THE COURTS.

Indictment for Murder Ending in Justifiable Homicide.

VERDICT AGAINST A CITY RAILROAD COMPANY.

Examination in the Wishart Habeas Corpus Case.

In the suit in the Court of Common Pleas, before Judge Robinson, brought by Mary E. Jobes against the Fourth Avenue Railroad Company, to recover damages for injuries sustained by being thrown from one of the company's cars, the particulars of which have been published, a verdict for $5,000 was given yesterday in her favor.

THE BOTTLE HOMICIDE.

On the 31st of March last Michael Cunningham, a bartender in the liquor saloon of McKenna & Duffy, corner Sixth avenue and Forty-fifth street, got into an altercation with Michael McCarthy, which ended in his striking the latter on the head with a bottle, producing injuries resulting in death. He was indicted for murder in the first degree and yesterday was placed on trial in the Court of Oyer and Terminer, before Judge Davis. Mr. William F. Howe appeared as his counsel, the prosecution being conducted by Assistant District Attorney Lyons, and the court room being crowded.

After a brief opening of the case by Mr. Lyons he called as his first witness Michael Hertzberg. He testified that the prisoner struck the deceased on the back of the head and neck with a bottle; that the deceased bled copiously and fell down, and that he was taken to the hospital, where he subsequently died. He stated further that the deceased was called up to the bar, at which prisoner was attending as barkeeper, to drink, and that the prisoner refused to give him a drink, whereupon he jumped over the bar and helped himself, and at the same time the prisoner walked toward the deceased with a bottle in his hand; that the deceased had nothing in his hand; that the prisoner then struck the deceased on the back of the neck and head with the bottle; that a person present separated them, and that the deceased thereupon took up a bowl containing crackers and fired it at the prisoner.

On cross-examination by Mr. Howe the witness stated that he could not swear that the deceased had no bottle in his hand, and that the prisoner was discharging his lawful duty behind the bar when the deceased jumped over and took wrongful possession of a bottle containing liquor.

John McDonald, John Johnson and Thomas Smith were next called for the prosecution, from whom it was elicited that at the time the prisoner struck the deceased the fatal blow with the bottle the latter was approaching Cunningham with an upraised bottle as if to strike him, and that Cunningham only struck in justifiable self-defence. It was also proven that the deceased was clearly the aggressor; that he used violent language; that he threatened to kill Cunningham, and that the homicide was in every respect excusable.

Upon the above state of facts Mr. Lyons said he felt constrained to state that he could not consistently ask the jury for any verdict against the prisoner.

Judge Davis replied that he entirely agreed with the learned prosecuting officer, and directed the jury to render a verdict of not guilty, which they accordingly did, whereupon Mr. Howe asked for the prisoner's discharge, which was granted, and he left the Court amid the congratulations of his numerous friends.

THE WISHART HABEAS CORPUS CASE.

In the Court of Oyer and Terminer, before Judge Davis, yesterday, the case of Robert H. Wishart, held for extradition on a charge of forgery, came up for examination under the writ of habeas corpus granted a few days since, the object of such writ being to effect his release from custody. Wishart is indicted as Robert H. Wishart, alias J. E. Batchelar, and the ground of the application is that he is not the person named in the indictment. Being sworn in his own behalf, he testified that he never went by the name of Batchelar; that George F. Hilt went by that name; that he had never been in Philadelphia more than five or six times; that he never stayed there more than one night at a time; that he acted as clerk for Hilt, or Batchelar, but did not learn that his name was Hilt until August last; that upon the discovery, thinking the fact suspicious, he informed Captain Irving, of the detective squad, and that upon such information Hilt was arrested. His counsel stated that this indictment was part and parcel of a conspiracy to keep Wishart from giving his testimony in the United States Court against Hilt. The further hearing of the case is adjourned until this morning.

MARINE COURT—PART 1.

A WARNING TO DOG OWNERS.

Before Judge Alker.

Edward Davis, by his guardians, &c., vs. Charles Brandt.—On the 23d of April last the plaintiff, a child of six years, was passing the woodyard of the defendant, on Goerck street, when, without any cause or provocation, as testified to by his witnesses, a large dog belonging to the defendant sprang upon him and nearly bit out the calf of his left leg. It was further shown that this dog, which was described as a ferocious looking brute, with long hanging lips, had bitten children on two or three previous occasions, and that the defendant himself, in quieting the plaintiff's mother's fears as to hydrophobia ensuing, had said that it had bitten his own child, but being a good, healthy animal no harm had come of it. Dr. Barry testified to his treatment of the wound, exhibiting the boy's leg with a terrible scar on it, and saying that he had kept the child under the influence of anodyne a great part of the time, owing to his sufferings. On the part of the defendant it was testified that, owing to the location of his business and the business itself, he was obliged to guard against thieving, which was carried on to a great extent, his fences even walking off in sections sometimes; that for this purpose he kept three dogs, all of which had angelic tempers, unless when they were hard pressed; that on this occasion the plaintiff, with his playmates, who had come down to see a circus erected next door, amused themselves by stoning his dogs, coming inside the fence for that purpose; that patience ceased to be a virtue at last with the dogs, and the result was this cause of action. He denied ever having heard that his dogs "were accustomed to bite mankind," and in regard to his own child said it was another dog. The jury rendered a verdict in favor of the plaintiff for $750.

DECISIONS.

SUPREME COURT—CHAMBERS.

By Judge Brady.

Mann vs. Willoughby et al.; In the Matter of Davis; Wilkinson vs. Shillings; Ryer vs. Ryer et al.; Ulmer vs. Wannemacher; Chilton vs. Brown; Union Dime Savings Bank vs. Stoessel et al.; Delaney vs. Clancey; Andrews vs. Boarman.—Granted.

Robert vs. Hornberg.—Motion granted.

Miller vs. Hallack; Bulkley vs. Hickson.—Motions denied.

National Photo Chemical Company vs. Conkey.—Motion denied, with $10 costs to abide the event.

Steiner vs. Bonten.—Motion granted. Memorandum.

Lavelle vs. Shaw.—Motion denied, without costs (see Kimbelly vs. Stewart, 22; How. 281); The Christopher and Tenth Street Railroad Company vs. Central Crosstown Railroad Company.—Opinion.

The Mayor, &c., vs. Appleby.—Motion denied, without costs. Memorandum.

Schwarz vs. Schwarz.—Referee's report confirmed, and decree of divorce granted to plaintiff.

Allen vs. Misch.—Motion denied, with $10 costs to abide the event. Memorandum.

Waters vs. Crawford.—Motion denied; $10 costs to abide the event.

