NEW YORK CITY.

THE COURTS.

UNITED STATES CIRCUIT COURT—IN ADMIRALTY.

Decisions on Appeal.

Before Judge Nelson.

Judge Nelson has rendered the following decisions in the cases entitled as below:—

Isaac Pratt, Jr., et al., vs. The Bark Heroine.—The collision in this case took place on the morning of November 21, 1865, some sixty or eighty miles off Montauk Point, southerly, about half-past three o'clock, between the bark Heroine and the brig Almore. The brig was bound on a voyage from Turk's Island for Boston, with a cargo of salt, the bark, with a light cargo of hemp and other goods, from Cronstadt, Russia, to New York. The wind was east-northeast, free for the bark, which was heading about southwest by west; the brig about southeast half south, close hauled on her port tack. The brig was struck on her port bow by the starboard bow of the bark, her bowsprit broken close to her bow and carried away, with rigging and sails, foretopmast, maintopmast, and doing other injuries, so as to compel the master and hands to abandon her as a derelict. The night was dark, raining, high wind and hazy, the sea running high, neither moon nor stars. Each vessel had a full complement of lights placed and burning according to the act of Congress. It is not to be denied that the brig was on the privileged course and that it was the duty of the bark to give way and pass her in safety. This point is not contested. The ground of defence set up and earnestly and ably discussed is, that in consequence of the character of the weather it was impossible to discover the lights of the brig after the greatest diligence and with a competent lookout in time to make the proper movement to avoid her, and that the collision was the result of inevitable accident. We agree there is much evidence in the record tending strongly in support of this view, and that at best the opposing view cannot be said to be free of doubts and difficulties; and if the question was an original one before me, resting upon the proofs as exhibited in the record, I might hesitate to reach the conclusion of the learned Judge below. The darkness of the night and storm of wind and rain, as detailed by witnesses, must necessarily have greatly tended to embarrass the discovery of the lights of the approach of vessels. In such a state of the weather and difficulties of navigation, it should not likely be presumed that the hands on board vessels thus exposed to dangers involving life and property would be remiss in their duty, and that strong proof should be required to the contrary in order to charge fault. The question, however, must mainly, in these cases, be one of fact; and, as several of the material witnesses were examined orally before the learned Judge, his opportunity to determine the degree of credit to which their testimony is entitled was of course much better than mine. He has arrived at the conclusion that the bark could have discovered the lights of the other vessel in the existing state of the weather, at least a quarter of a mile, and which would have afforded her full time to execute the proper movement to have avoided her. The weight of the proofs as to the distance that the lights of a vessel might have been discovered at this time is, perhaps, with this conclusion. And, in the relative positions of the vessels, the starboarding of the bark a little earlier than was done would have enabled her to have passed the other vessel clear. As it was the bow only was struck. What has influenced my mind in the case, perhaps, more than anything else, is the unsatisfactory account given of the lookout on the bark. Covered as he was with the maintopsail to protect himself from the storm it is apparent that he was in no condition or free to discharge the whole duty of a lookout. He was not, as he should have been, the first to discover the lights of the approaching vessel.

Upon the whole we think the decree should be affirmed.

UNITED STATES COMMISSIONERS' COURT.

The Alleged Revenue Frauds—The Case Against Commissioner Rollins and Deputy Commissioner Harland and Others Dismissed.

Before Commissioner Guttman.

The United States vs. Commissioner Rollins and Others.—The hearing of this case was resumed yesterday morning. As stated in yesterday's HERALD, the defence had closed and it was expected that rebutting evidence as to the witness J. McHenry's character would be put in. Commissioner Guttman, at the opening of the court, stated that he would dismiss the case against all the defendants, not a scintilla of evidence to substantiate the charge which had been preferred against them. The order for the formal discharge of the defendants was then entered. The following is the Commissioner's opinion:—

After a careful review of the evidence adduced on the part of the prosecution I have been unable to find any evidence at all as against the defendant Smith to criminate him in any way, and I should have discharged him when the prosecution rested their case if his counsel had moved for his discharge. As regards the defendant Harland, I think the investigation has failed in developing anything, even in the remotest degree, in support of the grave charges laid against him; and this, too, without the explanatory and strongly rebutting testimony which has been introduced by the counsel for the defence. As to the defendant Murray, he has been heretofore discharged; and as to the others who were charged with complicity in the warrant, they not having been before me, that branch of the matter is not entitled to any consideration. Then some evidence has been admitted as to certain acts charged to have been committed by the defendant Rollins on the assurance by the prosecution that such acts should be connected in some way with the other defendants. It might therefore be enough for me to say in that regard that no such connection has been made by the prosecution, but if such connection had been made the evidence of not of such a kind as to be in any way inculpatory of Mr. Rollins; and, still further, the evidence itself has been flatly contradicted by the witness Loeb, and, I think, by several other witnesses. Therefore there has been an utter failure of the proof throughout, and the defendants must be fully discharged and the proceedings under the warrant terminated.

