1853.

The President and his [...] Cabinet—The Coming Congress.

In spite of the [...] Congress. suffered i[n the] Waterloo defeat the administration has on t[he ...] New York, in spite of McDonald being laid [on the] shelf in Georgia, in spite of the probability of Jeremiah Clemens being returned to the United States Senate from Alabama, and the uncertainty of the Senate of Mississippi being willing to go into an election of United States Senator, the President believes that his Cabinet is doing wonders for his popularity, and that nothing but a solemn declination of being a candidate for re-election in 1856, can prevent his serving another term. Should the President doubt the sagacity or truthfulness of his ministers, the kitchen cabinet, with John W. Forney at their head, are ready to endorse them; and when the President begins to tire of his kitchen cabinet, his ministers assure him that the kitchen is indispensable to his safety. Thus placed between two sets of selfish and unprincipled men, each of whom has his own axe to grind, and his own purposes to serve. General Pierce is literally cut off from all communication and rational intercourse with the sober-minded portion of his fellow-citizens—the victim of a low conspiracy on the part of those who call themselves his friends.

Every election which turned out democratic has been proclaimed as a triumph of the "President's policy"—every vote that was cast, was an act of fealty to General Pierce. A system of fulsome and degrading puffery has been introduced into all the presses subsidized by the government, while biographical sketches have been published of every man connected with the administration, from the great boar in patched breeches, down to the political baby who acts as private Secretary to the President. White soap has been copiously applied to the skin of the big animal, the young one, as yet "guiltless of the stye," has actually been dressed in bristles! There is no species of humiliation and sycophancy that has not been employed and exhausted under the present administration—no kind of tergiversation that has not been made use of to misrepresent facts or to suppress the truth.

Father Ritchie is moving about, shaking his head, with a countenance as sad as Cassandra's when she prophesied the fall of Troy. But as long as Marcy plays the part of Priamus, and Jefferson Davis that of Hector, while Patroclus (Foote) is slain, they fear neither Nestor, Ulysses or Achilles. They are, however, actively engaged in pulling in the wooden horse which contains Van Buren and his men.

Prince John is now here to enjoy a quiet *tête-à-tête* with the President, and to advise with him about his message. He has probably heard that Gen. Pierce means to denounce free soilism, and is afraid the people might take it in earnest. This might destroy the *prestige* which John Van Buren and his followers have acquired under the present administration.

The contest for the Speakership is pretty brisk, and is pretty well narrowed down to Disney and Boyd, though, if there should be a row in caucus, there is no knowing who may be the Speaker. The administration is for Boyd, who would probably allow the Cabinet to appoint the committees; but at this stage of the game it is difficult to say whether the aid of the administration is of much value.

The candidates for the clerkship are wisely holding back, not to be sold or traded off in advance. They leave Forney to fight against his reputation for a while longer, but will slay him when he shall be exhausted from that herculian struggle. Nothing can save him but the personal friendship and intimacy of Gen. Pierce. LYNX.

WASHINGTON, Nov. 25, 1853.

The Georgia Resolutions and Congress—Alabama—John Van Buren Back Again—President's Message—Pacific Railroad—Vice President King—Judge Young for Clerk—Prospects Concerning the Surplus Revenue—The Slavery Question to be Revived—A Case for It.

The Georgia anti-free soil resolutions and the postponement of the election of Senator, give some anxiety to Guthrie & Co., including the *Union*. It may give an impetus to the New York movement that will tend with potent effect in Congress, and especially in the Senate.

The latest intelligence from Alabama, regarding the Senatorial election there of two Senators, is also favorable to the nationals. [...] looking after the immediate interests of Redfield. He seems to be very uneasy about something; and Marcy, perhaps, is the only man that can tell what his perplexities are.

The President's message, it is understood, will make short work of the Pacific Railroad scheme of Chatfield & Company, as far as a loan is concerned.

And the first thing, after the inauguration of Congress, will be an adjournment of a day or two in respect to the memory of the deceased Vice President King; and, in that interval, we presume, the Speaker will shape out the standing committees of the House.

The democratic movement in behalf of Judge Young, of Illinois, for House clerk, we understand will be pushed forward in good faith and in good earnest. In every view, he is an available man.

Members are slowly dropping in. The railroad facilities of the country will justify the majority in holding back until within the last three days preceding the meeting of the House. In the interval, the Cabinet and the newsmongers must wait for the moving of the waters.

A nine month's session is counted upon, and a series of squabbles over the surplus revenue, such as we have never had before.

The slavery question will come up among the first business of the House upon the question of receiving a delegate from Nebraska, a territory not yet organized; but from which two contesting delegates have been elected.

Our Georgia Correspondence.

MILLEDGEVILLE, Nov. 19, 1853.

Politics in Georgia—Meeting of the Legislature—Nomination for the United States Senate—Election Postponed—National Democracy, &c.

The General Assembly met here on the first Monday in the month. Nothing of interest to your readers transpired. Their business was local.

The politics of the State by no means seem to be settled, or to have any degree of stability. The majority side of both houses are titled democratic, and the minority side takes the name of conservatives, or whigs. The majority are composed of Union and fire eating democrats and whigs, the minority of old line, and Union, and fire eating whigs. There is a variety of political interests, and there is no telling how they will divide and unite; division is inevitable amongst the majority, unless in the House of Representatives they can be guided and kept together by the aid and energy of some skilful tactician in politics, and they are scarce I assure you. The mantle has fallen upon one who I think has the ability and capacity. He is of the young America school, a national, a natural and a Union democrat; he has been a member many years, and is yet quite young, but old in political experience. He is from Muscogee, and has never been beaten. The last election he was elected against the united efforts of whigs and fire-eating democrats. The fire-eaters dislike him very much, because it is said it was his opposition to the Stell and Gartrell fire eating resolutions in 1849 that caused Georgia to stand by the Union and the compromise measures. It was he who gave the first christening to them of fire-eaters. If he can unite the majority and keep them so, the action of the Legislature will be strongly national in its character, and it will necessarily give much strength to the national democracy, otherwise the politics of the State will be very much divided, and at the next elections it will probably go for the whigs.