Schelley vs. Diehl.—Commission may issue, but the stay cannot be extended beyond the 20th of June, 1875. See memorandum.

Firsch vs. Freudenthal.—Counsel must appear at eleven o'clock A. M., on the 15th day of June, 1875.

Lauton vs. Helleustein.—Motion denied. Memorandum.

Pendleton vs. Cooke.—In these cases counsel appear on the 11th of June, at eleven o'clock A. M.

By Judge Lawrence.

Snyder vs. Bristol.—Motion denied, without costs.

Platt vs. Stuart.—Order as settled.

Morris vs. Kendall.—Neither of the orders submitted are correct. The order should be a Special Term order. That presented by the defendant's counsel is a Chamber order. The order of the plaintiff's counsel does not conform to the decision in many respects, as will be seen by comparing it with the memorandum filed.

Cushing vs. Cushing.—An allowance of $300 is granted to the defendant for alimony and expenses.

Schumacher vs. Marine Court.—The application for a writ of prohibition is denied on the ground that the issuing of the writ is within the discretion of the Court and should not be granted except in a very clear case, and that it is not at all certain from the language of the treaty between the United States and Prussia that it was intended to deprive the courts of either country of jurisdiction of actions of the nature referred to in the many affidavits, &c. Writ should not issue.

SUPREME COURT—CIRCUIT—PART 2.

By Judge Donohue.

Fisher vs. The Mayor, &c.—See opinion.

SUPREME COURT—SPECIAL TERM.

By Judge Van Vorst.

Kelly, &c., vs. Whiting et al.—Complaint dismissed, with costs.

King vs. McNamara et al.—As to defendants, Livermore and Slattery, complaint dismissed; as to defendant, McNamara, judgment for plaintiff.

SUPERIOR COURT—SPECIAL TERM.

By Judge Curtis.

Johnston vs. Johnston.—Judgment signed.

By Judge Van Vorst.

The Second German Baptist Church vs. Prior.—Order settled.

Pearce vs. Walsh.—Judgment for defendant on the demurrer. See opinion.

COMMON PLEAS—SPECIAL TERM.

By Judge Larremore.

Lewis vs. Goldstein.—Motion denied.

COURT OF GENERAL SESSIONS.

TRIALS, CONVICTIONS, PLEAS AND SENTENCES.

Before Recorder Hackett.

John Reynolds and Henry Swift, who on the 23d of May burglariously entered the liquor store of Daniel Keenan, No. 122 Bleecker street, and stole a silver watch valued at $15, pleaded guilty to an attempt at burglary in the third degree. Reynolds was sentenced to the State Prison for two years and six months. Henry Swift was remanded for sentence.

Patrick Hanley, who was jointly indicted with John Hughes, was tried upon a charge of breaking into the saloon of George McGovern, No. 741 Third avenue, on the night of the 8th of May. They stole $203 worth of cigars, two bottles of brandy and two towels. Nearly the whole of the stolen property was found in the house of the parents of Hanley, just above the saloon. When it was noised abroad in the neighborhood that the burglary had been committed Hanley informed the complainant that a man named Hughes left the cigars in his room early in the morning. The fact was brought out that Hanley had served a term in the State Prison for larceny. A verdict of guilty was rendered. His Honor sent him to the State Prison for five years.

Mary T. Dord was convicted of stealing a gold watch valued at $80 from Milton Hughson, at a hotel in the Bowery. He met her at Harry Hill's and accompanied her to the hotel, where the larceny was perpetrated. There were mitigating circumstances, which induced His Honor to impose the lowest sentence the law allowed, which was one year's imprisonment in the State Prison.

George Monroe, indicted for stealing $76 from Joseph O'Donnell, on the 3d of this month, pleaded guilty to an attempt at grand larceny.

John Donohue pleaded guilty to an attempt at petit larceny from the person, the charge being that on the 30th of May the prisoner stole a silver watch from Hubert Kanter while he was walking through West street.

Francis A. Cushman, who was jointly indicted with Frank Langdon, charged with stealing six unmade cassimere frockcoats, valued at $65, the property of Philip Seligman & Co., No. 58 White street, pleaded guilty to an attempt at grand larceny. These prisoners were each sent to the State Prison for two years and six months.

Thomas Barnum, who, on the 2d of this month, stole clothing and household articles valued at $34, the property of Rebecca Solomons, pleaded guilty to petit larceny.

A similar plea was accepted from John Sullivan, the indictment charging that on the 17th of April he stole a tub of butter, valued at $14, belonging to Thomas L. Carney.

Frederick Cash was convicted of a simple assault, the charge against him being that on the 28th of May he struck Patrick Kearney on the head with a club. These prisoners were sent to the Penitentiary for one month.

Claudius R. Dord pleaded guilty to receiving a gold watch, which was stolen from Milton Hughson by a woman claiming to be the wife of Dord. The watch was pledged in Jersey City and recovered by a police officer. He was sent to the State Prison for one year.

Barbara Raab, who was indicted for stealing clothing, valued at $45, on the 22d of May, from Mary Smith, pleaded guilty to petit larceny. She was sent to the Penitentiary for one month.

WASHINGTON PLACE POLICE COURT.

Before Judge Bixby.

AN EMBEZZLING CLERK AND THE CASH BOY CONFEDERATES COMMITTED.

The case of J. A. Hearn & Sons, of Nos. 773 and 775 Broadway, against two of their former employés, Richard E. Ellis, of East Thirty-fourth street, and Bernard J. Flynn, of No. 130 First avenue, came up at the above court yesterday for examination. The affidavit of George A. Hearn, Jr., was taken, which charged the youth Ellis with embezzling $2,000 and Bernard J. Flynn with stealing the cash book at Ellis' suggestion. J. McGlynn, John F. Flynn and E. Crary, boys, who were also employed in the store as cash boys, appeared as witnesses against the prisoners and testified that they had handed over to Richard Ellis, at different times, sums ranging from $20 to $60, which amounts of money were not charged on the cash book, they being told by him that these moneys were required for the use of the house. Judge Bixby concluded to hold the prisoners in $3,000 bail each to answer at General Sessions. The following unique letter from Ellis to one of his young friends was intercepted by Detective Henderson while Ellis was confined in the station house. The letter speaks for itself:—

SUNDAY, MERCER STREET STATION HOUSE.

