MUNICIPAL HOTCHPOTCH.

The Delay in the Reconstruction of the City Departments.

IGNORING THE MAYOR.

What Will the Governor Do About the Removals?

HEADS IN THE BASKET

A Sermon from Seymour and a Polite Note from Tilden—Rumors Around the City Hall.

Delafield Smith's Answer to Governor Tilden.

MAYOR WICKHAM'S DECISION CRITICISED.

Mr. O'Conor's Observations Reviewed.

Since the transmission of the evidence in the cases of the Corporation Counsel and the Fire Commissioners to the Governor by Mayor Wickham the anxious democrats who are willing to serve the city have been expecting daily the consummation of the removal of those officers by the approval of the State Executive. It is very well known that the position taken by the Governor was designed for the protection of Comptroller Green, and was not adopted for the purpose of obstructing the removal of any other heads of departments. If Mr. Green should be removed on charges of official misconduct, violation of law and general incapacity, after such charges had been examined by the Mayor, and found to be sustained, it would be a difficult matter for the Governor to veto the act of the Mayor on the ground that the charges themselves were insufficient. If, however, the Governor could claim the right to try the case over again and to decide for himself whether the charges were or were not proven, then he might protect Green without damaging his own record. In order to establish a precedent for such an emergency Governor Tilden called for the evidence in the first removals, and has succeeded in carrying his point, although under the protest of the Mayor. This advantage gained, there is not much doubt as to the fate of the Corporation Counsel and the Fire Commissioners.

DISCOURTESY TO THE MAYOR.

There is, however, one feature in the cases now under consideration by Governor Tilden which threatens a still wider breach between the State and city executives. The Corporation Counsel and the Fire Commissioners, encouraged by the action of the Governor to hope for their own retention in office, have transmitted to Albany new and additional answers to the charges already tried and decided by the Mayor. The documents have been sent directly to the Governor, and over the head of the Mayor. Such an act on the part of a city officer should of itself cause the removal of the offender, since it is subversive of harmony and discipline and destructive of good government. It is not believed by the political friends of Governor Tilden that he would encourage insubordination in the city government by considering these communications from officials whose removals by the Mayor have already been certified to him, but that, following the example of courtesy set by the Mayor, he will simply forward them to that officer, with a request that he will examine them and state whether they are calculated to change his previous decision. Some, indeed, believe that Governor Tilden will pay no attention at all to documents thus improperly and unofficially placed before him, but that the removals will be approved early this week.

THE CORPORATION COUNSEL.

In the case of the Corporation Counsel, it now appears that the suggestion of his removal originated with Governor Tilden himself, and the charges put into shape by Mr. Charles O'Conor were, in reality, framed by the Governor. It is, therefore, highly improbable that the Governor will veto an act which he has himself counselled and which appears to have been done mainly in deference to his views. Rumor is busy in selecting Mr. Delafield Smith's successor. Mr. William A. Whitney, a young and promising lawyer, is spoken of for the position. He is a personal friend of Mayor Wickham and bears a good reputation at the Bar; but many persons regard him as lacking in experience and as scarcely solid enough for the legal adviser of the city of New York. A singular report is circulated around the City Hall to the effect that Comptroller Green has been making a desperate attempt to "circumvent" the Mayor by

A STARTLING COUP D'ETAT.

His bombshell was to be suddenly exploded in the Mayor's camp, as the rumor goes, at the moment of Mr. Delafield Smith's final removal through the Governor's approval. At that time Mr. Green wished Mr. Charles O'Conor to step forward through the daily journals and offer himself as a candidate for the appointment, volunteering to serve the city without pay for the purpose of insuring an immediate and vigorous prosecution of the "Ring" suits. It is currently reported that Mr. Green procured the indorsement of this scheme by Governor Tilden, and that the latter agreed to notify Mr. Green the moment he approved of Mr. Smith's removal in order that the offer of Mr. O'Conor might be made before the Mayor would have an opportunity to fill the place. Of course Mr. Green's real object was to keep out of the Corporation Counsel's office any one especially selected by the Mayor, and to secure a personal friend of his own in that position. But Mr. O'Conor, it is said, declined peremptorily to have anything to do with such a piece of strategy. He was shrewd enough to understand that the people and the Mayor might very properly suggest that he could be of greater use in prosecuting the suits by tendering his advice and assistance to the Corporation Counsel gratis than by filling that laborious office without pay. Besides, Mr. O'Conor would not lend himself to any act that looked like a trick. So, as the story goes, Mr. Green's last piece of strategy has failed, and he would now rather see Mr. Delafield Smith retained than removed.

THE FIRE COMMISSIONERS.