McHenry of Binckley-Rollins Imbroglio Committed on Two Charges of Perjury.

Before Commissioner Osborn.

John D. McHenry, who has been figuring so conspicuously as principal witness for the prosecution in the case of the United States vs. Commissioner Rollins, of the Internal Revenue Department, and others, has himself been put on the defence. McHenry is charged with perjury in the affidavit of Mr. Charles Loeb, the party McHenry swore he saw hand a large sum of money to J. W. Rollins, in Washington, in May last, on which charge was based chiefly the complaint in the case. McHenry was arrested yesterday on Mr. Loeb's affidavit and in default of bail in the sum of $2,000 was committed for trial. Examination in the case is fixed for next Monday, at one o'clock.

Another Charge Against McHenry.

John D. McHenry, after his arrest as stated, was also held to bail on an additional affidavit, sworn to by Mr. Samuel B. Pike, in which he is charged with perjury in swearing that he saw Mr. Pike pay Deputy Commissioner Harland a check. All the particulars connected with these charges have been fully reported in the HERALD from time to time, and will be fresh in the minds of our readers. McHenry was committed for trial on the second charge, and will be brought up, as stated, on Monday next at one o'clock.

Decision reserved.

COURT OF APPEALS.

Liability of Municipal Corporations for the Condition of their Thoroughfares.

Before a full Bench.

Wendell, Respondent, vs. the Mayor, &c., of Troy, Appellants.—This was a suit to recover damages for personal injury sustained in consequence of the falling in of a drain across one of the public streets of Troy while plaintiff was crossing it in a wagon. The drain, it appeared, was constructed by a private individual for private purposes to connect with a common sewer, the Common Council having given a conditional permit to the citizen to have the work performed. Defendant on the trial moved for a nonsuit when the plaintiff rested his case, which the court denied, and the jury rendered a verdict for the plaintiff in the sum of $5,000. Yesterday the case came up on appeal and was argued by John K. Porter, for the respondent, and W. A. Beach, for the appellant. The suit is important as it presents the question whether or not a city government is liable for negligence of a citizen in the construction of work in a public street for private use and benefit, although done by its permission, there being neither notice to the city of any imperfection in the work, nor any external indication of such imperfection.

SUPREME COURT.

Important to Embryo Citizens—Naturalization Order.

Yesterday morning Judge Barnard issued the following order to prevent the misconstruction placed upon his announcement of Tuesday, with reference to naturalization, by certain newspapers. Yesterday the Court was adjourned to-day in consequence of the fictitious announcement by two papers that no further court business would be transacted at this term:—

For the purpose of affording an opportunity to all whose time may be so occupied during the day as to prevent their attendance for the purpose of naturalization this court will be open from seven to nine o'clock P. M. during the balance of this month, at the Supreme Court, Circuit, Part 1.

GEORGE G. BARNARD, Justice.
CHARLES E. LOEW, Clerk.

COURT OF GENERAL SESSIONS.

Empanelling the Grand Jury—Lotteries—Encroachments Upon the Highway—The Citizens' Association an Alleged Libellous Body.

Before Recorder Hackett.

Soon after the opening of the court yesterday morning the Grand Jury were empanelled and Mr. Frederick A. Conkling selected to act as foreman.

The Recorder delivered the following important charge:—

LOTTERIES.

We all know that there are lotteries of many ingenious kinds. The papers advertise them, but the difficulty in enforcing the law, as in that of usury, is that public sentiment would seem to be passive upon the subject, and the proper evidence necessary to convict is almost impossible to be had. There is a report of a recent case in the morning journals which may be of use to you in your inquiries as to any alleged violation of this particular law. By making the plaintiff in that case prosecutor of the defendants perhaps the necessary evidence may be obtained.

ENCUMBERING THE PUBLIC STREETS.

The nuisance of builders unduly encumbering the streets and sidewalks is worthy of and should meet with your attention. Owners of property have a limited usufruct of the highway for purposes of repair and building. The trouble is that while the permits are properly limited by the intelligent city authorities the builders abuse the permits, and the authorities, having no control of the police, cannot enforce the breaches of the permission so granted. There are many street encroachment nuisances that are, however, indictable. I am of opinion that the police authorities have power to remove undue obstructions to any place to be provided, and assessing the cost of such removal upon the property. The power is distinctly implied in section twenty-nine of the act of 1864 amending the Metropolitan Police District act.

THE CITIZENS' ASSOCIATION.