TOMMY—Sorry to say that the three of us got nipped at last—Flynn, Murray and myself. Murray is at George Hearn's house, locked up in a dark room. We are enclosed by stone walls and iron doors. The both of us are in one cell. Have six daily papers, six cigars and plenty to eat, provided you pay about $10 for a square meal. Come down to the court, corner of Greene and Washington place, to-morrow morning at nine o'clock, and see us get about ten years. I do not feel bad about this, as I expected it for about six months. Our sentence altogether depends on George Hearn's mercy, the ——. I think he is too good to see us in here. He asked me in court this morning if I would tell him everything I knew, as Murray did, and I told him yes; and I think if I tell him how this "route" was worked, so that nobody can book him again, he will not be hard on us. Maybe he will let us go altogether. Keep this on the quiet from all the boys. Tell Bishop; do not tell anybody else, nor tell nobody at your house. If you like, try and come down to-day or to-night to see me. I could not say for sure whether you will be let in or not. It will do no harm to brace the Sergeant or Captain at the desk. Bring down something for an excuse that will probably admit you. DICK.

ATTEMPTED BURGLARY.

Between three and four o'clock yesterday morning Officer Healy, of the Fifteenth precinct, found the basement door of No. 46 West Ninth street open. He rang the bell, and Mr. Charles H. Edwards came to the door and informed the officer that before going to bed he had securely locked and bolted the aforesaid door. Officer Healy went out on the sidewalk and rapped for assistance. In the meantime Mr. Edwards found a strange man sitting on the stairs. Officer Healy was at once called in, who took the man to the Mercer street station house, where he gave the name of Owen Reilly. The prisoner was brought before Judge Bixby and held in $1,000 bail to answer on a charge of attempted burglary.

COURT CALENDARS—THIS DAY.

SUPREME COURT—CHAMBERS—Held by Judge Brady.—Nos. 59, 105, 126, 134, 158, 160, 163, 167, 190, 201, 222, 229, 266, 268, 276, 279, 281, 307, 308, 315, 316, 317, 320, 330, 331, 336.

SUPREME COURT—SPECIAL TERM—Held by Judge Donohue.—Calendar called at ten A. M.—Demurrers—Nos. 10, 16, 16, 4, 6, 25, 9, 17, 22, 24. Issues of law and fact—Nos. 462, 251, 225, 464, 471, 384, 522, 443, 431, 400, 275, 78, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 487, 488, 489, 490, 491, 492, 494, 495, 497, 498, 499, 500, 501, 502, 503, 504, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 539, 540, 541, 542, 543, 544, 266, 121, 271.

SUPREME COURT—CIRCUIT—Part 2—Held by Judge Lawrence.—Short causes—Nos. 2384, 786, 2140, 2866, 2852, 2626, 1840, 1528, 2728, 2454, 2828, 2880, 2708, 2672, 2916, 2724, 2840, 1476, 2732, 2344, 2750, 2842, 2932, 2908, 3085, 3157, 1806, 3150, 3156, 2982, 2298, 3128, 628, 3148, 3152, 3104, 2914, 3184, 2312. Part 3—Held by Judge Donohue—Court opens at ten A. M.—Nos. 1639, 2291, 1873, 2874, 1879, 2911, 2905, 2835, 3109, 2843, 2217, 2457, 3181, 2833, 1998, 2651, 2919, 2853, 2311, 2353, 2759, 935, 2951, 3133, 3131, 3093, 2995, 3087, 3149, 3121, 3137, 3051, 2099, 3159, 2009, 3031, 3187, 3039.

SUPERIOR COURT—TRIAL TERM—Part 1—Held by Judge Freedman.—Nos. 817, 551, 1805, 1265, 1221, 631, 1145, 1075, 1889, 1227, 1041, 881, 339, 1059, 647. Part 2—Held by Chief Justice Monell.—Nos. 970, 1726, 820, 1950, 916, 812, 776, 1082, 1194, 2110, 656, 2046, 2016, 2022, 568.

SUPERIOR COURT—GENERAL TERM—Held by Judges Curtis and Sedgwick.—Nos. 13, 16, 38, 40, 42, 45, 46, 47, 48, 49, 50, 51.

SUPERIOR COURT—SPECIAL TERM—Held by Judge Speir.—Nos. 15, 33, 2, 16, 37, 42, 52, 22, 23, 24, 30, 47, 48, 49.

COMMON PLEAS—TRIAL TERM—Part 1—Held by Judge Robinson.—Nos. 1959, 2440, 2543, 1656, 1136, 723, 1069, 739, 2504, 2511, 2538, 2464, 2434, 1297, 1293, 1394, 184, 827, 1087, 1093. Part 2—Held by Judge J. F. Daly.—Nos. 2817, 2311, 2533, 2534, 2586, 2583, 2436, 2582, 2581, 2461, 2578, 2124, 1451.

COMMON PLEAS—EQUITY TERM—Held by Chief Justice Daly.—Nos. 1, 06, 28, 42, 25, 55, 56, 58, 62, 63, 69, 70.

MARINE COURT—TRIAL TERM—Part 1—Held by Judge Alker.—Nos. 1784, 4109, 2717, 2071, 3339, 4108, 4120, 4146, 4147, 4246, 1748, 2309, 2791, 2792, 2794. Part 2—Held by Judge Gross.—Nos. 2498, 2499, 2753, [illegible], 2537, 3473, 2033, 1828, 2372, 2489, 2096. Part 3—Held by Judge Spaulding.—Nos. [illegible], 4178, 4248, 4254, 2722, 2784, [illegible]. Part 4—Held by Judge McAdam.—Nos. [illegible], 1418, 2155, 2212, 2691, [illegible], 2728, 2729, 2730, 2732, 2737, 2738, [illegible], 2747, 2748, 2751, 2752, 2753, 2755, 2756, [illegible], 2760, 2761, 2762, 2763, 2764, 2765, 2766, [illegible], 2773, 2774, 2775, 2776, 2777, 2778, 2779, 2782, 2783.

COURT OF GENERAL SESSIONS—Held by Recorder Hackett.—The People vs. Fritz Muller, burglary; Same vs. Peter Richards and Arthur Brown, burglary; Same vs. Daniel McCoy, rape; Same vs. Frank Kelly, felonious assault and battery; Same vs. John H. Wilson, felonious assault and battery; Same vs. Chancellor Van Loan, felonious assault and battery; Same vs. James Dooley, felonious assault and battery; Same vs. Charles Harrington, grand larceny; Same vs. Oswald Edilts, grand larceny; Same vs. Joseph Warren, grand larceny; Same vs. Edward Watson and John H. Randt, grand larceny; Same vs. John McHugh, receiving stolen goods; Same vs. Frederick A. Goodall, false pretences; Same vs. Maria Lynch, petit larceny; Same vs. John Kirkland, robbery; Same vs. Thomas Sullivan, Eugene Venan and James Kelly, burglary; Same vs. William Boyle and Thomas Early, burglary; Same vs. John Moore and John Coffey, burglary; Same vs. Julius Hunterhuber and Edward H. Loesch, grand larceny; Same vs. Thomas Thompson, grand larceny; Same vs. Thomas Hunter, grand larceny; Same vs. Henry Breed and John Boyd, grand larceny; Same vs. Margaret Clark and Jane Stokes, grand larceny; Same vs. John Grogan, grand larceny; Same vs. Edward Donohue and Christian Stork, petit larceny; Same vs. Margaret Finn, petit larceny; Same vs. John Moriarty, petit larceny; Same vs. James Murphy, assault and battery.