In the case of the Fire Commissioners the charges embraced in the report of the Commissioners of Accounts and the proof by which those charges are sustained, are so grave and conclusive that the apologists of the Commissioners will probably find that they have been the champions of something worse than official indiscretions. It is very certain that the Governor cannot hesitate to approve all the removals without destroying his past reputation as a friend of honest government. Moneyed transactions with persons furnishing supplies to the department; the payment of exorbitant and fraudulent prices for supplies; the employment of men of recognized bad character in positions of trust; if such acts as these should be charged and proved against city officers it would scarcely become a "reform" Governor to hold them in their positions in defiance of the Mayor. It is reported, by those who profess to have some information on the subject, that the Governor has already decided to approve the removal of all the Fire Commissioners, and that his decision will be made known this week. The canvass of the probabilities as to the new Board has consequently been quite lively for the past two or three days.

WHOSE HEAD NEXT?

The question whose head is next to fall is one curiously put by the seekers after municipal pap, and anxiously whispered by the office-holders. The probability seems to be that certain of the Dock Commissioners will follow closely on the heels of the retiring Fire Commissioners. It is also probable that the Superintendent of Buildings will be summarily dealt with on account of his official neglect or incapacity in the matter of St. Andrew's church. But it is generally believed that the Mayor cannot longer delay the removal of poor Mr. Havemeyer's Police Commissioners, whose continuance in office is regarded as disgraceful to the powers that be and an outrage on the citizens. The proceedings at Headquarters are at once ridiculous and scandalous. One Commissioner, Voorhis, makes no bones in allowing it to be understood that his whole business is to watch two of his associates—Disbecker and Duryee. Matsell is simply a piece of official comedy—a Dogberry in real life, whose antics are as comical as those of his Shakespearian prototype, and who belongs to a bygone age. If the Mulberry street Headquarters were a sort of *opera bouffe* establishment then Matsell, Duryee and Disbecker would all be in their right places. But as it is a public office, where the affairs of one of the most important of the city departments are conducted, their presence is disgraceful to the city. There are many more causes for their removal than for the removal of almost any other city officers. Their retention of captains who, according to their own statements, have been the paid accomplices of gamblers, prostitutes, lottery dealers and other thieves; their action in placing on patrol and special duty detectives against whom they allege similar offences; their notorious and shameful neglect of duty as the heads of the Street Cleaning Bureau, all these and other official misdemeanors should insure their immediate removal.

BARGAINS IN THE SENATE.

Yet it is asserted that bargains and negotiations are going on by which one of the Commissioners—Disbecker—is to be retained in office on consideration of the support of certain Senators being given to the Costigan bill. When this Commissioner was appointed, unknown as he was to the citizens, there was a general outcry against the act of the Mayor and bitter attacks were made upon the appointee. Nothing in his official career has proved him to be a person fit to fill the office, and as he has mainly run the Street Cleaning Bureau himself, he is more responsible than any other Commissioner for that gross fraud upon the taxpayers. "Mayor Wickham was not put in office to trade and dicker with republicans," said a leading member of the Board of Aldermen yesterday, "but to give us honest officials and a harmonious and efficient city government. He should turn out the Police Commissioners and the Comptroller, and then let the Governor take the responsibility, if he chooses to do so, of keeping incapable and improper men in office." This sentiment was indorsed by all who heard it expressed.

GOVERNOR SEYMOUR READS GOVERNOR TILDEN A LECTURE.

The most exciting topic of conversation yesterday, however, in political circles, was in relation to the position taken this week by Governor Seymour on the disagreement between Governor Tilden and Mayor Wickham. Governor Seymour visited the Executive Chamber at Albany a few days ago and spoke his mind very freely to its present occupant. He declared that the unfortunate controversy that had arisen so needlessly, and the delay that had occurred in the remodeling of the New York city government, were calculated to divide the democratic party and to destroy all the bright promises of the recent victory at the polls. He told Governor Tilden that the people of New York, in electing Mayor Wickham, had expressed their confidence in him, and that the desire of the democratic party, and, he believed, of all good citizens, that New York should be allowed to manage her local affairs in her own way, without interference from Albany, was undeniable. He reminded the Governor that his course toward the Mayor would be construed as implying a want of confidence in the integrity of that officer, for that there could be no object in embarrassing and obstructing the removal of officials who had been indirectly condemned by the verdict of the people at the ballot box, unless on the supposition that their successors would not be capable and honest men. Governor Seymour facts, have been mentioned in addition to the uniform assertion that the two grounds above mentioned were sufficient and controlling.

Before my defence to Mayor Wickham no word had been written by me in relation to this case, except to the late Mayor Havemeyer in answer to his inquiries. That answer I read and handed to the late Mayor, and he at once and in writing dismissed these charges. Mayor Wickham now says that I ought to be removed because, in giving Mayor Havemeyer that paper, I "published" a defence for Starkweather!

He also charges that in my present answer to him I have abandoned the defense made to the Starkweather case which I made to his predecessor. The document handed to Mayor Havemeyer is in writing, on file in the Mayor's office. I have since had it printed in a pamphlet, for convenience of reference. It accompanies this supplementary answer, and is marked "J." I ask you to examine my statement of the Starkweather case, on pages 10 to 14, in that pamphlet, and judge whether I have abandoned any ground there stated. You will see that in my answer to Mayor Wickham I have substantially copied from the pamphlet. You will perceive, further, that I have added documentary testimony, proving not only that I was and am mistaken in my judgment, but that I acted conscientiously, as shown in seeking the advice referred to. I am authorized to state that the counsel deems either of the two grounds presented by me conclusive against any possible recovery against Mr. Starkweather.