In the Senate the majority has no leader to direct and unite them. They are divided and confused. The minority in both houses are united as one man; they are for a masterly inactivity; they encourage division, and take every advantage of it.

Before the meeting of the General Assembly, it was doubtful as to whether the majority would be democratic or conservative, alias whigs—for there were many of the members old line whigs—then Union and Southern rights men, and supported Mr. Pierce for President, but have since become very much dissatisfied and disgusted with his course, and the character and conduct of his Cabinet and their appointments. They had not finally determined which side they would take until they took their seats with the democratic party, believing that it would be national in its character and course of conduct, and that they would unite for that purpose; this, no doubt, will be the case if their harmony is not destroyed by some unforeseen accident, and there are strong reasons to believe that Mr. Pierce and his Cabinet and their conduct will have meted out to them censures which must alarm them; it had its influence in the Governor's election, his majority was 510; and I am led to believe that if Mr. Jenkins had been elected Governor he would have had the majority in the Legislature—but all was lost, and there was no hope in a lifeless minority.

The democratic party went into caucus to nominate candidates for judges of the Supreme Court and a United States Senator; the two third rule was adopted where there was more than two candidates. Here was the place to try the ability of the political leader and tactician. There were three candidates all the time, until the nomination took place. Mr. Bennington and Mr. Stares were nominated and elected as judges, and Charles J. McDonald was, on the seventh balloting, nominated as the candidate for United States Senator, over Mr. Cobb and Mr. A. Iverson; the nomination was unexpected, and Mr. Cobb's friends, at heart, were very much excited and dissatisfied. The fault was in the impolitic and imprudent conduct of his real friends, as well as the management and skill of his false or pretended ones; his supposed alliances with the governor elect, and other persons who were candidates for offices before the Legislature, had its effect. Also, that he and a large number of his family connexion had places of distinction and profit bestowed on them by the State and the United States, and that he had given his adhesion to the President and his Cabinet, which he was obliged to do, because appointments were conferred at his instance, one on his brother-in-law, Mr. Jackson, of Savannah, and some others. This course of Mr. Cobb did not suit their views of national democracy, and they did not nominate him.

McDonald had the strength and the sympathy with him; he has always been a favorite with the old democratic party. Two years ago, Mr. Cobb obtained a majority of nearly 20,000 for Governor over McDonald; and now McDonald has received the nomination by the vote of two thirds of the members of the General Assembly, which is tantamount to an election. McDonald was a member of the "Nashville Convention." Mr. Cobb's friends are mortified at the contrast and their disappointment. It is rumored that the President will give him an appointment equal or superior to the Senatorship.

Friday, the 18th inst., the election of the United States Senator was to come on, by a resolution passed by both Houses, and sanctioned by the Governor; but when the Clerk of the House of representatives read the message to the Senate, requesting their attendance in the Representative Chamber to elect a Senator, the Senate refused to attend, and passed a resolution to postpone the election for two years. Four of the democratic Senators, and all the whigs, voted for the resolution. This is nullification at headquarters; it has produced great excitement; it is the ruling topic. There is a complete stampede, and where it will go to, or how it will end, none can tell. Whether the House will pass the resolution of postponement, or not, I cannot say; the whigs are for it, and they will carry it if they can get democratic votes enough. I am of the opinion that it will injure Mr. Cobb seriously, although he is against it, and wants the election to come on. He went into the nomination and will abide by it; this is noble at least, if not fair.

If these democratic Senators are at heart the friends of Mr. Cobb, they certainly will not sacrifice him and the party. They ought to consider his situation, and be guided by him. It is better for Mr. Cobb that harmony should prevail, and let McDonald be elected in preference to a whig.

If the stampede continues and there is no election, it will be next to impossible to unite the democratic Senators, and without it the democratic victory will be a defeat.

The people of Georgia are largely democratic in their nature and habits, they are for a national democratic party, without sectional feelings or plunder, they want its head to be men who will be for the whole people, and with them, and they want those who win to wear the laurels. They have been bestowed on individuals who did not work for them, and who did not deserve a twig. They have been disappointed and deceived by Mr. Pierce and his Cabinet; and you need not be surprised to see resolutions passed by the present General Assembly, as severe as any sent forth in New York. With a determined, energetic and united effort the national democratic party will and must govern—it is the feelings and voice of the people. OBSERVER.

Our Boston Correspondence.

BOSTON, Nov. 19, 1853.

The Results of the Legislative Election—The Senate—Estimated Effects of the Cushing Ukase—The "Sixth Proposition"—Plan for the Annexation of Roxbury to Boston, and for the Consolidation of Towns and Cities—The Irish Vote—Our Municipal Election—Mr. Atherton's Death—Gen. Peaslee—The First Governor of Massachusetts, &c., &c.

The elections of last Tuesday and Wednesday, held for the purpose of filling vacancies in the House of Representatives, resulted somewhat favorably to the whigs, who now claim upwards of sixty-six majority in that body. There are some hunkers elected, who will probably act with the whigs. [...] vacancies is about 100, and the last trials to fill them will be made on the 28th. Were it possible for the vacant towns to elect, and to make choice of men that should politically represent their opinions, the coalition would have the House, and so be victorious, but this is not considered possible by any one. Men say what might be done; but none venture to say that it will be done. Even if the most vigorous attempts should be made to carry the House, the free soilers, remembering how they were cheated at the Senatorial elections in Bristol and Berkshire could not in all cases be relied upon, and nothing but the most perfect union and the greatest efforts could effect anything. This is not the time for union and efforts for any purpose.

The exact state of parties in the Senate is not known. The whigs have 11 members; but whether the coalitionists have 9, 10 or 11 cannot be known until after the votes shall have been officially counted. Dr. Holland, of Hampden, owes his election to disaffection in the whig ranks there. At the time the whig county convention was held, I wrote you that there had been trouble in it, some of the members withdrawing after Mr. Southworth had been nominated. This trouble grew out of a dispute concerning the location of a railroad. It is probable that if the Hampden bolting whigs had known that their party was about to be victorious, they would not have been so ready to abandon one of their regular candidates. It may be remarked that Hampden is the only county that gave a good majority for the proposed new constitution. In Essex county the Lord, or administration, hunkers cast more than twice as many votes as the Barstow hunkers.