THE COURT OF APPEALS.

ALBANY, June 10, 1875.

No. 42. Samuel J. Hunt, respondent, vs. George M. Chapman, appellant.—Argument resumed and concluded.

No. 7. George H. Thompson, respondent, vs. Henry Stevens and another, appellants.—Argued by W. O. Bartlett, of counsel for appellants, and by Augustus Van Wyck for respondent.

No. 67. Hylah Hasbrouck, et al., respondents, vs. Valentine Bunce, appellant.—Submitted.

Adjourned to Monday, June 14, 1875.

DAY CALENDAR.

The following is the day calendar for Monday, June 14, 1875:—Nos. 68, 16, 15½, 61, 8½, 66, 22 and 15.

UNITED STATES SUPREME COURT.

A COTTON CASE DECIDED.

No. 404. Warren Mitchell, appellant, vs. The United States—Appeal from the Court of Claims.—Mr. Justice Swayne delivered the opinion of the Court. This is an appeal from the Court of Claims. That Court found the following facts:—

At the beginning of the late rebellion Mitchell, the claimant and appellant, lived in Louisville, Ky. He was engaged in business there. In July, 1861, and after the 17th of that month, he procured from the proper military authority of the United States in Kentucky a pass permitting him to go through the army lines into the insurrectionary territory. He thereupon went into the insurgent States and remained there until the latter part of the year 1864. He then returned to Louisville. While in the Confederate States he transacted business, collected debt, and purchased from different parties 724 bales of cotton. He took possession of the cotton and stored it at Savannah. Upon the capture of that place by General Sherman the cotton was seized by the military authorities. It was subsequently sold by the agents of the government. The proceeds, amounting to the sum of $128,692 22, are in the Treasury. Mitchell bought the cotton in November and December, 1864. He remained within the insurrectionary lines from July, 1861, until after the capture of Savannah by the arms of the United States. The Court of Claims was equally divided in opinion, and dismissed the petition. The claimant has removed the case to this court by appeal. When Mitchell passed within the rebel lines the war between the loyal and disloyal States was flagrant. It speedily assumed the largest proportions. Important belligerent rights were conceded by the United States to the insurgents. Their soldiers when captured were treated as prisoners of war and were exchanged and not held for treason. Their vessels when captured were dealt with by our prize courts. Their ports were blockaded and the blockades proclaimed to neutral nations. Property taken at sea belonging to persons domiciled in the insurgent States was uniformly held to be confiscable as enemy property. All these things were done as if the war had been a public one with a foreign nation. The prize cases (2 Black, 687); Mr. Alexander's cotton (2 Wall., 417); Mauran vs The Ins. Co. (6 id., 1). The laws of war were applied in like manner to intercourse on land between the inhabitants of the loyal and disloyal States.

It was adjudged that all contracts of the inhabitants of the former with the inhabitants of the latter were illegal and void. It was held that they conferred no rights which could be recognized. Such is the law of nations, flagrante bello, as administered by courts of justice (Vattel, section 220; Griswold vs. Waddington, 16 Johns. R., 438; Coolidge vs. Guthrie, 8 Amer. Law Reg., U. S., 20; Coppel vs. Hall, 7 Wall., 542; Grosmeyer, 9 Wall., 72; Montgomery, 15 Wall., 400; Lapine and Ferre, 17 Wall., 602; Cutner, 17 Wall., 516.) While such was the law as to the dealings between the inhabitants of the respective territories, contracts between the inhabitants of the rebel States not in aid of the rebellion were as valid as those between themselves and the inhabitants of the loyal States. Hence this case turned upon the point whether the appellant was domiciled in the Confederate States when he bought the cotton in question. When he took his departure for the South he lived and was in business in Louisville. He returned thither when Savannah was captured and his cotton was seized. It is to the intervening tract of time we must look for the means of solving the question before us. There is nothing in the record which tends to show that when he left Louisville he did not intend to return, or that while in the South he had any purpose to remain, or that when he returned to Louisville he had any intent other than to live there as he had done before his departure. Domicile has been thus defined:—"A residence at a particular place, accompanied with positive or presumptive proof of an intention to remain there for an unlimited time." (Guer vs. Daniel, 1 Binney, 349. Note.—This definition is approved by Phillimore in his book on the subject, page 13). By the term domicile, in its ordinary acceptation, is meant the place where a person lives and has his home. (Story's Conf., sec. 41). The place where a person lives is taken to be his domicile, until facts adduced establish the contrary. (Bruce vs. Bruce, 2 Bos. and Pull., 228, note; Bampde vs. Johnstone, 3 Vesey, 201; Stanley vs. Bernes, 3 Hagg. Ecl. Rep., 394, 437; Best on Presumptions, 235.) The proof of the domicile of the claimant at Louisville is sufficient. There is no controversy between the parties on that proposition. We need not, therefore, further consider the subject. A domicile once acquired is presumed to continue until it is shown to have been changed. (Somerville vs. Somerville, 5 Vesey, 787; Harvard College vs. Gore, 5 Pick., 370; Wharton's Conflict of Laws, sec. 55.) When a change of domicile is alleged the burden of proving it rests upon the person making the allegation. (Crookenden vs. Fuller, 1 Sw. and Tr., 441; Hodgson vs. De Beuchesne, 12 Moore P. C., 288, 1858.) To constitute the new domicile two things are indispensable—first, residence in the new locality, and, second, the intention to remain there. The change cannot be made except *facto et animo*. Both are alike necessary. Either without the other is insufficient. Mere absence from a fixed home, however long continued, cannot work the change. There must be the *animus* to change the prior domicile for another. Until the new one is acquired the old one remains.—(Wharton's Conf., supra, and the authorities there cited.) These principles are axiomatic in the law upon the subject. When the claimant left Louisville it would have been illegal to take up his abode in the Territory where he was going. Such a purpose is not to be presumed. The presumption is the other way. To be established it must be proved. (12 Moore P. C., supra.) Among the circumstances usually relied upon to establish the *animus manendi* are:—Declarations of the party, the exercise of political rights, the payment of personal taxes, a house of residence and a place of business. (Phillimore, 100; Wharton, sec. 62 and post.) All these indicia are wanting in the case of the claimant. The rules of law applied to the affirmative facts, without the aid of the negative considerations to which we have adverted, are conclusive against him. His purchase of the cotton involved the same legal consequences as if it had been made by an agent whom he had sent to make it. Obviously, important further facts bearing on the question might easily have been put in evidence by either party. We regret that it was not done. As the case is presented, our conclusion is necessarily adverse to the appellant. The judgment of the Court of Claims is affirmed.