What safety would there be for any Counsel to the Corporation if the exercise of his sound discretion which the law vests in him in the matter of serious accusation, in the absence of all evidence of bad faith? (See postscript, subdivision 2.)

REFERENCES.

Third—The last of the Mayor's "reasons" relates to this subject. He is mistaken, as the statute books show, in supposing that there has been any "amendment of the code allowing me a certain discretion" in this matter. The code of practice does not except city suits from the general rule that all cases may be—and those involving long accounts must be—referred for trial. It is impossible to prove that I have ever disregarded the rights or interests of the city in this or any other respect. I have never consented to nor omitted to resist any reference which ought to have been defeated. The legal and "appropriate tribunal" is not always a jury. In my answer I have demonstrated that I have never manifested any "facility" whatever in either consenting or submitting to references, and I produced statistics showing that I had so managed that during my term 771 cases were disposed of in the courts and only sixty-two had been referred. Of the latter four small cases might possibly have been kept in court. The remaining fifty-eight went to referees by force of the law.

No appointed referee was ever selected or proposed by my opponent, as now charged by the Mayor. In fact, the original charges complain that I nominated referees myself, and it is therefore alleged as ground of suspicion, that my opponents accepted them. The truth is, that both of these inconsistent accusations (the former and the present) are utterly deprived of all force by the statistics. Nor has a referee been appointed who was ever known as "a favorite with plaintiffs."

On this subject I ask careful consideration of the first, second, third and sixth sections of my defence addressed to Mayor Wickham. If I had allowed improper references they would by this time have born fruits and instances of practical injustice to the city would have been cited. (See Postscript, subdivision 4.)

THE PUBLIC INTERESTS PRESERVED.

It is remarkable that in the several accusations, some of which are now dropped, no injury to the corporation, as a result of my official acts, is alleged or shown.

For nearly six weeks my published defence has stood unanswered. No official, lawyer, citizen or newspaper has yet questioned or assailed it. It was precise, specific and complete. I verified it its close every statement it contained, and I now adhere to it and make it a supplementary answer. All the documentary proofs are necessarily verified by the jurat appended to each answer; but, as orally stated to the Mayor, the originals can be produced if called for. They are publicly recorded and filed.

Both the charges and "reasons" are founded upon mere hearsay. No verification accompanies them. No proofs are given to sustain them. No reply is made to my answer. No evidence is produced to disprove one of my statements. They all stand unquestioned and unquestionable. The only testimony in the case is contained in my sworn defences and the documentary proofs which accompany them.

The Mayor inadvertently returns to accusations which I have completely refuted by documents and figures. It would appear (if such a supposition were admissible) that he has never himself read the defence, and that it has been withheld from his eyes as he proposed to withhold it from yours.

DISCOURTESY—MR. O'CONOR'S OBSERVATIONS.

In the foregoing remarks and depositions I have reviewed the grounds alleged by the Mayor for his decision. Since they were prepared I have seen the "Observations" of Mr. O'Conor upon my original answer. What follows relates to them:—

Upon their face the charges of January 2 showed that he prepared them under a deep prejudice. The altered tone and certain positive expressions of his present "Observations" demonstrate that the prejudice referred to is now diminished if not destroyed, and indicate that if the allegations urged to obtain my removal were now pressed upon him for the first time he would reject them.

Under an absorbing misapprehension he became my prosecutor, and of course he now comments upon the case under that embarrassment, although manifestly with convictions materially modified.

MOTIVE AND CHARACTER.

Mr. O'Conor says:—"I question the private morals nor the personal character of the respondent could be successfully impeached. In these respects he stands, unquestionably and justly, on the same high place, in public and private esteem, as every one of the professional gentlemen referred to by him."

This is no ordinary language. It is followed by the plain intimation of his own conviction that "in that high Judgment which sees all things and cannot err," I shall stand acquitted "of any objectionable intent." He adds to the Mayor:—"Should you think fit to remove the respondent from office you will doubtless consider the propriety of expressing in your order to that effect this personal exemption." In another part his paper I am credited by Mr. O'Conor with "great intelligence;" but this is more liberal than just.

It will thus be perceived that upon grounds both moral and intellectual, assurance is given of my general fitness for the position which I hold. It only remains for me to prove—as I certainly shall, not only to your but also to his satisfaction—that in all matters which are now criticised by him the facts are not as he supposes. When I have done this, there will be nothing left but the question whether a Corporation Counsel ought to be removed because, after consulting with eminent counsel, he has, in one or two cases, acted upon views of law differing from those of other lawyers.

I will now take up the "Observations" in their order:—

THE THREE MILLION OFFER.

1. This, and my action in relation to it, will be found in the documents hereto annexed, marked J and K.

THE STARKWEATHER CASE AGAIN.