I find that most coalitionists are inclined to attach more importance to the Cushing ukase, in its effect on the result here, than I had supposed possible. They say the great effect it had was in inspiriting the whigs, by conveying the impression that the administration was on their side, particularly as respectable members of the whig party did not hesitate to assert that Cushing was opposed to the new constitution. The whigs believed that the coalition would feel the blow worse than it did, and therefore they came up to the battle, in its latter stages, with a great deal of energy. It is certain that they appeared to be an entirely different party during the last ten days of the campaign from what they had been at any time preceding the issuing of the ukase. There is scarcely a man in Boston who does not believe that the effect of the Attorney-General's interference, by inspiriting the whigs and disheartening the democrats, converted what would have been a small majority for the new constitution into a respectable one against it. The story is that Cushing is coming on here in a short time. I do not know that any party intends to offer him a public dinner, unless the whigs may have come to that conclusion; but there are hosts of his old friends who would gladly give him a salt eel for his supper, garnished with all the indelicacies of the season.

It is said that the famous "sixth proposition" of the new constitution—that which forbade the use of the school fund for sectarian educational purposes—which had so much to do with arraying the Catholic Irish against the proposed change, has been adopted. It would be a capital joke were it so to turn out. The whigs would not be displeased with such a result, for it would get them out of what threatens to be a grave difficulty. They are understood to be pledged to the Catholics in return for the great assistance they have just received from them, and it would not be good policy to offend them, for they can not rely upon always having assistance from a democratic member of the cabinet. Now, if the people have chosen to incorporate into the constitution a provision that the Catholics shall not have any of the school fund, what can the said Catholics do about it? Desert the whigs they can and may, but as the coalition is dead, and there is not the slightest prospect of any other party being formed here competent to contend with them, there would be nothing gained by such a course—therefore it will not be adopted. The temperance people may, under certain circumstances, form a party; but the Irish would never join that.

The annexation of Roxbury to Boston is a subject that is now attracting considerable attention. It seems to meet with more favor than formerly, for this is not the first time it has been proposed and discussed. It is but part of a great plan of consolidation had in view by certain of our people, the effect of which, supposing it to prove successful, would be to greatly increase the power and the importance of the city of Boston. This plan is, to annex to Boston the cities of Charlestown, Cambridge and Roxbury, and the towns of Brookline, Chelsea, Dorchester and Somerville, making of them one vast municipality, which, supposing it to be formed three years from this time, would contain about 275,000 inhabitants, or double the population of Boston in 1850. The places named contained some 212,000 people, at the time of the taking of the last census, and they are estimated at 250,000 at this time. They are all wealthy and rapidly growing places. Their total property valuation in 1850 was slightly over $250,000,000. Substantially, they form one community in social and political matters at this moment, and have done so for years. All the places named in connection with Boston are suburbs of the present city, places where thousands of people whose livelihood is obtained from Boston, men of business and their families, lawyers, clerks, &c., reside. As Boston wills, so they go in politics; as Boston thinks, so they think, in matters of religion and society; as Boston acts in business so do they act. At the recent State election they all gave heavy majorities against the proposed constitution, and all but two gave great majorities for the whig candidate for Governor. The two exceptions to the latter vote are Charlestown and Chelsea, both of which gave majorities against the coalition candidates for most offices.

There are great pecuniary and political considerations to recommend this scheme to men of property and whig leaders. As respects the political considerations, the chief one is, that by combining so many communities where the whig "native" vote is large, the Irish vote of Boston would be completely overslaughed at all municipal elections. There are, it is true, many Irish voters in some of the places named, but they bear no proportion to the same class of voters in Boston, and which class is there rapidly increasing. The whigs must do something towards lessening the power of the Irish, and in no other way can it be so well done as by attaching to Boston places like Cambridge and Brookline, where the aristocratical sentiment and that of "nativism" are uncommonly strong, and they are not much behind in the same way in most of the other towns named. The prevalent political sentiment at Charlestown is democratic, but the voters there are rather eccentric. Most of them would not object to "having a shy" at the Irish.

To ascertain how large was the Irish vote against the proposed new constitution, I have made a comparison between the number of votes given for Judge Washburn, whig candidate for Governor, and the number of "noes" on the adoption question, in fifteen towns, where reside almost one third of our population. Five of these places are large cities, five more are medium sized towns, and the remaining five are small towns. The whig gubernatorial vote was 16,545; the vote against the new constitution, 20,076; difference, 3,521. Allow 500 of this difference, the Irish vote is 3,021, full four-fifths of which would have been cast the other way but for priestly interference and dictation. When one considers the various evil influences that the reformers had to encounter—the poverty of their party, the wealth of their opponents, the Cushing mandate, the fierce hostility of the anti-Maine law and hunker democrats, the popular impatience of and aversion to discussion, local jealousies, and clerical interference; when, I say, we call to mind all these things, it can but be matter of astonishment that the rejected constitution should have received some 63,000 votes. It ought to be recollected, too, that by the whigs rejection was made a party question, and that there is no reason for supposing that five hundred whigs voted affirmatively. On the other hand, six or seven thousand democrats voted in the negative. Some free soilers did the same thing, but, generally speaking, members of that party who did not vote for the constitution did not vote at all, which operated badly on the vote for Gen. Wilson. The whigs ought to be very grateful to those of their opponents who thus condescended to walk after their car of triumph.

Some amusing incidents are told of the way in which the victors have borne themselves. In one town they collected together all the copies of the rejected constitution that they could find, and used them as wadding in firing a salute, cramming their gun to the muzzle with the unhappy instrument. In another place the copies were collected, massed, and converted into a bonfire for the one party, and a bale fire for the other. In a third, the whigs took a Kossuth hat that belonged to a reform leader, and, "ramming it home," fired it into space—a type, I fear, of the hopes of Hungary. It ought to be stated that the owner's leave had first been had and obtained, as he had declared that he should ask the whigs to "take his hat" in the event of his party's defeat. The whigs are more insolent under their victory than I ever before knew even them to be.