For some time past, and more especially within the past few weeks, various charges of nonfeasance and misfeasance against public officers have been published in the shape of letters purporting to have emanated from a body styling itself a "Citizens' Association." If the charges advertised had been susceptible of legal proof then they should have been long since presented for the consideration of a police magistrate or of a Grand Jury of this county; but they appear to have been made on insufficient, or hearsay, or partisan, or prejudiced testimony, and therefore they may possibly become libelous. One of the officials thus assailed has boldly charged over his own signature that there is practically no such body as the "Citizens' Association;" that a few interested persons prepared and fulminated the charges in question on their individual responsibility. Thus, on the one hand, the so-called "Citizens' Association" arraigns individuals, and on the other one individual arraigns the so-called association. In this connection I may be permitted to say that the existence of a star chamber, a secret in meeting and irresponsible in character, originated the institution of the Grand Jury as long since as the reign of Charles II.; and if it be true, as charged by a communication before me, that the accusations proceed from a few men who by large salaries and fees paid to them make a business of originating complaints, not disinterestedly originated or fulminated, then they are unquestionably libelous. The Grand Jury is a constitutional body, created to exercise just such functions as the Citizens' Association are charged to have impractically usurped. Besides, we have in this city a vigilant and impartial corps of newspaper reporters and editors who can and do arraign officials without the aid of any amateur reporters and impromptu editors such as it is charged edit newspapers with letters signed by a so-called Citizens' Association. I would suggest that, in justice to the latter, you inquire if there really be such an association at the present time; its objects; whether accusations are made by the action of its whole body or by a few of its members; of whom such body or such committee consists; whether the association holds meetings; how much its officers are paid, for what services and by whom paid. Does it obtain evidence of the charges it professes to make through its officers? If so, are such charges based upon legal evidence and what the character of such evidence? Then if you think the matter worthy of your attention, and in the furtherance of the public good grasp that jurisdiction over offences which they have usurped. But if you find the association to be comparatively mythical, and its agents to be pecuniarily interested in originating or publishing charges for which there is either no or hearsay evidence, then in justice to those whom it has defiantly arraigned indict them promptly for libel.

The Grand Jury then entered upon the discharge of their duties.

COURT CALENDAR—THIS DAY.

SUPREME COURT—SPECIAL TERM.—Nos. 7, 24, 43, 47, 48, 49, 50, 51, 52, 53, 102, 103, 104, 106, 107, 108, 109, 111, 112, 113, 114.

SUPREME COURT—CIRCUIT.—Part 1 and Oyer and Terminer—Nos. 5317, 971, 1297, 57, 295, 1129, 717, 531, 327, 605, 923, 1229, 523, 1255, 1083, 1045, 915, 781, 1251, 1169. Part 2—Nos. 1064, 1396, 1584, 238, 1368, 108½, 1610, 1372, 1503, 412, 1452, 1356, 178, 1424, 1232, 770, 890, 466, 596, 592.

MARINE COURT—TRIAL TERM.—Nos. 222, 234, 279, 280, 281, 282, 283, 284, 285, 286, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297.

CITY INTELLIGENCE.

THE WEATHER YESTERDAY.—The following record will show the changes in the temperature for the past twenty-four hours, as indicated by the thermometer at Hudnut's pharmacy, 218 Broadway, HERALD Building:—

3 A. M.	56	3 P. M.	69
6 A. M.	59	6 P. M.	69
9 A. M.	62	9 P. M.	66
12 M.	66	12 P. M.	66

Average temperature 63 5-9
Average temperature Tuesday 61¼

LECTURE BY REV. MR. PUNSHON.—The lecture to be delivered at the Academy of Music this evening by the Rev. W. Morley Punshon, the eloquent English divine and poet, is in aid of the Perry Street Mission. His subject will be "Daniel in Babylon."

FATALLY INJURED AT SEA.—An inquest was yesterday held at the New York Hospital by Coroner Schirmer on the body of John Reeckmann, a native of Germany, twenty-seven years of age, who died from effects of injuries to the spine received at sea about nine months ago by a barrel of beef falling upon him. A verdict of accidental death was rendered by the jury.

AT THE MORGUE.—The body of an unknown man, aged about fifty years and five feet seven inches in height, and having gray hair and mustache, was brought to the Morgue from 163 Hudson street yesterday morning. Deceased had on a black sack coat, dark striped pants, brown velvet vest, white muslin shirt, blue-spotted necktie, heavy boots, cut down in front and laced up, and black Kossuth hat. The body is held for identification.

KILLED IN A SUGAR REFINERY.—Coroner Schirmer yesterday held an inquest at the New York Hospital on the body of Daniel Seymour, whose death resulted from injuries received on Monday last by being caught in the machinery of the Union Steam Sugar Refining Works, No. 28 Leonard street where he was employed. The jury rendered a verdict of accidental death. Deceased was twenty-eight years of age and a native of New Orleans. He has left a widow living in this city.

SUDDEN DEATHS.—A man whose name is unknown, but who is believed to have arrived from California by steamer a day or two since, called at the European Hotel, 163 Hudson street, and sitting down on a chair became suddenly ill and expired in a few minutes afterwards. Deceased is thought to have been a Frenchman. Coroner Schirmer was notified to hold an inquest on the body.

Yesterday morning an unknown man died suddenly at 120 Eldridge street from causes unknown.

Herman Miller, a German, forty-four years of age, was found dead in bed at his residence, No. 15 Delancey street, yesterday morning.