2. It should be remembered that as Counsel to the Corporation and its legal adviser I am frequently required to advise and determine whether, upon given facts, a suit will lie. If I think not I must give my opinion to that effect. But this does not disqualify me, as the city's attorney, to institute the suit if thought best to make the experiment. In that case uncommitted counsel can be called in, and the suit be practically left to his guidance and prosecution. Hence my offer to sue and to leave the nomination of counsel to the Mayor leaves little to discuss. The offer was made to Mayor Havemeyer and renewed to Mayor Wickham.

Referring to what I have said on this case in the original answer and in this I will only remark,

First—That the fact stated to Mayor Havemeyer, that Starkweather received the money in "good faith," is not, as mistakenly alleged, dropped in the communication to Mayor Wickham, but is, as you will see, repeated in identical words.

Second—That on the point as to the application to our municipal corporation of the doctrine that voluntary payments, made without mistake of fact, cannot be recovered, Mr. Evarts and Mr. A. F. Smith differ with Mr. O'Conor and Mr. Barlow. My judgment accorded with the former. For this I cannot properly be removed from office unless Mr. Evarts or Mr. A. F. Smith, in the improbable event that either could be induced to be a candidate for my place, should be declared unfit for it.

Third—Even if wrong in one of my grounds, I was certainly right in the other—namely, that the commission, having been taxed and allowed, cannot be collaterally attacked, as the Supreme Court, General Term, has in effect decided.

THE BAIRD CASE.

3. The dates relating to the Baird case are correctly given in my answers to both Mayor Havemeyer and Mayor Wickham, but as they do not affect me, and this case is not now urged as ground of renewal or of censure upon any one I pass on, simply recurring to the fact that my action was advised and approved by ex-Judges Davies and Pierrepont, as their letters show.

REFERENCES.

4. Mr. O'Conor here intimates what, indeed, is expressly stated in the charges, that the few references of cases for trial are mentioned "not as one of the charges, but incidentally." In assigning this subject as one of his three grounds of removal, it is clear that the Mayor has acted inadvertently and without the advice of Mr. O'Conor.

THE TWEED CASES.

5. I now proceed to absolutely disprove, by testimony which will satisfy both Mr. O'Conor and yourself, a charge which, when it falls, will carry with it in honest minds every apparent reason for an adverse judgment. Mr. O'Conor says:—"The only other charge (to wit, the third) is that the Court of Appeals, having on June 9, 1874, denied the existence of any judicial remedy against Tweed, except the suits then pending in the respondent's department, he failed to take any proceedings in those suits for five months thereafter." This charge is specific and precise. "It has no relation whatever to any time except the indicated five months between June 9 and November 9, 1874 nor is the slightest complaint made against the respondent for any supineness in this respect at any time prior to June 9, 1874."

The "true inquiry" is, "Was the prosecution of Tweed neglected for the whole of the five months alluded to?" Mr. O'Conor admits that this question hinges on what was done in the case of the Supervisors against Tweed during those five months.

He says:—"Bearing in mind that no complaint is made against the respondent for the non-prosecution of Tweed at any time prior to June 9, 1874, it will readily be perceived that the correspondence and transactions related in his answer and occurring prior to that date have at most but an incidental relevancy to the matter in hand, and that merely on the point of motive." It cannot be denied, however, that they exhibit the thoroughly hostile attitude of my office toward Tweed before June 9, and they therefore cast before them a very significant coloring upon the events which followed.

The suit against Tweed to which Mr. O'Conor refers is the one mentioned in the recent correspondence with Mr. Peckham. In his letter, February 17, 1875, Mr. Peckham says, "The case, Supervisors against Tweed, is ready for trial." It is manifest that the case was by no means "ready for trial" in June, 1874, when it was never upon a day calendar, and when the decision of the Court of Appeals had just been announced; for, if ready in June, it must have continued so, and Mr. Peckham would have notified me and pressed it on before the close of last year. It is further evident—but presently it will be more so—that the single item of testimony cited in support of this charge has, in its whole scope and effect, been utterly misunderstood. The question relates to a alleged conversation between Mr. Peckham and myself, and another conversation between Mr. O'Conor or an informant and Mr. Peckham.

Here is a double opportunity for different versions. One of these versions I will quote from the "Observations," and then I will give mine. "Mr. Peckham in relation to this suit, states that immediately after the decision in the Court of Appeals, in June, 1874, he proposed to bring it to trial, and was positively forbid to do so by the respondent." I do not believe that Mr. Peckham and myself differ as to the true facts and bearing of what I said to him. If we do, I am sure he would meet me before your Excellency, where a comparison of recollections would at once result in an agreement. It must, however, be borne in mind that my meaning must be known to me and might have been misunderstood by him.