Our municipal election takes place in about three weeks. It promises to be exciting as the recent State contest, and quite as virulent. The rummies have already placed Mayor Seaver in nomination for a third time. They had considerable to do with the late defeat of the coalition, and they are not disposed to give up their position. They expect to coerce the whigs into taking up Mr. Seaver, and so make his election sure; but the whigs are at present rather shy of rum—it isn't sufficiently respectable for them; they like the support of the rummies, but they don't themselves like to support rum. They wish to have a good sort of a man up, and wouldn't care even if he should lean adversely to the Maine law, provided he would do so in a decent sort of a way. They may however find themselves compelled to go in for Mr. Seaver, who is said to have given up his business—that of an auctioneer—some time since, on the condition that [...] The first time he was chosen by only one majority, and the second time by but a small majority, say 40 or 50, which isn't anything for a whig in Boston. But of our municipal affairs more hereafter.

It is thought that Mr. Atherton's death will have a bad effect on New Hampshire politics, that is, for the democracy. The Senatorial question made trouble a year ago, which will, many think, be revived, now that the question itself has been opened anew. To the President, the death of Mr. Atherton must prove an irreparable loss.

I have been much amused at the speculations that grew out of the announcement in an evening paper of Wednesday, that Gen. Peaslee had gone to Washington. At least fifty different reasons were assigned for his journey, which, after all, had never taken place, for on Thursday the General went to Nashua, to take part in the funeral of his departed friend, Mr. Atherton. If he has since gone to the National Capital, I have not been able to learn the fact from any good source. He is very popular here.

Mr. Felt, of Salem, a gentleman favorably known in connection with our local literature, has just published two works, one on "The Customs of New England," and a pamphlet on the question, "Who was the first Governor of Massachusetts?" In our Senate chamber is a portrait of John Winthrop, on which he is called the first Governor of Massachusetts—whereas John Endicott is really entitled to the honor, as Mr. Felt, a most learned antiquarian and accomplished writer, clearly makes out. The question is, to be sure, more curious than important, but perhaps will not be the less warmly discussed on that account. Antiquarians are famous fellows for getting into disputes, and Scott never made a better hit than when he set old Monkbairns and Sir Arthur Wardner by the ears, on, I think it was the Pictish question. Now that we have got through with politics, we shall have more time to devote to literary matters. ALGOMA.

P. S.—The Maine law people claim fifty majority in the House of Representatives, and say that it will be rather increased than diminished by the elections of the 28th. I do not know their authority, but am induced to believe that they are pretty near to the truth, especially as the rum organs do not appear to be very "jubilant."

Facts and Opinions at the National Capital.

[From the Star, Nov. 25.]

A TREASURY DECISION.

The civil and diplomatic appropriation bill, approved August 31, 1852, contains a clause, it will be remembered, allowing extra compensation to clerks, messengers, &c., with a proviso that the benefit of the said clause shall not extend to any person engaged in prosecuting any claim other than his own, before any of the departments of Congress. A clerk who before going into office here had been made the agent of a State government, for the prosecution of a certain claim of her's on the general government, applied to be admitted to participate in the benefits of the clause above mentioned. His agency had ceased before the passage of the law of August 31, 1852, except in so far as that he presented vouchers in the case after that time. It has been ruled by the department that even that participation in the prosecution of the claim, within the fiscal year covered by the law in question, debars him of right to participate in the benefits of its extra compensation clause above mentioned.

THE ARMY BOARD.

The Army Board for the revision of the rules and regulations of the service, which commenced to meet daily here in the first week in October, are still busily engaged in their duties, under the immediate supervision of the Secretary of War; caution and careful examination appear to be marking their every step. Their labors will cover the whole army system of the government, and will thus necessarily keep them together for, it may be, two months longer.

THE CASE OF DR. STEINER.

Dr. Steiner, who killed Major Arnold in Texas, will be tried by a court martial, we apprehend, as soon as the troops last ordered to the Rio Grande get into position; before which time officers can hardly be assembled to form the court.

CURRENT OPERATIONS OF THE TREASURY DEPARTMENT.

On the 22d of November, there were of the Treasury Warrants entered on the books of the departments:—

For the redemption of stocks	$127,993 28
For Treasury Department, exclusive of stocks	756 51
For the Customs	80,195 84
Covered into the Treasury from Lands	137,164 80
Covered into the Treasury from Customs	900,432 75
Covered into the Treasury from miscellaneous sources	741 83
For the War Department	24,253 29
For re-paying for the War Department	22,035 98
For the Navy Department	118,862 13
For re-paying for the Navy Department	52,547 67
For the Interior Department	7,211 31

A MAN MURDERED IN TWO STATES.—A man, sometime ago assaulted in Berwick, Maine, was removed over the line, to his residence in New Hampshire, where he has since died. Judge Howard, of Maine, has charged the grand jury of York county that the murderer cannot be indicted, at common or statute law, where the deadly wound was inflicted in one State and the man died in another.

THE CITY RAILROADS.

THE BROADWAY RAILROAD.

Decision of Judge Duer in the Broadway Railway Case—Injunction Against the Project Declared Perpetual.

SUPERIOR COURT—SPECIAL TERM.