Coroner Flynn was notified to hold inquests in both cases.

BOARD OF ALDERMEN.—This Board met yesterday afternoon, with the President, Alderman Coman, in the chair. After the usual preliminaries had been disposed of a paper was handed in by Alderman McQuaide containing the resignation of a Commissioner of Deeds and a resolution to appoint another person to fill the vacancy. Alderman Hardy opposed the adoption of the matter, stating that he believed that the terms of almost all the Commissioners of Deeds on the list had expired long since, as no nominations had been sent in by the County Clerk for almost two years. The paper was laid over for future consideration. Without transacting any business of special importance the Board adjourned to Monday next at two P. M.

KNIGHTS OF PYTHIAS.—Barton Lodge, No. 3, of this Order was organized last evening, at the hall of Hope Lodge, F. and A. M., corner of Thirteenth street and Broadway. The following officers were installed by D. G. C. Abram Levy:—W. C., C. D. Hayward, M. D.; V. C., E. Hall Barton; R. S. Jacob Smith, Jr.; F. S., George G. Green; Banker, E. E. Tiffany; Guide, Wm. J. Kelly; J. S., Ed. Voege; O. S., J. S. Figgis; Past Chancellors, Wm. A. Hayward, Geo. Hartwell, Geo. Stimpson, Jr., and Ed. W. Dawson. At the close of the installation the members partook of a fine lunch served by their lady friends. A grand lodge will shortly be organized for this State. The Order was founded in 1864, and now numbers, according to official reports, 35,000 members.

POLICE TRIALS.—The Board of Police Commissioners held a meeting yesterday for the hearing of complaints against officers. There were a very large number of cases heard against officers for leaving their posts, failing to report, &c. Captain Petty had Sergeant Healey, of the Fifth, up on the charge of neglecting to make an entry on the blotter. Captain Jourdan charged officer Benson, of the Sixth, with clubbing a woman, and Captain Mills, of the Eighth, charged officer Wells, an old veteran of the force, with intoxication while on duty. Several charges by citizens were heard, but they were not of an important character.

THE FIRE MARSHAL IMBROGLIO.—The set-to a few days ago between Justice Dowling and Fire Marshal Brackett has caused some complications in the administration of justice. On Tuesday Superintendent Kennedy issued a telegraphic order instructing all officers making arrests of persons on the charge of arson to make them before the Fire Marshal, instead of a Police Justice. This order was quite a triumph for the Marshal, in view of Justice Dowling's decision. At a late hour on Tuesday night the Chief of Police rescinded the order, and the question of the Fire Marshal's authority and jurisdiction, so far as instructing the force, remains in abeyance until a legal opinion has been obtained by the Superintendent. It was rumored yesterday that Justice Dowling acted upon the advice of A. Oakley Hall, whose decision is likely to be acted upon by the Superintendent of Police.

POLICE INTELLIGENCE.

SUSPICIOUS CHARACTER.—John Keen, a young man, said to be one of a gang of suspicious characters who loiter around the corner of Cortlandt street and Broadway, was yesterday arrested by officer Thompson, of the Twenty-seventh precinct, and on searching him the officer found in his possession a wire implement used by thieves for drawing papers and bonds from desks and out of pigeon holes, and several false keys and nippers. Alderman Coman committed Keen to the Tombs as an idle person without any visible means of support.

ALLEGED DEATH FROM A HORSEWHIPPING.—The following is a literal copy of a telegram made to Police Headquarters yesterday afternoon by one of the sergeants of the Seventh precinct, who evidently is anxious to get up a sensation on the east side in the interest of the Coroner and Bohemians:—"Joseph Wilson, (aged) 14 (which means in police parlance that Wilson is fourteen years of age), living at No. 300 Madison street, was assaulted by Frank McDonald, of No. 309 Division street, Sept. 29th, with a horsewhip, from the effects of which he died this A. M. Coroner notified."

STABBING AFFRAY.—At twelve o'clock yesterday morning officer Houghton, of the Twentieth precinct, observed a disturbance on the corner of Thirty-sixth street and Ninth avenue. He found two men, named Timothy McAliff, of No. 435 West Thirty-ninth street, and John Redmond, of No. 439 West Thirty-sixth street, were lying on the sidewalk, apparently lifeless. Frank and Dominick Lawrence were arrested on the charge of having committed the assault, and were arraigned at Jefferson Market yesterday by the officer, and bailed to answer the charge of felonious assault.

THE FOURTH STREET BURGLARY.—Early in September the residence No. 21 East Fourth street was burglariously entered and property of value carried off. The detectives have been at work upon the case, but until yesterday without accomplishing anything. Detective Tully, of the Fifteenth precinct, succeeded yesterday in capturing a man named George Troy, of No. 11 Fifth street, in whose possession were found tickets calling for a portion of the property that had been pawned at Simpson's, in the Bowery. Taken before the Jefferson Market Court he held for examination.