THE LATE JUDGE PECKHAM.

PRESENTATION OF A PORTRAIT OF THE DECEASED JURIST TO THE COURT OF APPEALS.

ALBANY, June 10, 1875.

Upon the opening of the Court of Appeals this morning Mr. Grenville Tremain arose, and, addressing the Court, presented the portrait of Hon. Rufus W. Peckham, deceased, which had previously been placed in position at the east end of the court room. Mr. Tremain then read the following formal letter of presentation:—

ALBANY, June 10, 1875.

Hon. SANFORD E. CHURCH, Chief Justice of the Court of Appeals:—

SIR—In behalf of the Bar of the State of New York the committee having the matter in charge take great pleasure in presenting through you to the Court of Appeals the portrait that now hangs in the court room, of your late associate, Hon. Rufus W. Peckham. The committee was appointed at the meeting of the Bar of the State more particularly to prepare a memorial volume in honor of the deceased. It was suggested to the committee after their appointment that as a further tribute of respect for the man and the high and honorable position he occupied at the time of his death, and in honor, also, of his long and marked career upon the bench of the Supreme Court and at the Bar, that his portrait should be procured and presented to this Court for the present, and subsequently to be transferred to the room of the Court in the new Capitol. The suggestion was adopted. We can now contemplate with pardonable pride the accomplishment of both of these objects. With the hope that the manner in which the duty has been performed will be acceptable to the Court and to our professional brethren, we remain very respectfully yours,

WILLIAM W. CAMPBELL,
PAUL F. COOPER,
STEPHEN O. SHEPARD,
AMASA J. PARKER, Jr.,
GRENVILLE TREMAIN,
Committee.

For the Committee—GRENVILLE TREMAIN, Secretary.

In reply His Honor the Chief Justice, on behalf of the Court, expressed his gratification at the manner in which the committee had executed their duty, and accepted with pleasure the magnificent portrait of their lamented associate, which would be an ornament and honor to the court room, as he had long been an ornament and honor to his profession.

The letter of presentation was ordered to be inscribed upon the minutes of the court.

CITY HALL NOTES.

General Fitz John Porter, the Commissioner of Public Works, has sent to the Tammany Hall Committee on Laborers' Pay a communication similar to that which he transmitted to the Aldermanic Committee yesterday. The special features of the document are printed in the report of the meeting of the Board of Aldermen.

Commissioner Porter has sent to Mayor Wickham a letter requesting him to submit to the Common Council the following "resolution or ordinance:"

Resolved, That in pursuance of chapter 477, section 2, Laws of 1875, the Commissioner of Public Works is hereby authorized and directed to lay such water pipes, mains and fixtures, as have been ordered or may be ordered by the Common Council to be laid, and such other pipes, mains and fixtures as he may deem necessary, to extend and enlarge the distribution of Croton water through the city of New York, including the two new wards, and to furnish a sufficient supply thereof to the institutions in charge of the Department of Public Charities and Correction, located on Blackwell's Island, Ward's Island and Randall's Island, and in laying mains necessary to deliver said water at higher levels and in greater quantities.

In the letter General Porter states the work which is designed for this season, and estimates its cost at $500,000.

BOARD OF ALDERMEN.

SEVEN REPUBLICAN MEMBERS VIOLATE A RULE AND ARE EXCLUDED—MR. P. G. DUFFY CONFIRMED AS POLICE JUSTICE—THE LABORERS' PAY.

The regular weekly meeting of the Board of Aldermen was held yesterday afternoon. Unusual interest was manifested in the session because it was generally known that the name of the gentleman chosen by the Mayor to succeed the late Police Justice Sherwood on the magisterial bench would be presented at it. The Aldermanic chamber was filled with politicians, some wondering whether or not they would be lucky enough to secure the prize in the justiceship, others anxious about the fate of the candidates they have been urging upon the Mayor. Hope buoyed up their souls until the name of Mr. P. G. Duffy was announced, and then, though it had been shrewdly guessed that that gentleman would be the nominee, despair blackened the faces of many of them.

The meeting was begun at two o'clock, President Lewis in the chair. After some unimportant business had been transacted Alderman McCarthy offered a preamble and a series of resolutions, which, after some discussion, were referred to the Committee on Roads. They referred to the existence of the nuisance upon and in the neighborhood of the Harlem flats, and they are printed in another column.

THE REDUCTION OF CITY LABORERS' WAGES.

Alderman Seery, from the committee appointed at the last meeting of the Board to inquire into and protest against the reduction of city laborers' wages, submitted a lengthy report as to their action. This report gives full particulars of the committee's visit to the different departments and the results thereof, which have been already published in the HERALD. A resolution was appended to the report denouncing the action of the various Commissioners, and calling upon them to restore the original price of $2 for each day's work of eight hours.

The question was then put on the acceptance of the report and passage of the resolution.

REPUBLICAN MEMBERS IN CONTEMPT.

The roll was called, when Aldermen Billings and Howland voted in the negative, all the others in the affirmative. Alderman Vance refused to vote, claiming the Board had no right to interfere upon such a question. The President declared the report and resolution adopted, stating that Alderman Vance had declined to vote. By the rules of the Board no member can be excused from voting without the consent of a majority of his colleagues. Here was a dilemma. Nobody moved to excuse Mr. Vance. Some ridiculous motions on parliamentary points were made and the Aldermen seemed perfectly at sea as to their duties in the premises. Alderman Billings raised the point that the Chairman having announced the result of the vote no action could be taken on Mr. Vance's dereliction. A reconsideration of the vote by which the report was passed then took place. On again calling the roll as to final passage the seven republicans refused to vote. The question as to excusing them was lost. Their names being again called, they still persisted in keeping silent.

Here a scene of confusion ensued, during which the President declared the republicans in contempt, and denied their right to vote or take any part in the proceedings of the Board.