Nov. 26.—*The Attorney General, Thomas E. Davis, and others, vs. The Mayor, &c., of New York, Jacob Sharpe, and others.*—This cause has been fully heard upon the pleadings and proofs; and as the complaint has been amended by the introduction of the Attorney General as a prosecuting party, I am enabled and shall now proceed to deliver my opinion upon the several questions of fact and law that are necessary to be determined. I do not construe the section 267 of the Code as making it the duty of a Judge who has tried a cause without a jury, to set forth in his decision, as in a special verdict, all the facts of the case, including those not controverted by the pleadings, and those which, although controverted, he may deem immaterial. So far as questions of fact are concerned, the Judge, in my opinion, fulfils his duty by determining the issues, which, in his judgment, are material. The only issues raised by the pleadings in this case, which I deem to be material, are the following:—First, whether the railroad in Broadway which Jacob Sharpe and his associates, defendants in this suit, claim that they have a lawful authority to construct, and avow their intention to construct, if constructed and regulated in the manner proposed, will be a public nuisance? and second, whether the grant made by the Common Council to Jacob Sharpe and his associates, of the privilege of laying down and constructing the railroad in question, was made in bad faith and from corrupt motives, and must therefore be condemned as a fraudulent breach of trust? The affirmative of each of these issues is maintained by the plaintiffs, and from the nature of the facts relied on, was necessary to be established by the clearest evidence. The evidence that has been given, I am bound to say, has failed to produce in my own mind that deliberate conviction that in a case like the present could alone justify me in decreeing a perpetual injunction. Whether the contemplated railroad will or will not be a public nuisance, is a problem which I am persuaded that experience alone can solve; and, assuredly, no facts have been proved that could warrant me in saying that those members of the Common Council who voted for the grant, which is impeached as fraudulent, must necessarily have acted in bad faith and from corrupt motives. Two of those members have been examined as witnesses, and have stated, under oath, the reasons by which they were influenced in voting for the grant in question. I have no right to reject their testimony, nor to affirm that those who voted with them were not governed by the same considerations. If they were, the grant, whatever may be my private opinion of its expediency, was made in the honest exercise of a discretion which no court of justice can rightfully interfere with or control. The conclusion is, that had the title of the plaintiffs to the relief which they seek, depended solely upon their maintenance of the issues of fact raised by the pleadings, I must have dismissed their complaint. I proceed next to the questions of law, upon the determination of which my judgment will be founded. The resolution of the Common Council, of the 30th December, is not an act of legislation—not a law in the proper sense of the term; it is the grant of a franchise, which, when accepted by the grantees, became a contract upon the terms and conditions set forth in the ordinance. The contract thus made, from its nature and terms, is entire—so that, if any of its provisions, especially those which enter into the consideration of the grant, are found to be illegal, it is void as a whole. The contract, thus considered, is, in my judgment, null and void upon its face, for the reasons that follow:—1. The resolution of the Common Council not merely grants to Jacob Sharpe and his associates the privilege of laying down and constructing the railroad which it describes, but in consideration of their performance of certain stipulations and requirements, gives them a perpetual license for running cars for the transportation of passengers upon the railroad so to be constructed; the contract, therefore, on the part of the corporation, is not merely that the railroad may be built, but that, when built, if the grantees so elect, it shall be permanent. These provisions are, in my judgment, directly inconsistent with the power which the charter gives to the Common Council, of altering and regulating the streets of the city at its discretion; since, if they are valid, it is manifest that no regulation of Broadway can hereafter be made, by which the rights and privileges of the grantees, as defined by the contract, can be divested or impaired. If they are valid, and the railroad shall be built, the Common Council will have no power to order its removal, or to prohibit the grantees from running cars thereon for the transportation of passengers. Broadway, so far as it embraces the railroad, will be the property of the grantees, and will no longer be held by the Corporation in trust for the city. Hence, [if] valid, the legislative power of the Common Council in relation to the principal street and most important thoroughfare of the city, has ceased to exist. The grant, therefore, cannot be valid, unless the Common Council may by contract relinquish forever the discretionary powers which the charter gives and requires them to exercise. No proposition of law, however, is more evident and certain than that the municipal corporation cannot, by contract, or by any other act, abrogate or abridge its own legislative or discretionary powers. Such was the language of Chief Justice Marshall, in Gorglien v. the Corporation of Georgetown, (6 Wheaton, 593) and such the decision, as I understand the opinions of the Judges of the Supreme Court of this State, in the cases of the Presbyterian Church v. the Mayor, (6 Cowen, 538) and of Britton v. the same, in which the counsel have furnished me with the opinion of the court. It was not denied, upon the argument, by the counsel for the defendants, that the necessary effect of the grant to Jacob Sharpe and his associates, and of the contract which it implies, if construed according to its terms, is to limit and abridge the legislative powers of the Common Council; and the only reply given to the objection was that the grant, although absolute on its face, may be repealed, and the contract, although not revocable by its terms, be rescinded, whenever the present or any future Common Council may deem it expedient thus to exercise its inherent and inalienable power. The resolution of the Common Council, it was insisted, ought now to be construed as I should have been bound to construe it had it contained an express provision rendering it subject to a future and unconditional repeal. The reply thus given I am forced to reject, upon full deliberation, as insufficient and unsatisfactory. I am yet to learn that there is or can be any exception from the rule, that a contract which a corporation has no power to make, and emphatically where it violates the provisions of its charter, is void in its origin; and I am yet to learn that a contract, valid when made, can be rescinded by either of the parties, unless the power of rescinding it is expressly reserved, or was given by some constitutional or statutory provision, which was in force when the contract was made. I refer on this subject, with full approbation and assent, to the observations of Mr. Justice Bosworth in the last of his advisory opinions in the proceedings against the Aldermen and Assistant Aldermen for an alleged contempt. I agree with him that it has certainly never been pretended or supposed that a legislative grant, valid when made, and not falling within either of the exceptions I have stated, can ever be repealed; and I cannot believe that the corporation of this city possesses an authority which the Legislature of the State would never be permitted to exercise; I cannot believe that the provision in the constitution of the United States, which forbids the passage of any law imparing the obligation of a contract, is binding upon the Legislature of the State, but unmeaning and ineffectual as imposing any restraint upon the action of the Common Council. It is, however, unmeaning and ineffectual if the Common Council may, by a subsequent ordinance, revoke a grant or rescind a contract, absolute and irrevocable on its face, and which, it is asserted, it had the power to make, and was valid when made. If, by such an ordinance, the obligation of a contract is not impaired, the words of the constitution have no meaning. It follows, from these observations, that where a contract is made by a corporation, which binds and restricts the legislative powers of its successors, it is either from the defect of power, void in its origin, or, if valid, can never be rescinded; and the conclusion which I adopt is not that the contract is valid and revocable, but wholly void. The next Common Council may repeal the grant to Jacob Sharpe and his associates; but the repeal can never operate to annul a valid and subsisting contract, and will, in reality, amount to no more than a declaration of its original and absolute nullity; and this declaration, unless sustained by the law, will have no effect on the rights of the parties. It will otherwise be nugatory. Second—The privileges granted to Jacob Sharpe and his associates are plainly exclusive in their nature. The manifest intention of the grant is, that they, and they alone, shall be licensed to run cars upon the railroad which they undertake to construct, and that they shall alone be authorised to derive a profit from the transportation of passengers. It is not pretended that the power of granting such an exclusive privilege is expressly given to the corporation by its charter, nor has it ever been supposed that its possession was incident or necessary to the exercise of the powers that are given. On the contrary, it is settled and undoubted law that a by-law of a municipal corporation creating a monopoly is illegal and void, (Davenant v. Huedis Moore, R. 591; Wilcocks on Municipal Corporations. sec. 334,) and every grant of an exclusive privilege, from the exercise of which a profit is to be derived, is a monopoly. This objection was endeavored to be met by giving a construction to the resolution of the Common Council, to which I find it impossible to assent, and which, I am satisfied, never occurred to the minds of the parties. The Common Council, it was said, have reserved to themselves the power of making such regulations in relation to the railroad, when constructed, as they may deem expedient; and in the exercise of their power may throw open the use of the road to all persons whatsoever; to all who may choose to run cars thereon. Such an exercise by the Common Council, of their reserved power, as I interpret the contract of the parties, would be a perversion of its language and a violation of its spirit. The power which the Common Council reserve is merely that of regulating the use of the road by the grantees themselves—that is, of making regulations which the grantees, in their own exclusive use of the road, would be bound to observe. Nor can I at all doubt that it was the clear understanding of the parties that the resolution would secure to the grantees exclusively the beneficent use of the road, in consideration of the labor and capital expended by them in its actual construction, and upon no other terms I am satisfied, would the grant have been solicited or accepted. Their agreement, therefore, in my opinion, would not be violated more certainly by the total exclusion of the grantees from the occupation of the road, when made, than by the admission of others to share, against their wish, in its anticipated profits. The objection, therefore, that this grant of an exclusive privilege is void, as creating a monopoly, has not been answered, and, as it seem to me, is unanswerable.