The truth is that in the early part of June I urged him to expedite these suits, and he of course replied that he should. In the latter part of the month (on the eve of the summer court vacations, when no jury suit could be tried before October) I said to him that he need not bring on the Ring suits, for I was going away. This was mere pleasantry, suggested by the nature of my expected errand to South Carolina, which I supposed was known to him, but of which he has since said he had not then been informed. Mr. Barlow refers to it in the last words of his letter dated June 25, 1874. In the original letter these words are underscored. I had no intention whatever of stopping the preparation of the cases; and, as to a trial, that was not possible during the summer months. The time of this conversation (late in June) is fixed upon my memory because it was just before I left for the south on June 26.

That in point of fact I did not stop Mr. Peckham's labors, is demonstrated by his account, in which his services, during the summer months, are charged for against the city. The bill was certified by me, and paid in the Comptroller's office, where it remains filed. The bill was presented not later than October. When were the services rendered? As to the Tweed cases, not certainly before June 9 (or prior to that time he was working under the retainer of the Attorney General on the State suits, and the city suits were in abeyance). The only possible answer is that the services were rendered between June 9 and October 23. The idea is utterly mistaken and impossible that during the five months between June and November, 1874, I suspended the preparation or prosecution of the Tweed suit. It will of course be acknowledged that under a similar principle of reasoning Mr. Peckham did under my retainer was done by me, and also that if he had neglected this case by my instructions I would be responsible. No prohibition upon him was ever made by me or recognized by him, and I never wrote or uttered a word creating or contemplating any obstacle to his prosecution. No obstacle was interposed at all is shown by Mr. Peckham's labors, which were never interrupted except by his own private professional engagements. Neither orally nor in writing, during the entire "five months," did he ever intimate such a thing.

NECESSITY OF COUNSEL.

6. I have heretofore alluded to the fact that the business of this office executed by me last twenty times what it ever was before. That part of it which the Corporation Counsel cannot or should not depute (such as the preparation of opinions) renders physically impossible his personal attention to the preparation of suits for trial. The employment of counsel is therefore a plain necessity. Mr. Barlow has drawn no complaint, against one, which I have not sanctioned and signed; while Mr. Peckham has been as free to serve the public in the civil suits under my retainer as he was in the criminal prosecutions under that of the District Attorney. Their consultations with Mr. O'Conor I regarded my own, as in effect they were. The retainer of Mr. O'Conor in December, 1874, has, of course, never been revoked. On the 30th of December I superseded Messrs. Peckham and Barlow, retaining in their places Mr. George Ticknor Curtis and ex-Judge John K. Porter. They can bear witness, from what occurred between us, that in this change I expected not to retard but to advance, by co-operating efforts, the prosecution of these suits. The counsel thought that whether they continued or not the former counsel should be brought back. My own personal examination of the cases led to the same conclusion. I had no feeling that would not yield to whatever might seem wise or right. Satisfied that while I had acted conscientiously and naturally, I had yet labored under some misapprehension, I decided to renew the retainer of Mr. Peckham and Mr. Barlow. This was done on January 6. The result was that they were out of the cases for only a few days. It is sufficient that I did not consciously nor practically act against the public interest; but details, not advisable to mention here, could be given to your Excellency personally. All the circumstances are known to several persons, and they abundantly explain this matter without resorting to uncharitable and unfounded conjectures. I was not aware of the sentence quoted by Mr. O'Conor from an opinion which he mentions. It therefore does not concern me nor would it be becoming in me to discuss a point between such jurists as Mr. Curtis and ex-Judge Porter, on the one hand, and Mr. O'Conor on the other.

FINAL JUDGMENT.

7. In the concluding paragraphs of Mr. O'Conor's paper, published separately from the first portions, it appears that in his "judgment" my removal is not now required by the public interests nor desired by him.

CONCLUSION.

A removal "for cause" is in the nature of a penalty. If inflicted unjustly a personal wrong is not only perpetrated on the individual, but the public may also be injured by increasing the growing aversion with which men of character and sensibility regard the public service.

I seek a judicial decision from a statesman who unites to that high name the more exalted character of a just and accomplished jurist.

In transmitting the charges to me, you will see, as you examine them, that the Mayor at once adopted them as his own, and at the same time, before any hearing had become possible, not only argued that they were perfectly conclusive, but absolutely and repeatedly declared in advance that I "ought to be removed." His general character as a just man is, of course, not questioned; but he certainly disqualified himself at the outset to aid in any fair determination of my case.

The sole unbiased arbiter is appointed by law, and he is the Governor of the State. But I hope that His Honor the Mayor, examining this supplementary answer and the entire case, will yet unite with Your Excellency in the just conclusion that these charges, being insufficient in themselves and thoroughly disproved, should be dismissed.

I shall send to Mayor Wickham a copy of this communication

I am, honored sir, with great respect, your obedient servant, E. DELAFIELD SMITH.

City and County of New York, ss.:—I, E. Delafield Smith, being duly sworn, depose and say, that the foregoing supplementary answer was drafted by my hand; that it appears as I have prepared or verbally amended it, and that in all respects and particulars it is true to the best of my knowledge, information and belief.