POLICE JUSTICE DUFFY CONFIRMED.

A communication was now read from Mayor Wickham nominating Patrick Gavan Duffy for Police Justice, in place of Thomas D. Sherwood, deceased. Alderman Lysaght moved the confirmation of Mr. Duffy. This motion was carried by a vote of thirteen democrats, the seven republicans sitting still under the decision that they were in contempt, and, therefore, not privileged to exercise rights as Aldermen.

GENERAL FITZ JOHN PORTER ON THE LABOR QUESTION.

A communication was transmitted to the Committee of the Board of Aldermen by Commissioner of Public Works Porter, on the subject of laborers' wages. In it the Commissioner says that the purpose to reduce the pay of laborers was conceived during the administration of Mr. Van Nort, because the city was paying much more for manual labor than private individuals. The reduction, General Porter writes, would have been made last winter but for the severity of the season, and but for the distress it would have inflicted temporarily upon some of the laborers. He considers that, as a public officer, it is his duty not to give gratuities in the city's money to any persons, and that by paying more for labor than private employers pay he would do just this thing. Continuing, General Porter says:—

And that the reduction thus made is not now improper, or a real hardship upon the persons immediately affected by it, is manifest from these two considerations:—

First—That, even under the present reduced rates unskilled labor is paid twenty cents per hour, and that it is optional with the laborer himself, under reasonable provisions, how many hours per day he shall work. The days are now long; the weather is generally good at this season, and nearly every day is available for work in the open air. To the men who work only eight hours per day $1 60 is paid. But to those who labor upon the public works the ten hours per day which are exacted by individual employers of the same class of labor $2 are paid. This is in excess of the wages allowed by the contractors who are carrying on large works at present, and some of our men are already showing their appreciation of the fact by working the ten hours and so earning the extra pay; and

Second—That, notwithstanding the reduction of which complaint has been made to you, the applications for employment upon the public works from laborers, and, indeed, from all classes of persons who have never heretofore worked as day laborers, are by thousands in excess of any ability the city has to pay them.

* * * * * * * *

Under these circumstances I am at a loss to perceive how I can conform to the request to rescind the regulations just published. The persons in whose behalf the request is made have my hearty sympathy in any temporary distress they may feel, but my duty as a public officer is clear, and that is to protect the interests of the city and of the laboring men themselves as taxpayers, by adhering to the determination of paying only the reasonable and current rates for both the supplies used and the labor employed by this department. When, for any reason, I cannot pursue this plain and honest policy, the day of my usefulness as a public officer will have passed.

As soon as it can be done I shall give to the men who reside in the lower wards work nearer their homes, and so enable them to save the amount they now have to expend as car fare in reaching the upper end of the island, where most of the work is at present done.

The Board adjourned until Thursday next, and in the meantime the seven republican Aldermen remain in contempt.

TROUBLE IN THE DOCK DEPARTMENT.

REASONS FOR GENERAL GRAHAM'S RESIGNATION—BAD PAY, MUCH WORK, RED TAPE AND CLAMOR FOR POLITICAL PATRONAGE.

The resignation of General Charles K. Graham, Engineer-in-Chief of the Department of Docks, and the suppression of his letter of resignation excited unusual interest yesterday. Well informed persons said that a good deal of bitterness existed between General Graham and some of his principal subordinates, more especially the First Assistant Engineer, Mr. Meehan, who, it was hinted, had served in the same capacity under General McClellan, and hoped to succeed him. General Graham himself says that his position has been a most irksome and tantalizing one. His catalogue of grievances is quite a long one, but is principally directed against the old Board, for he says that the new Board, organized on May 1, has not had time to remove the difficulties imposed by the old. In the first place, he says the salary of $5,500 is wholly inadequate for the vast labor and responsibility incident to this office. When he took the position it was with the understanding that his salary was to be increased in time, but this has not been done.

RED TAPE.

Then he complains that the ridiculous amount of red tape in the department entails upon him a vast amount of correspondence, which takes up much of his time, to the detriment of the best interests of the department. Under the old Croton Aqueduct Department the Engineer used to be present at the deliberations of the Board, of which he was a member, and the minutes of the Board were his authority for all proceedings undertaken by him. Under the present system the Engineer does not attend the Board's sessions, and some days he receives as many as ten letters from the Secretary conveying instructions to him, and then an elaborate and complicated correspondence is carried on from one room to another, while the business might be just as well transacted verbally in a few minutes. The General thinks that he ought to have the appointment of his subordinates, and that their being appointed by the Board impairs the harmony and efficiency of the Engineer's bureau.

THE WORST OF ALL.

A point on which he is especially sore, and which shews how the evil of political patronage pervades every ramification of the municipal government, is the clamor for labor tickets. The laborers are appointed by the Commissioners, but nevertheless the General has been bothered by many Aldermen, Assemblymen and politicians generally to such an extent that he has lost much time that might otherwise have been devoted to the discharge of his duties. So incessant has been the strain upon his working capacity that he declares that on forty out of fifty of his Sundays he has had to work six hours for the department. In one word, he is disgusted with an office that no doubt was viewed by many as a sinecure, but in which he has found plenty of work and plenty of annoyance and but little pay. As he can make more money with far less trouble by private work he steps down and out.

WHAT PRESIDENT WALES SAYS.

Commissioner Wales, who presides over the Department of Docks, says that the Board have as yet no successor to General Graham in view. He concurs with the latter in the opinion that the Engineer should have the appointment of his subordinates, but does not feel certain as to whether such a system was practicable under the present Board. The Committee of Organization—which, by the way, is another name for the Board—has the subject of the entire reorganization of the Engineer's bureau under consideration. Mr. Wales admits the justice of some of General Graham's complaints, and says the present Board, having only been in office since May 1, has not had time to effect all the reforms that are contemplated. The work of retrenchment, however, is steadily going on. "We are going down to the bottom rock, down to the minimum force of the department," he said, "and have already cut down its expenditures $55,000." Mr. Wales says that $5,500 is a small salary for the office of Chief Engineer, but this is "a day of small salaries," and he entertains no doubt of being able to find a competent successor to General Graham at that salary. Neither he nor Commissioner Westervelt had any objection to give the letter of General Graham resigning his office to the press, but the last named gentleman preferred to let it go down to the limbo of forgotten things. He will retain his position until his successor is appointed.

WALL STREET NOTES.

FAILURE OF TURNER BROTHERS—ACTION OF THE COMMITTEE ON STOCK LIST—NEW SECURITIES.