Third—The thirteenth article of the resolution or ordinance containing the grant, provides, *inter alia*, that the granteess shall form themselves into a joint stock association, which shall have power, by the votes of a majority in interest of the associates, to establish articles of association and by-laws; and the fourteenth, that such association shall not be dissolved by the death or act of any associate, but his successor in interest shall stand in his place. These provisions are a very plain attempt to create a joint stock association, which, without being in all respects a corporate body, shall yet be exempt from the general rules of law by which ordinary partnerships are governed. Such an association the Legislature of the State may possibly create, but assuredly not the Common Council of the city, nor can I do otherwise than regard the attempt as a palpable usurpation of power.

Fourth.—The twenty-third section of the amended charter of 1849 enacts that all contracts to be made by the authority of the Common Council for work to be done, or supplies to be furnished, shall be made by the appropriate heads of departments, under such regulations as shall be established by ordinances of the Common Council. Let it be admitted that the obligation of the grantees and associates to build the intended railroad in Broadway is not a contract for work to be done for the immediate benifit of the corporation, and is, therefore, not within the legal scope of the section that has been recited, there are other provisions in the grant of the Common Council which, as it seems to me, by no reasonable interpretation can be releived from that objection. The tenth article of the resolution making the grant, imposes it as a duty upon the associates to sweep and clean the whole of Broadway south of Fourteenth street, every morning, and to remove the sweepings before a certain hour on every day excepting Sunday, and this duty the associates, by the acceptance of the grant, contracted to perform. Then there is a contract for work to be done—the daily cleaning of a street for the corporation itself—a contract not made by the head of the proper department, nor under any prior regulations established by the Common Council; and why this contract, as transcending the power of the Common Council, and violating the provisions of the amended charter, is not to be adjudged void, I have been and still am unable to understand. If this contaact is void, as I am forced to declare, there is a necessary failure of an essential part of the consideration upon which the grant of the associates was founded, and with this failure the entire grant, as deprived of a necessary support—must fall.

Lastly—By the 272d section of the Consolidating Act of 1813, and by a subsequent act of February 21st, 1824, (Laws of 1824, chap 50,) the Mayor of the city is authorized, under the direction of the Common Council, to license for a certain annual sum the owners of hackney coaches and carriages for hire, and these provisions have uniformly been construed, and in my opinion rightly construed, as limiting the power of the Common Council to fixing the number of licenses to be granted, and the sum to be charged for each, leaving the Mayor an absolute discretion in the choice of the person to whom they are to be given. A car, in which persons are to be transported for hire on a railroad, is just as certainly a carriage for hire as a hackney coach or an omnibus; and so the Supreme Court of this district, in the important case of Drake vs. the Hudson River Railroad, has actually decided.

The 12th Article of the resolution of the Common Council, making the grant to Jacob Sharpe and his associates, declares "that they shall pay for ten years, from the date of opening the railway, the annual lincense fee for each car now allowed by law, and shall have a license accordingly;" and these provisions not only abridge the legislative powers of the Common Council in fixing the annual amount of the license fee, but take from the Mayor all discretion in the choice of the persons, and make it his duty to license those whom the Common Council has select[ed ...] paramount to that of the Legislature, so as to enable them to divest the Mayor of an authority that the Legislature has given, these provisions must be void. In my judgment they are so—and consequently, the entire contract of which they are an essential part. Several other objections to the validity of the grant and contract under consideration were raised and argued before me, which I forbear to notice, not as rejecting them, but in the conviction that those which have been stated are an ample foundation for the judgment that I pronounce—that the injunction that has been granted must be made perpetual. The giving of costs in cases like the present rests in the discretion of the Court; and as the defendants have succeeded on the issue of fact, and have only failed upon questions of law, in respect to which great differences of opinion have existed, no costs are given to either as against the other. I state as a further reason for this decision, that the original plaintiffs have been permitted to amend their complaint without costs, by making the Attorney General a party, and that, but for this amendment, their complaint would have been dismissed.