E. DELAFIELD SMITH.

Subscribed and sworn to this 27th day of February, 1875, before me. CHARLES P. MILLER, Commissioner of Deeds.

LETTERS.

The following are the letters of importance above referred to:—

I.

EXECUTIVE DEPARTMENT,
CITY HALL, NEW YORK, Feb. 2, 1875.

Hon. E. DELAFIELD SMITH, Counsel to the Corporation:—

DEAR SIR—In my communication to you, dated 2d ult., I mentioned the offer in writing by Tweed and a portion of his associates, to pay a sum of money in compromise of claims against them, and the fact that that paper is or was in your possession as head of the City Law Department.

In yours dated 18th ult. to me you do not deny, but, by necessary implication, admit the correctness of my information and statement in relation to that subject.

You will be good enough to produce to me forthwith the paper specially referred to, and with it, or as soon as possible afterward, any and every other document, paper or memorandum in or belonging to the city Law Department, or intrusted to you as head of or to any person as an officer or employe of the department, stating or referring to said or any offer of compromise, settlement or release of any claim against or prosecution of the persons or any of them, mentioned or referred to in my said letter to you of the 2d ult. Yours, respectfully,

WILLIAM H. WICKHAM, Mayor.

LAW DEPARTMENT,
OFFICE OF THE COUNSEL TO THE CORPORATION,
NEW YORK, Feb. 3, 1875.

The Hon. WILLIAM H. WICKHAM, Mayor of the city of New York:—

DEAR SIR—Your letter of yesterday reached me at my residence last evening.

A letter of Mr. B. G. Jayne, dated July 12, 1873, and a letter of Mr. Wheeler H. Peckham, dated July 15, 1873, are herewith enclosed.

These are the only letters, papers, writings or memoranda which have ever come into my possession or been seen by me relating to any proposed compromise or settlement of the suits or claims referred to in your letter.

The letter of Mr. Jayne was preceded by a personal call upon me, in which he proposed the compromise. In this personal interview he stated that the compromise must include, with regard to the persons represented by him, a discontinuance of all prosecutions, civil and criminal. I told him that the criminal suits were in the hands of the District Attorney; that the State suits were in the control of the Attorney General, and that, with regard to the city suits, I had placed them in the hands of the Counsel for the State, and should do nothing except with their advice.

I also said to him that the amount proposed seemed to me inadequate, and that I had somewhere heard or read that the claims against the principal defendants could be compromised for a sum which I was sure was largely in excess of $5,000,000, and that I thought $5,000,000 or $6,000,000 had been mentioned. Mr. Jayne argued with me. I assured him I could do nothing but call the attention of my counsel to the matter. I stated to him that I did not believe any compromise could be made, but that I would inquire, and it would then be in time to consider the amount, which I believed would have to be much enlarged.

On the 12th of July his letter reached me, and I handed it to Mr. Peckham, who stated that he would consult his associates. On the 15th of July I received Mr. Peckham's letter.

This was the end of the matter. I soon after left the city for several weeks. I never again heard anything in relation to the subject. I presume that the substance of Mr. Peckham's letter was stated to Mr. Jayne, and that either by myself or my assistant he was discouraged in any further efforts. I am, sir, very respectfully, your obedient servant,

E. DELAFIELD SMITH.

K.

OFFICE OF B. G. JAYNE,
SPECIAL AGENT OF THE U. S. TREASURY DEPARTMENT,
CUSTOM HOUSE, NEW YORK, July 12, 1873.

Hon. E. DELAFIELD SMITH:—

MY DEAR SIR—Will you please to bear in mind that the proposed compromise of $5,000,000 includes only William M. Tweed, R. B. Connolly, James H. Ingersoll, R. A. Woodward, A. O. Hall, John H. Keyser, Peter B. Sweeny, James M. Sweeny, Hugh Smith and H. A. Smith.

Against five of these there are no civil suits at all, and only some of them have been indicted.

The compromise does not include Tom Fields, Harry Genet, Andrew Carvey, Alderman Coman, Nathaniel Sands, Conrad Bomer, Haggerty and at least a dozen others.

I am assured that it is not true that these men ever before authorized the payment of any sum to settle. Interested friends may have proposed various sums, but wholly without the authority of the principals.

In this case, I am assured the money is actually raised and on deposit; the first time a dollar has been so put up. These men will not go beyond $3,000,000, for I am assured that some, and especially Tweed, have lost their desire to settle at all, but are still held to the proposition by some of the others.

I must charge you not to let any of the counsel of these men hear of this negotiation, for I learn that all of them, and D. D. Field especially, are opposed to it, and would do all in their power to prevent it. These counsel, I am told, are a unit in advising these men that the public can never get a civil judgment nor a criminal verdict against one of them; and this proposed compromise is by the advice of friends outside of counsel heretofore employed. Truly yours,

B. G. JAYNE.

NEW YORK, 118 WALL STREET, July 15, 1873.

Hon. E. DELAFIELD SMITH, Corporation Counsel:—

DEAR SIR—I inclose your letter of Jayne to you.