Among the incidents on the street yesterday was the fresh announcement of the failure of the firm of Turner Brothers. It will be recollected that the failure of this old-established house was announced some months ago, as the result of large advances made by it to the Indianapolis, Bloomington and Western Railroad, as well as large investments in real estate in this vicinity. When later the house resumed business, having apparently recovered from the shock which had brought it down, its members were the recipients of very earnest congratulations from their friends. It seems, however, that their expectations at the time of resumption went down, with those of many other operators, in the general sinking of railway credit that has prevailed ever since Gould became the single leader in the stock market. The condition of the real estate market offered them no chance of escape, and, with large assets, the firm is again forced to close its doors. This is an instance of the heavy burdens capital has to bear in this prolonged stagnation of the industries of the nation. It is understood that at the time of their second suspension they had paid off forty per cent of the liabilities they had at the time of their first suspension.

THE COMMITTEE ON THE STOCK LIST

of the Stock Exchange have recently decided that engraved signatures on bonds or certificates of stock will not be accepted in future as a "good delivery." This rule does not apply to coupons.

AN OLD SUIT DISPOSED OF.

Despatches reached the street to the effect that the United States Court had just decided the case of Henry Clews & Co. vs. The New York Commercial Warehouse Company, H. J. Kimball and others, in which $275,000 were involved, in favor of Henry Clews & Co.

STATEMENT OF THE DELAWARE AND HUDSON CANAL COMPANY.

	Miles.
Length of canal	108
Railroads in Pennsylvania	62
Railroads in New York	21
Coal lands in Pennsylvania with their improvements, having a productive capacity of 3,000,000 to 4,000,000 tons per annum.	
Leased roads—Albany and Susquehanna	142
Leased roads—Albany and Susquehanna, branches	35
Rensselaer and Saratoga and branches	181

The Delaware and Hudson Canal Company to provide means for the following purposes, viz.:—

The payment of its bonds due January 1, 1875	$3,300,000
The payment of its bonds due April 1, 1878	850,000
For the purchase of the lots and the construction of the building now in course of erection in Cortlandt street	1,250,000
Total	$5,400,000

—have

DECIDED TO ISSUE FIVE MILLION DOLLARS IN THE BONDS OF THE COMPANY,

dated October 1, 1874, payable twenty years from date, bearing interest at seven per cent, payable semi-annually, on the 1st of April and October in each year.

These bonds contain a covenant, to the effect that if the property of the company in Pennsylvania now unencumbered, should at any time before the maturity of said bonds be mortgaged, such mortgage shall include and cover these bonds and the debt by them represented.

Bonds $1,000 each, Nos. 1 to 1,000 inclusive, coupon	$1,000,000
Bonds $1,000 each, Nos. 1,001 to 3,000 inclusive, registered	2,000,000
Bonds $1,000 each, Nos. 3,001 to 5,000 inclusive, coupon	2,000,000
Total	$5,000,000

The principal sum of each coupon bond may be registered.

The following condensed balance sheet shows the condition of the company at the beginning of the present year, 1875:—

Capital stock	$20,000,000
Funded debt	12,764,079
Sinking fund	184,154
Profit and loss	2,013,507
Total	$34,961,741

Represented by the following assets:—

Cost of canal	$6,339,210
Cost of railroad and equipment	4,879,151
Cost of real estate	7,587,093
Cost of opening mines and improvements	1,918,246
Cost of mine fixtures and equipment	280,834
Cost of boats and barges	709,783
Cost of coal yards and fixtures, tools, implements, &c.	240,701
Cost of Lackawanna and Susquehanna Railroad	1,020,234
Cost of telegraph lines	15,985
Supplies on hand	1,392,676
Coal on hand	1,137,300
Miscellaneous assets	9,292,080
Cash assets, notes receivable, &c., deducting liabilities	157,429
Total	$34,961,741

The committee recommend that these bonds be placed on the free list and called Delaware and Hudson registered 7's of 1894. The engraved bonds only to be a good delivery.

The stock of

THE RUTLAND MARBLE COMPANY

was yesterday ordered to be placed on the "Free List" of the Stock Exchange. The subjoined statement was submitted:—

The capital stock consists of 10,000 shares, $100 each, $1,000,000, representing the above property.

Their property on hand not necessary to their production of marble consists of:—

Manufactured marble	$157,570
Bills receivable and open accounts	164,239
Real estate in New York and Brooklyn	5,000
Store goods	7,200
Total	$333,309

The company's liabilities are:—

Mortgages on New York and Brooklyn property	$24,000
Bills payable	28,000
Total	$52,000

THE PRODUCE EXCHANGE.

The old Board of Managers gave place yesterday to the new one, after passing complimentary resolutions to their officers. The new Board, under President B. W. Floyd, organized in the afternoon, when the following appointments were announced:—

Secretary of the Board and of the Exchange—Mr. E. W. Mascord.

Superintendent of the Exchange—Mr. S. H. Grant.

Finance Committee—Messrs. Spears, Stark and Hincken.

Committee on Rooms and Fixtures—Messrs. Livermore, Ameiung and Wyncoop.

Law Committee—Messrs. Stark, Martin and Mascord.

Floor Committee—Messrs. Spaulding, McGee and Hicks.

Committee on Naval Stores—Messrs. John Camerden, R. W. Paterson, F. R. Routh, R. H. Rountree and Frederick Rose.

Committee on Lighterage—Messrs. George H. Webster, Lanson Boyer, R. H. Tenbroeck, D. M. Munger and P. C. Tefft.

Committee to Nominate the Arbitration Committee—Messrs. Philips, Spear and Hicks.

The appointment of other standing committees was deferred until the next meeting.

SEIZURE OF A CUBAN STEAMER.

For the last two months the attention of United States District Attorney Bliss has been called to the fact that the large steam yacht Octavia, now lying at a Brooklyn dock, was about being purchased by the Cubans, to be engaged in a filibustering expedition. The vessel was built for Messrs. J. & W. Kinnaird. She is a remarkably handsome and swift sailing craft, and has been for some time in the hands of a well known steamship broker for sale. On Wednesday last Collector Arthur, at the request of Mr. Bliss, that the vessel might be put under surveillance, gave the necessary order. A vessel belonging to the revenue marine was accordingly placed on watch, but by some misunderstanding the Octavia was seized yesterday contrary to the Collector's wishes, he intending to wait for some overt act before proceeding to exercise the prerogatives of the international laws. The vessel was not coaled and consequently not ready to proceed on her voyage, and the Cubans, being now forewarned, will have to give their attention to some other swift-sailing craft. It may be remembered that the mere carrying of arms is not held as a breach of the neutrality laws, that act not constituting an expedition.