HARLEM RAILROAD CASE.

Remonstrances of Property Holders—Speeches of Rev. Dr. Spring, Ex-Alderman Kelly, Gen. Sandford, A. T. Stewart, and others.

An adjourned meeting of the committee in this case assembled yesterday afternoon in the chamber of the Board of Assistant Aldermen. There were present quite a large number of the property holders on the streets through which the disputed road is contemplated to pass. Among those present were Rev. Dr. Spring, A. T. Stewart, William Chauncey, ex-Alderman James Kelly, Major General Sandford, Leonard Kipp and others.

As soon as the meeting was called to order, a protest was read from the trustees of St. Patrick's Cathedral and Orphan Asylum.

Next was presented, by HENRY P. WEST, Esq., a protest from the Fourteenth ward school, which was also read.

The committee then asked if anything further was to be offered.

LEONARD KIPP, Esq., then said—There was a gentleman present who had made an investigation into the petition emanating from the inhabitants of the Bowery; and he would like to ask him a few questions, if it was permitted by the committee. The particulars of this investigation were in writing, but the gentleman was absent who had the papers.

The committee granted Mr. Kipp the favor asked.

Mr. Kipp then questioned Mr. Newton as follows:—

Q.—You called upon the signers of this petition?
A.—I did.

Q.—How many of them were property holders?
A.—One.

Mr. KIPP said that Mr. Burroughs was in possession of the papers giving full particulars of this investigation, and he regretted he was not here. He thought he would be present in a short time.

Mr. ISAAC YOUNG then protested in the name of the Dutch Reformed Church, corner of Fourth street and Lafayette place.

Mr. NATHAN, of the Crosby street Hebrew Synagogue, then spoke. Gentlemen of the Committee—As the business of this Committee is drawing to a close, I am requested to rise to thank the Committee for the kindness with which they have received our remonstrances to this project, and to assure them, that whatever may be their report, we are satisfied it is their intention to do what is right. In deciding this case, I must say you should look to the petitioners in this case, and then consider those from whom these remonstrances emanated. We have seen here crowds of our citizens holding up their hands against this project, and there has appeared no one in support of it but these interested in the railroad project. Ask yourselves what is to become of the poor man if these annoyances go on. I have no more to say.

Mr. Burroughs then entered the room. He was asked if he had any information to give upon the matter.

Mr. BURROUGHS then read a statement, to the effect that of those who had signed the petition in favor of this project, several of them had moved from the Bowery, they being only temporary residents there; several are in Europe, and several deny ever having signed their names to the petition before them. The owners of many estates on the Bowery, whose tenants have signed this petition, are themselves opposed to this project. (The gentleman then read some printed remonstrances against other roads, applying the same arguments in opposition to the road under consideration.) Thus, we see, gentlemen, there is but one petition before you, and that is the one in opposition to this project. We have shown that the pretended petition is signed by those who have no special interest in the matter. None have expressed themselves in favor of this project except the railroad company, who have appeared here through their counsel and officers. He hoped the committee would, upon retiring from public office, consider this carefully, and, by a just decision, leave at least one bright spot upon their official record.

Two other gentlemen here gave in their remonstrances.

The Rev. Dr. SPRING.—I rise with some diffidence, in consequence of having obtruded myself a short time at the previous meeting. I would like to ask the learned counsel for the railroad company if this petition emanated from the company, or the residents in the Bowery? Will the gentleman answer me!

General SANDFORD—I have done so before. He said it came from the residents of that street.

Dr. SPRING—For myself I consider this a very great question. Were it not so, I am sure I should not at the close of the week, when my official duties require me elsewhere, present myself before the committee. I hope this committee will look upon this as no ordinary question. This is a fitting occasion to look at the importance of railroad enterprises. The learned counsel for the company, in my own mind, only presented three arguments in favor of this project. One was, that this was a benevolent enterprize; it was not gotten up for private interest, but for the public good. I doubt whether these gentlemen, the owners of this road, ever were so slandered before. This, I say, is a contest between moneyed interest and the citizens of New York. Another argument was, that the citizens did not understand their own interests—that when these roads were once established, we should at once acknowledge their benefits. Is it possible that all who have come here are deluded? That the business men who have come here are deluded?—that the representatives of schools are deluded? I trust we cannot believe this. The third argument, and its strange inconsistency with the foregoing somewhat amused me, was, that private interest should give way to public good—this is the great question, is this for the public good? This railroad system makes property vacillate; no man knows today what his property may be worth sixty days hence. My own opinion is, that it is for the interest of the inhabitants of every city to keep its railroad depots at least one mile and a half from the city. (Applause.) I hope, gentlemen, you will pardon me for my obtrusion.

Gen. SANDFORD—I am glad that the learned gentleman has thought proper to leave his usual avocations, to enlighten us on railroads, to which subject, I suppose he has given much time and consideration. The gentleman concemns railroads and canals. He thinks that produce would find its way to our city without them. Why sir, our city is made up by railroads and canals. I did not say that railroads were benevolent institutions, as he terms them, but that those who entered into them were public spirited individuals, who expected that the effect of the enterprise would ultimately benefit our citizens. This is the reply I have to make to the sneering remarks of the gentleman against railroad institutions. I did say the other evening that people were much mistaken as to the evils of railroads. Go wherever railroads exist, and you will be told this by all the inhabitants along the streets near where these roads now exist. So, I say, the evils are imaginary in a great degree. They are not half so dangerous as omnibuses. There is no more inconvenience in passing a car than in passing an omnibus, and I think not so much; for one pursues a steady course, and the other pursues a deviating course. And furthermore, the public streets belong not to private individuals, but the citizens at large have an interest in them, and should as much be heard as the property holders around us. Why, Mr. Stewart thinks this is invading the rights of private citizens. He did not think this when he applied for a railroad track for his own private interest—when he asked for a track from Centre street to Broadway, to draw the marble for his palace. I know that railroad cars are not so objectionable as a line of omnibuses. This same excitement existed when it was proposed to lay a track through Varick street; but it has all now subsided, and the street is a more quiet place than it was before. So it will be with railroads everywhere. As for the petition which has called forth so much animadversion, I am not responsible for it, but I am told it is a *bona fide* paper, got up in good faith. I know some of the names to be real, for I have read them on sign boards in the Bowery. This is all I have to say.