I have seen several of the gentlemen to whom you referred the other day, and I find them opposed to a settlement, though possibly not beyond change.

I am going out of town Thursday, to be gone some weeks. When I return I will try and arrange a meeting with yourself and all of these gentlemen, and we can have a full discussion. In the meantime the matter can lie over.

While I should not deem it my duty, affirmatively, to oppose a settlement, to which all the others were favorable, I am yet free to say that my own views are decidedly against it.

I have no question of ultimately recovering the amount sued for in the civil suits and of convicting in the criminal. With an honest Court and jury the result of either cannot be doubted. I think public example and public morality demand the punishment of these men, and were mine the deciding voice they would be punished or go free.

I believe, however, in consultation, and we can all properly decide on the matter, say early in September. Yours truly, WHEELER H. PECKHAM.

THE TRANSIT OF VENUS.

THE "BLACK DROP" AS IT WAS WITNESSED AT THE CAPE OF GOOD HOPE.

TO THE EDITOR OF THE LONDON TIMES:—

I am very glad to be able to report to you, and to astronomers generally, that I have received a communication from Mr. Stone, Her Majesty's Astronomer at the Cape, in which he states that very satisfactory observations of the Transit of Venus, at egress, were made by him and his assistants, Messrs. Finlay and Maclear. Mr. Stone remarks that there is no doubt whatever of the ligament, or black drop, having been seen by him continuously from his first recorded time, 19h. 7m. 12 05s. Cape mean time. He also forwards several sketches of the various appearances of the ligament at short intervals of time, which will be exhibited at the next meeting of the Royal Astronomical Society. I am, sir, yours truly,

EDWIN DUNKIN,
Hon. Secretary Royal Astronomical Society.

BURLINGTON HOUSE, LONDON, W., Feb. 13.

PROFESSOR PROCTOR'S OPINION.

TO THE EDITOR OF THE LONDON TIMES:—

In order to estimate the real significance of the news published in the *Times* of to-day by my friend, Mr. Dunkin, your readers should be informed that the observation of egress at Cape Town has no special value. The valuable egress regions were those near New Zealand for egress accelerated, and those around the Caspian Sea, as far as Egypt, Persia and North India, for egress retarded. Cape Town is somewhat remote from either region, unless my geography fails me. Cape Town had real value as a mid-transit station for photographic or heliometric work. It would be as useless now to inquire why no provision was made for either kind of work as to inquire why Mr. Stone, Astronomer-Royal at the Cape, was provided with no suitable means for observing the important total eclipse of April, 1874. But though past opportunities cannot be recalled, a useful lesson may be learnt as to the future.

Mr. Stone's observations of the "ligament," or "black drop," is curious. An eminent Continental astronomer recently remarked to Professor Newcomb, chief of the Washington Observatory, now visiting Europe, that only unpractised observers had on this occasion seen the "black drop" as Mr. Stone's theory of the transit of 1769 required, that is for twenty seconds or so. It is rather a singular illustration of the effect of preconceived ideas that Mr. Stone himself, who is, I understand, a very skilful observer, should not only have seen the ligament, but have actually succeeded in sketching its "various appearances" at short intervals of time. Lord Lindsay's party agree that all the phenomena of the "black drop" "took place and disappeared in a period of five seconds;" but then they had no theory to maintain.

RICHARD A. PROCTOR.

ZORILLA DRIVEN FROM SPAIN.

ALFONSIST ACTION AGAINST THE RADICAL REFORMERS AND REVOLUTIONISTS.

[Madrid (Feb. 5) correspondence of London Times.]

An earnest of the policy the first Cabinet of the restoration intend to adopt with those whom they have reason to fear as inimical to the existing state of things was afforded by the appearance of a remarkable circular in the *Gazette* of yesterday morning at about the same time as a picket of constables proceeded to the house of the ex-radical Premier, Don Manuel Ruiz Zorilla, and placed him under arrest, an arrest which was succeeded by summary and enforced banishment last night, without the least form of legal accusation or trial. The step the government have taken is extraordinary and bold. Whether the result will be what they desire is a question for the future. Few people believe Ruiz Zorilla could have done the restoration much harm by his residence in Spain. Many believe he can, if disposed, do it far more harm in his forced exile.

HIS CRIME AGAINST THE CROWN.