SHOPLIFTERS AT AN AUCTION HOUSE.—Yesterday afternoon two Germans, named Joseph Wolf and Geo. Bendix, were arrested at Topping's auction house, 132 Church street, by special Deputy Sheriff Wolf, connected with the Merchants' Independent Detective Police, on the charge of shoplifting. One of the prisoners, it is alleged, took possession of a number of vests and stowed them away in a very capacious shoplifter's pocket in his coat. When arrested the property was found in its hiding place and taken in charge by officer Wolf. The prisoners were subsequently arraigned before Alderman Coman, acting magistrate at the Tombs, and committed for trial in default of bail.

DISHONEST PORTER.—Detective Field, of the Fifth precinct, yesterday afternoon brought before Alderman Coman Peter Diller, late a porter in the employ of Messrs. Stadler & Co., 184 Church street, on the charge of stealing a piece of velvet from his employer. At the time of his arrest the velvet was found in the prisoner's possession. Detective Field subsequently proceeded to the prisoner's residence, in Hudson City, N. J., and on making a search found $200 worth of cloths and other goods which at different times he had purloined from the store of Messrs. Stadler & Co. Detective Field also found in Diller's apartment $150 worth of goods which had been stolen from the store of Herman Feldmann, 95 Reade street, over three years ago. The accused was committed to the Tombs for trial.

PROVED FALSE TO HIS TRUST.—On the last day of September Mr. Michael J. Gilbooly, of 411 West Twenty-first street, employed William McGreggor, a lad of fifteen years, with whom he was acquainted, to make a deposit of $170 in the bank. After getting possession of the money William, instead of obeying instructions, appropriated the money to his own use and started off on a spree. He hired a first class turnout and, inviting several of his youthful companions, took a drive through the Park and indulged in a luxurious dinner at High Bridge. William invested in a watch and chain, several articles of clothing, and being a native of Philadelphia ran over to the Quaker City for a day or two. The youthful delinquent returned yesterday and was arrested by detective McGivney, of the Third precinct, and taken before Alderman Coman at the Tombs, when Mr. Gilbooley appeared and made a complaint against him. William pleaded guilty and the magistrate committed him for trial in default of bail. The accused says he lives at 66 West Forty-first street.

QUARANTINE AFFAIRS.

Sale of the Old Hospital Site.

The HERALD notice of the sale of the Quarantine grounds has waked up the whole slumbering community of Staten Island. Everybody, from New Brighton to New Dorp, is talking over the subject and speculating on the luck of the precious ring that secured a million of real estate for something little more than a song. And really little more than a song is what the government of the State of New York may expect to receive. How do the facts stand? As was said before, the property was sold for $220,000. Now let it be borne in mind that out of this sum the Board of Quarantine Commissioners say they have to pay $150,000 for incumbrances or mortgages. So they say. Pray, when did these mortgages occur on this government property? There is no record on the books of the County Clerk at Staten Island. Again, out of the price of the property named above the purchasers claim a reservation of $40,000, to be expended on improvements. Think of a man buying a house and withholding a fifth of the price to build a stable; just so it stands in this Quarantine sale.

Still further. In the agreement $80,000 was to be paid on mortgage at some time between the date of purchase and the day of judgment. Pray tell us what amount is left to the State after these sums are deducted?

To crown the whole scheme three men hitherto utterly unknown are the professing purchasers. Their names stand as Messrs. F. Shortland, Michael N. Wiener and C. M. Raymond. The first had the contract for lighterage during the quarantine season from Dr. Swinburne, the second is the keeper of a small liquor saloon on Staten Island, who was unable two years ago to purchase the place where he now retails his lager and cigars, and the third nobody knows except one who has a dim recollection that he saw him in the police force some time ago. Are these men responsible for the cash payment of $100,000? Has the payment been made? Now this sale took place in the month of last July. Why is it that no record of the sale appears on the books of the County Clerk, at Richmond, Staten Island? Not even an intimation has been received in that quarter. Certainly there must be something wrong here. There was no pending litigation to delay the return, yet the sale has not yet been notified to the proper authority. What's the matter, gentlemen of Quarantine? Fibel is not contented with the transaction. He is a good natured and affable Hebrew, but he is terribly wrought about the treatment he has received from the quarantine ring in this matter. Neither is he going to remain at rest. The potent arm of civil law will be shortly invoked in his vindication, and the precious game of the speculators' quarantine real estate will be sadly blocked.

AID FOR THE SUFFERERS BY THE EARTHQUAKES IN SOUTH AMERICA.

The undersigned beg to intimate to those who are desirous of contributing towards the relief of the sufferers by the late earthquakes in the republics of Peru and Ecuador (South America) that subscription lists for that purpose are open at their offices. Subscriptions received will be handed to the Peruvian Minister at Washington for remittance to Peru and Ecuador in such proportion as subscribers may direct. The Peruvian Minister will acknowledge receipt of sums in the daily newspapers. We believe that this work of charity will commend itself to all.