Ex Alderman JAMES KELLY.—It was a just remark that all the citizens of New York had an equal right in the streets of this city. I have listened with much regard to the arguments brought before this meeting, and I thank this committee for this meeting. I have no doubt they feel as I used to feel when I was in their position, that in such meetings as this, our masters were by, and it was our duty to listen to the voice of the people. (Applause.) I am in favor, and always have been in favor of giving the greatest latitude to railroad enterprise, but still I am in favor of running them through our broad streets and avenues, and opposed to running through our narrow streets. (Applause.) I send my children to school in Marion street, and I admit I should be somewhat opposed to doing so were a railroad established there.

Mr. DEWEY spoke next.—Reiterating with much force the arguments already used in favor of the road. The said Mr. Stewart, he believed, was the [...] And Mr. Stewart forgot, he presumed, when he was a zealous advocate for those very roads, and offered $100,000 for the privilege of laying a track in Broadway—not for the benefit of the poor, nor for the public good, but for self interest, for the purpose of making money. Mr. Dewey asked Mr. Stewart if he owned property on Crosby street.

Mr. STEWART—Yes, sir. I own over two hundred feet of property on Crosby street, and I guess that is more than you own (Laughter.) Now, sir, he professes to be the friend of the poor man, and speaks of my endeavor to build a road in Broadway. What are the facts? He put up a road and charges the poor man five cents for his fare, and I proposed to charge him three cents. Which is the more favorable to the poor man? (Applause.) I ask him what right he had to upbraid me in this matter? What has he done to ornament our city? What can he show for the public good? (Applause.) I have nothing further to add.

Mr. DEWEY—Mr. Stewart asks what I have done for the benefit of the city, and what he has done. He would not have asked this question if he was a very modest man. If I have been instrumental in providing conveniences of travel for many thousands of our citizens, I have done as much as he, in erecting a marble palace to pamper the luxuries of the rich. (Laughter.)

These personal allusions were objected to.

Mr. DEWEY said they were called forth by Mr. Stewart's questions.

Mr. BLOODGOOD read the decision of Judge Duer, rendered yesterday in the case of the Broadway Railroad.

After some more speeches of the nature of those we have published, the meeting adjourned *sine die*.

THE NEW ORLEANS TRAGEDY.—Romantic indeed are some of the relations of the unfortunate suicide and attempt at murder affair which took place on Bourbon street last Tuesday. They may not all be fictitious or mere fancy sketches of some of o'er poetic local cotemporaries, yet we think the occurrence itself was suffiicently terrible, whithout the necessity of resorting to the paint brush. We have been accused of being wanting in imagination or lively fancy, for having given so homely an account of the affair. Had we drawn upon our fancy, our sketch would have ran somewhat in this maner:

A young man named Bedford, of a handsome exterior, splendid fortune, and high intellectual attainments, who had long adored in secret, but never dared to tell his love, a charming young acttress of the French Opera—Maddam Helena Sage—yesterday entered the parlor where she was reclining upon a settee, and deliberately drew a revolver and shot her through the head, and then turning the weapon upon himself, destroyed his own life. His love for the beautiful woman, and his knowedg of the fact that she was not at liberty to reciprocate, had turned his brain, and he conceived the idea of wedding the woman of his heart to himself in the indissoluble bonds of death, and we shudder to think how nearly the awful nuptials were consumated. The bridegroom, alas! has answered in the affirmative; but the bride, true to her woman's nature, still lingers in the response! but in all probability she will in a few days follow her destroyer to that gloomy bridal chamber—the dismal grave!" The most strange circumstance in this affair, is that nothing can be ascertained in regard to the nativity of Bedford. While some assert that he is by birth a Frenchman, and that his name is Belfont—others, and very many, too, say that he is a Yankee schoolmaster, and that the proper spelling of his name is Bedford. We incline to the latter opinion, the suicide to the contray notwithstanding. Some one picked up a strip of paper on the floor, after the tragedy, on which was written:

"Bury me by the side of my adorable Helena.
J. BEDFORD."

We made enquiries yesterday at the house where the wounded lady now lies, in regard so her prospects for recovery, and were informed that there was little hope that she would survive.—*New Orleans Delta Nov. 17.*

FATAL ACCIDENT ON THE VERMONT AND MASSACHUSETTS RAILROAD.—As the evening train from Boston, which was an hour or two late, was approaching Greenfield, on the 22d inst., while between the bridges accross the Deerfield and Connecticut rivers, the engine was thrown from the track by running over the bodies of Hibbard Wright and Otis Field, of Montague, who appear to have been sleeping upon the track. Wright was instantly killed, his head being severed from his body, and Field now lies in a critical condition and is not expected to recover. His legs were horribly mangled, and have been amputated. No other person was injured.

DEATH OF AN INFANT FROM THE USE OF PAREGORIC.—On Wednesday last, an infant child of Thomas J. Hamilton, a driver of one of the South Boston omnibuses, aged but eleven days, was quite fretty, and the domestic, to still it, gave what the mother thought was five drops of paregoric. The child soon fell asleep, and shortly after went into a fit. A doctor was called, but could not arouse the child, and it died. It is supposed the girl gave the babe a larger quantity of paregoric than intended, and that its weak system could not endure it.—*Boston Traveller, Nov. 25.*