Zorilla has busied himself since the proclamation of the King in the effort to organize the ex-radicals and the old republicans into a party or league of opposition under the banner of "La Republica, con la Constitucion de 1869." In this effort he has endeavored to induce Castelar and his followers to share, but for this once the great orator has shown a firm front and declined to run his neck into a noose and his "party" into perdition. Castelar argues that with the capital and the country in a declared state of siege, with every constitutional liberty suspended, with a civil war still existing, now is not the time to organize political oppositions, or to seek to throw down the existing *regime*. He is for patient waiting, and, in the meantime, voluntary "emigration." Switzerland or France will probably be his new home for some time, and it is said he starts next week. Not so wisely has Zorilla acted. He has openly invited to conferences at his house, Calle San Marcos, not only all the ex-Ministers and influential men of his old party (the radicals), but all the ex-Deputies, ex-Alcades, ex-Civil Governors and ex-functionaries of every grade, civil and military, who at one time or the other, in Madrid and the provinces, professed allegiance to the radical flag or held office under it. In this invitation he expressed his desire "to reorganize the radical party under the banner of the Republic, with the Constitution of 1869 minus article 33—the monarchy clause." Those who could not come personally to his house were requested to signify assent or dissent by post. Various meetings were held in his house, with the result immediately of a great split among the prominent men of his party to begin with. Many of these refused to follow him into the republican camp, particularly Generals Pavia, Izquierdo, Palacios, Admiral Beranger, ex-Ministers Montero, Rios, Gossett, &c. These declared that they had been and ever would be monarchists in principle, though, for the present, they were not prepared to enter the Alfonsino ranks. They would look on and wait, and decide their future course, each for himself, according to the political conduct observed by the King's advisers. In the meantime, they would do nothing in the way of rebelling or conspiring against the new order of things. Martos declined to attend these meetings, alleging that he intended to retire altogether from public life. To the last of them, however, Martos sent his brother to declare in his name that before giving in any allegiance to a Republic of a federal shape he would give it to Don Carlos. While Zorilla was thus struggling with the difficulties he himself had raised, his indiscreet "circular" came to the ears of the Regency Ministry, and they at once determined to nip his proceedings in the bud. They arrested him in his own house yesterday.

FRIENDS IN NEED BUT THEMSELVES IN DANGER.

Señor Zorilla was accompanied to the station by many prominent public men. In fact, that miserable little barn, the Madrid terminus of the Ferro Carril del Norte, rarely before held so many men who have played a prominent part in Spanish politics. Here were ex-Ministers Rivera, Salmeron, Carvajal, Figuerola, Echegaray, Martos, Pedregal, Garcia Ruiz, Gonzalez, &c.; also ex-Deputies Soler, Balbaena, Pascual, Pinilla, Gomez Siguro, Montemar, Rebullido, Sardoal, Aguilera, Ximenez, Anglada, Moreno, Mesa, Llorente, Salvany, Nuñez de Velasco, Lafosq, Del Val, Rispa, Perpina, Morayta, Rivera, Vazquez, Arroeiro, Eraso, Gomez Rubio, Pasoron, &c. The Archbishop of Santiago de Cuba also came down to take farewell of the illustrious "emigrant."

Zorilla is rich, and his expatriation will not affect him pecuniarily. Castelar, who will probably follow next in "emigration," is not rich, but he will be no loser by the move. When he was made Minister at £1,200 a year he had to sacrifice literary labor which was bringing him in £2,500 a year, and he has earned at least as much since the *coup de état* of January 3, 1874. This literary labor, and much more, he can perform as well, if not better, abroad than in Spain.

THE NEW YORK COLLEGE OF DENTISTRY.

The annual commencement exercises of the New York College of Dentistry will take place this evening at Association Hall. The programme opens with the overture, "Zwei Blatter," Muller; march, Grammia's seventh Regiment Band; followed by religious exercises and the conferring of degrees by Dr. S. A. Main, President of the College; awarding the faculty prize, by Professor C. A. Marvin, D. D. S.; address to the graduates, by Professor Alexander W. Stein, M. D.; valedictory, by Charles L. Dubar, D. D. S., of the graduating class; address, by Rev. Samuel Osgood, D. D. Music by the band will be interspersed.

PICTURES OF POVERTY.

A Week's Work at St John's Guild.

Caring for the Families of the Killed and Wounded in the St. Andrew's Church Disaster.

Last week brought a heavy burden to St. John's Guild in the care of its many poor. The storms of snow and rain increased the sufferings of these people, and they fairly besieged the place, begging in the most abject manner for relief. The average number of applicants was more than a thousand for each day, and, as has been repeatedly stated in these columns, every thousand applicants represent five thousand individuals suffering in the tenement cellars and garrets from lack of food and from cold. The same scenes of picturesque misery we have so often attempted to describe were daily visible. Age with its many infirmities and youth with its feebleness contributed to fill in the shadows in the grouping, and the dying and the newly orphaned and wholly unprotected and helpless were the prominent figures.

RELIEF ARRANGEMENTS.

Early in the week the basements of the two buildings Nos. 52 and 54 Varick street were thrown open to their fullest extent, and the main office on the first floor of No. 52 was given over to the clothing bureau. Many ladies prominent in New York society were daily at work in the sewing room, and some of them assumed supervision of the details of other departments. All had apparently taken heart from the generous response to the HERALD's appeal of last week, and seemed determined to deserve the warm support the public seems always to give them. Large quantities of fresh and preserved meats were donated to the Guild's poor early in the week and were distributed, in addition to the usual supply of provisions. The Guild gives to each applicant four pounds of flour, four pounds of hominy, four pounds of corn meal, three pounds of oat meal, and a quarter of a pound of tea.