BROWN BROTHERS & CO., 59 Wall street.
DABNEY, MORGAN & CO., 53 Exchange place.
DUNCAN, SHERMAN & CO., corner Nassau and Pine streets.
R. C. FERGUSSON, resident partner of Allsop & Co, in the United States, 42 South street.
RIBON & MUNOZ, 63 Pine street.
L. VON HOFFMAN & CO., No. 6 Hanover street.
FABBI & CHAUNCY, 42 South street.
BARING BROTHERS & CO., by S. G. & G. C. Ward, 52 Wall street.
ROWLAND & ASPINWALL, 54 South street.

THE NICOLSON PAVEMENT.

NEW YORK, Oct. 6, 1868.

TO THE EDITOR OF THE HERALD:—

Your comments in last Saturday's HERALD, headed "Streets and Street Assessments," so far as they relate to the Nicolson pavement, must have been made under a misapprehension of the facts.

First—Heavy assessments have not been laid for laying the Nicolson pavement in Nassau street, near wall. Second—There is not a shadow of truth in the statement that this piece of pavement turns out to be perfectly rotten and worthless. Third—It has not had to be torn up and renewed about half a dozen times. Fourth—It is not as bad to-day as ever—that is, before it was relaid. Fifth—It has not, in fact, proved unfit for such heavy traffic as our streets are subjected to.

When these facts (only a few of many such) are considered, it seems but just that you correct the erroneous statements made in your comments referred to.

C. WATERBURY,
Superintendent New York Nicolson Pavement Co.

THE STREET COMMISSIONER AND THE CITIZENS' ASSOCIATION.

The Street Repairing Contract and the Piers and Wharves.

OFFICE OF THE STREET COMMISSIONER, Oct. 2, 1868.

TO THE CITIZENS OF NEW YORK:—

In my communication addressed to the citizens of New York, dated September 21, 1868, I furnished answers complete and conclusive to twenty-one of the "charges" made against subordinates of this department over the signature of Mr. Peter Cooper, and I stated that I would at an early day continue my answers to similar allegations from the same source.

I asserted that these charges were false and malicious and trumped up by a particular individual, who was the embodiment, representative and "manager" of the Association; that the charges were fabricated for the double object of maintaining a bad man in the character of a reformer, at the rate of $10,000 per annum, and to aid merely partisan ends by bringing charges against democratic officials on the eve of the election, in the hope to advance the interests of the republican party. I propose now to take up other charges and show by testimony that I think will satisfy all impartial men that they are made from the same motives and are equally groundless, wanton and malicious.

AS TO THE PROPRIETY OF EXPOSING THE REAL ACCUSER.

Since the publication of my communication another letter from the same "manager" of his "Association" has been given to the public, in the same form, in the same assumed name of "Association," and with the usual signature of Mr. Peter Cooper as "chairman." I considered it legitimate that while I disproved the "charges" and showed that they had been manufactured for the motives I have stated, I should lift the cloak behind which the real accuser lurked and exhibit him to the public in his true character, that they might have the plotter, as well as the plot, nakedly before them. I do not intend to depart from this method, however much in "bad taste" certain republican gentlemen may consider it to be to expose a very bad man engaged in a worse cause.

If Mr. Tousey, or any other expert on "taste," had been assailed in his good name by one who was fraudulently demanding special confidence in his charges because they were the deliberate judgment of many citizens of good character, when, in fact, there was no other foundation for the assault but the interested malice of a man without character, would he hesitate to strip the mask from his accuser, expose his false pretences and bring him to just condemnation?

I admitted that if the charges were true it would matter little as a defence to show that the accuser was one of the worst men in the community. While it might show that the motive of the accusations was not pure, it would not free my subordinates from the responsibility which attached to them. If I had found the charges to be true I should have taken immediate steps to punish the offenders and have made my acknowledgments to the informer, however unworthy the practice of his life had been to qualify him as an accusing judge, to arraign his fellow men for dishonesty or moral delinquency.

But I contended that, if the pretence that an association of respectable and responsible citizens, after careful and impartial investigation, on unimpeachable testimony, had decided the "charges" to be sustained, and had directed them to be made before the public, is false, and the use of the name of the "Citizens Association" is a fraud, the public were entitled to know the fact.

LOGIC FROM THE "ASSOCIATION."

The reply in question not only does not deny what I have stated in these respects, but distinctly, on the rule which it lays down, admits all I have stated to be true. This reply, referring to a "charge" which I had not answered, but had expressly retained for future refutation, goes on to say:—"You do not deny this. You do not seek to exculpate yourself from such a charge, and you do not even allude to it in the most distant manner. The Association, therefore, infers that your silence is an admission of the fact."

WHAT THE "ASSOCIATION" THEREFORE ADMITS.

Now the following points of my communication of September 21, 1868, are not denied, are not sought to be exculpated, and are not even alluded to in the reply "in the most distant manner," viz:—

First—That the so-called "Citizens' Association" had become absorbed, and the name appropriated by one individual, who "managed" the whole concern, with the assistance of a brace of young attorneys, and who made the business of reformer pay him at the rate of $10,000 per annum, and as much more as he can obtain by false and sensational communications of the character of that under consideration.

Second—That the individual in question had lived in this city for many years, where his character among business men was well known as that of an utterly unscrupulous and dishonest man. Bankrupt in fortune, in character and in resources, he now, past the meridian of life, has taken up reform as a business, and that it was not remarkable that the same characteristics which marked his career in other pursuits have been exhibited in this new field of enterprise.

Third—That it was well known that this manager is now in the pay of the republican party to trump up charges to injure democratic officials and the democratic party until after the election.

Fourth—That while Mr. Cooper would not endorse the commercial paper of this "manager" for five dollars, yet that he did not hesitate to sign his name in the largest and most flourishing style to a paper containing libels of the most flagitious character, the truth of which he has no means of knowing except from the character of his informant, a character which would prevent him, in his legitimate business, from trusting him for goods to the smallest amount.

Fifth—That the use of the name of "Citizens' Association" under such circumstances was a wrong which should be exposed, that the public might no longer be deceived by such campaign documents.

Sixth—That while the great proportion of the money raised by taxes was expended by republican commissions—the party inventions in this direction going so far as to have even a "commission" to pave Broadway—yet all the efforts of this manager of official reform were wholly directed to whitewashing the republican commissions, while attempting to defame democratic officials.

On the principle laid down in the last letter, signed by Mr. Peter Cooper, in reply to mine, the public are to infer that his "silence is an admission of the fact."

Having succeeded so thoroughly in exposing the general nature and groundlessness of the charges, and the fact being admitted that the witness is without character and utterly unworthy of belief, I might content myself in silent disregard of his accusations and without comment on the accuser or his motives, but I shall not so content myself.

WHAT THE ORIGINAL "ASSOCIATION" WAS.

I am aware that the Citizens' Association, as originally founded, was composed of a large number of our wealthiest and most respectable citizens, and some who were neither wealthy nor respectable. That they were divided into active members, honorary members, advisory committee and executive committee; and that, for a period, the "association" gave their time and attention to the secret investigation of allegations against officials, and doubtless those of character among them were actuated by fairness and impartiality of motive and design. That, through time and the inevitable causes at work in such combinations, the "association" has degenerated to its present condition is not remarkable or contrary to precedents in like cases.

A CASE IN POINT.

Years ago a similar association was organized in the city of London, composed of members embracing largely the titled and wealthy gentry of that great metropolis. One of the ablest English writers, the late Rev. Sydney Smith, commenting on the character, objects and tendencies of that "association," among other things in an elaborate essay, wrote:—"If there are many members who have really become so from a feeling of duty there will necessarily be some who enter the society to hide a bad character and others to recommend themselves to their betters by a sedulous and bustling inquisition into the immoralities of the public. * * * Beginning with the best intentions in the world, such societies must in all probability degenerate into a receptacle for every species of tittle tattle, impertinence and malice. Men whose trade is rat catching love to catch rats; the bug destroyer seizes on his bug with delight, and the suppressor is gratified by finding his vice;" and again, "every villain who hates the man he has injured, every cowardly assassin of character, now knows where his accusations will be received, and where they cannot fail to produce some portion of the mischievous effects he wishes."

Proceeding directly in point he says:—"Upon religion and morals depend the happiness of mankind; but we will never (if we can help it) allow a rogue to get rich or a blockhead to get powerful under the sanction of these awful words." He says, further:—"A man who receives weekly pay for prying into the transgressions of mankind, and bringing them to consequent punishment, will always be hated by mankind, and the office must fall to the lot of some men of desperate fortune and ambiguous character. The multiplication, therefore, of such officers and the extensive patronage of such characters may, by the management of large and opulent societies, become an evil as great as the evils they would suppress."

If the writer were speaking of the "Citizens' Association" in its days of most unexceptionable activity he could not have pictured more accurately its composition and character. Certainly the man who entered the society "to hide a bad character"—the "suppressor gratified by finding his vice"—the "rogue who seeks to get rich under the sanction of public morals"—the "man of desperate fortune and ambiguous character" stands prominently forth. Not now, however, as the representative part of the bad in the general mass of public "reformers," as in the case of the society referred to, but as the final result in the process of degeneration, he is the "coming man" of "reform" come—he is, at last, the representative man and embodiment, or, as I have termed him, the sole "manager" of the whole movement.

A MORE FULL STATEMENT IN PREPARATION.

I am preparing as a justification against the imputations publicly made a few days ago in reference to the plain language employed by me, an exposure of the operations of this "manager," by name Nathaniel Sands, as a private individual and as a public reformer, which I think will sustain all and more than I have stated in fact as well as in "taste." I shall show, among other things, the receipt by this Sands of large sums of money to "influence" legislation at Albany—chiefly to impose republican commissioners on our city—making the character of the association a marketable commodity, obtaining in one case as much as $20,000 from the parties interested in legislation, to use at Albany in securing the passage of a single measure. But all this in time.

"CHARGES" AS TO THE CONTRACT FOR REPAVING STREETS.

I will now take up the charges of the "association" in regard to the contract for repaving the streets of the city. The charges in this respect may be summed up as follows:—That I made a contract for repaving the streets with an unfaithful contractor, for a sum larger than necessary and contrary to law; and that the contractor, although required to keep at work 100 men daily, grossly violated his contract, employing but a small number of men, and one specified day not over five men.

These charges are made with the same circumstantiality of detail as the others I have refuted in a former communication, and published to the world without affording an opportunity to answer. There are no witnesses named who could be questioned or shown to be unworthy of belief, no mode of inquiry or means for getting "information" on which an issue of reliability could be made, and by which all fair men, whether judges or prosecutors, proceed—everything is assumed, and all accusations rest on mere assertions, most impudently presented as infallible. A negative has to be established where there is no affirmative proved. The amount for which the contract was made was that appropriated by the Legislature last year, $125,000, and this year, $130,000. It is not contended that the contract by its terms does not contain all the provisions necessary to guard the public interests. Last year, when the duty was first imposed on this department, I came to the conclusion that as it was work which required skill as well as fidelity, it was my duty to select as the contractor the individual whom I found by reliable testimony to be the most capable and faithful man to do the work. I was satisfied that with the various special kinds of pavement being laid, and the care requisite in repairing it, that the lowest bidder might not be the best contractor for the public interests. If the work were not properly done it operated injuriously to the adjoining pavement as well as created an impediment to public travel. I found in the printed proceedings of the Croton Aqueduct Department, which had theretofore been charged with this work, special praise awarded to Mr. John L. Brown. The Croton Board observed:—"It is but justice to say that this contract (repairing streets) has been carried out by him with marked faithfulness and ability."

Accordingly last year I made the contract with Mr. Brown. Before the contract was completed legal proceedings, no doubt set on foot by Sands, were commenced, setting up similar charges to those under consideration, and an injunction was obtained restraining any payment under the contract. Evidence was given to sustain the character of the contractor and the manner in which he performed his contract. Among the witnesses whose evidence was obtained on these issues was Mr. Alfred W. Craven, then Engineer of the Croton Aqueduct Department, whose character and qualifications will, I think, be generally admitted. Mr. Craven testified as follows:—

City and County of New York, ss.—Alfred W. Craven, being duly sworn, deposes and says that he is by profession a civil engineer, and has been for about eighteen years last past one of the members of the Croton Aqueduct Board and Chief Engineer of the Croton Aqueduct Department. That as such officer it has been his duty for many years past, and he has been familiar with the condition of the pavements of the streets and avenues of the city of New York and the state of repairs in which they have been kept, and also with the cost and expense of keeping the same in repair.

That deponent has known the defendant, John L. Brown, the contractor for said work, for many years past. That he has frequently had contracts awarded by the Croton Aqueduct Department and has always honestly and faithfully performed the same. That in deponent's opinion, formed from a general knowledge of the condition of the streets and avenues of said city at the present time and for many years past, the same are now in quite as good general condition as to repairs and pavements as they have been for several years past.

That in deponent's opinion the sum of one hundred and twenty-five thousand dollars is a fair and reasonable sum to be paid by said city for the work of keeping the same in the condition they now are, from June 1, 1867, to December 31 of the same year, and much less than the city would have to pay for the same were it done by the day's work under its own supervision for the same period.

A. W. CRAVEN.

Sworn to before me this 31st day of October, 1867.—H. W. BOOKSTAVER, Notary Public.

The result of the litigation was that the injunction was dissolved and the contractor allowed to receive his money.

This year the Legislature conferred on me the same power as last year, but increased the amount of the appropriation $5,000. Before proceeding to make the contract, in order to be sure that no legal obstacle existed to making it with the contractor who had been thus sustained, I addressed the annexed communication to the Counsel to the Corporation, the legal adviser, by express requirement of the charter, of all officers of the Corporation. The Counsel to the Corporation furnished me with the opinion annexed, fully sustaining the validity of making it as before. The Sands "association" had this correspondence in its or his possession, for I furnished him with copies before the charges were made. But the fact was entirely concealed, that the accusation might not fail to do its work. Now as to the remaining charge in this connection, as to the number of men employed, represented to be as low as "five," and at no time the number required by the contract; I have been furnished with the affidavit of the contractor and of his superintendent and assistant superintendent, showing that in the month of July one hundred and three men and eighteen carts were employed in repaving and repairing the streets embraced in the contract. That in the month of August 120 men and eighteen carts were so employed, and in the month of September 124 men and eighteen carts, and that the work under said contract has been pushed forward with energy and the greater part of the streets have been repaved. The affidavit is as follows:—

City and County of New York, ss.—John L. Brown, George W. Fuller and Peter Smith, being severally duly sworn, deposed and say:—The said John L. Brown, for himself, says that he is the contract