SLAUGHTERED ON THE RAIL.

Yesterday morning County Physician Stout, of Hudson county, New Jersey, held a post-mortem examination on the body of Patrick Dowling, of Cherry street, New York, who was killed on the Weehawken branch of the Erie Railroad on the evening previous. Dowling came from his home to the oil docks in search of employment, and was on his return when a locomotive ran him down. A piece of iron attached to the tender ran into his thigh and through his body and his skull was fractured. Death resulted instantly. Deceased was twenty-seven years old, a cooper by trade, was a member of Cooper Union No. 2, and leaves a family. The doctor granted a permit for burial.

THE UPTOWN STENCH.

The Proceedings at the Officials' Conference.

ALDERMAN M'CARTHY'S RESOLUTIONS.

In the Board of Aldermen, at the meeting held yesterday afternoon, Alderman McCarthy offered a preamble and resolutions in relation to the "Harlem flats" pest bed. He urged that they should be immediately adopted, as the nuisance was one that ought to be speedily remedied. A discussion followed the presentation of the resolutions in which several of the Aldermen took part. The resolutions were finally referred to the Board's Committee on Roads.

The following are the resolutions:—

Whereas it is of the greatest importance that the nuisance occasioned by the filling in of the Harlem flats, located east of Third avenue, between Ninety-second and 104th streets, should be abated, as it militates against the health of the residents in that vicinity and has a depressing effect upon real estate, and whereas a contract was made by the Department of Public Works for filling in the greater portion of this marsh, which was completed last year, but did not provide, or at least it was not deemed advisable, to raise the surface to a height more than sufficient to prevent its being overflowed by ordinary tides a greater portion of the said marsh and other marsh land in the vicinity is now being filled in by the owners of the property by private contract, but to a height only corresponding with the portion filled in by contract with the Department of Public Works, and now is and will so continue to be, overflowed by the exceptionally high tides that occur about once in every month if the filling is permitted to remain at the present level. This constant saturation of the matter filled in, through which the original mud and decayed vegetation of a succession of years, beyond the knowledge of the oldest inhabitant, exudes, is by the action of the sun in warm weather evaporated and causes the nuisance complained of; and whereas it is clear that the most effective, if not the only method to abate the evil, is by covering the entire surface with good and wholesome earth to a height sufficient to prevent its overflow by the spring tides, which at certain intervals cover the entire area with salt water, and upon receding leaves the miasmatical depression in the surface filled, where it remains until evaporation removes it and the easterly winds waft it, together with the noxious exhalation that exudes from the marsh, over the surrounding and thickly populated neighborhood; be it, therefore

Resolved, That the Commissioner of Public Works be and he is hereby requested to examine critically the work of filling the Harlem Fats, performed under the supervision and by contract with his predecessor in office; and if the power is yet in that department and the remedy mentioned in the preamble to this resolution is approved by him, that he cause the work of increasing the height of the filling to be commenced instantly, and in the most expeditious manner to be completed, and to a level sufficient to prevent any overflowing, even by the highest tides; and be it further

Resolved, That the said Commissioner of Public Works be and he is hereby requested to confer with the Board of Health in respect to the above proposition for the abatement of the nuisance, and if it meets the approval of that Board then that immediate steps be taken to compel the owners of property now having the same filled in by sweepings from the streets and other refuse matter to conform to the same grade of filling and with like good and wholesome earth as is or will be required of the contractor by the Commissioner of Public Works, and also that the under drainage of the entire area be inspected and if found deficient improved.

THE OFFICIAL CONFERENCE.

The following document was issued yesterday afternoon from the office of the Commissioner of Public Works, General Porter. It details the proceedings and results of the conference had by General Porter, the Health Commissioners and Mayor Wickham in the Mayor's office yesterday afternoon:—

The meeting of the Commissioner of Public Works and the Health Commissioners, held at the Mayor's office on Wednesday, adjourned to meet at the Department of Public Works yesterday, when the maps, contracts and other records relating to this district were carefully examined. There were present Mayor Wickham, Commissioner Fitz John Porter, Health Commissioners Chandler and Janeway, Mr. Towle, Engineer in charge of sewers, and Dr. Viele, the Health Inspector in charge of the district. It was shown by the records that for the past six years work has been in progress for the amelioration of this district, the only remedies possible, viz.:—Filling and draining having been pushed on as rapidly as the circumstances of the case permitted. The laws applicable to this district require that the improvements shall not cost more than one-half the assessed value of the property benefited. As these

TIDAL LANDS ARE ASSESSED

at a merely nominal value, for the reason that they are not yet available for building purposes, the very improvements necessary to make them so—draining and filling—are, in many cases, often on the worst spots, legally out of the question. The completion of Lexington avenue is delayed by the fact that the contractor to whom the contract has been awarded is in default on another contract to a small amount, which is a legal bar to his undertaking the work. The completion of Madison avenue is delayed by the assertion in the Comptroller's office that the cost of the work will exceed half the assessed value of the property. The completion of First avenue is at present impossible, as

THE BROWN CONTRACT IS IN COURT

and nothing can be done until the legal questions are decided. The completion of the outlet sewers for this district is delayed by the Fourth avenue improvement and by the Brown injunction on First avenue. The filling of the area lying east of Third avenue and south of 106th street is now under contract to Jones and McQuade, and will be pushed as rapidly as possible, and when finished will entirely relieve this portion of the district. The filling of the area between 105th and 107th streets, Madison and Third avenues, is in progress by Mills and Ambrose, under the direction of the property owners, on the order of the Health Department. This work will be completed this week, the ashes used being covered with three feet of good earth. It was found that the most expeditious way to accomplish the filling of the blocks between 106th and 108th streets and east of Third avenue, which is by far the worst portion of the entire district; of the area bounded by 105th and 109th streets, Third and Fifth avenues; the area bounded by Ninety-sixth and 105th streets, Fourth and Fifth avenues, and the area bounded by 103d and 104th streets, Third and Fourth avenues, is by special authority of the Board of Aldermen, which was asked for yesterday, underground drains will be constructed by the Department of Public Works in connection with the filling and grading, to take the place of

THE OLD WATER COURSES

which are cut off, as soon as the temporary structures of the Fourth avenue improvement are removed and the outlet sewers completed, which will be in a few weeks.

In the meantime the Health Department has sent the entire disinfecting corps, with fifty barrels of dead oil and 200 barrels of metallic salts, to thoroughly disinfect the stagnant pools of water.

PREVENTION OF CRIME.

MEETING OF THE ASSEMBLY COMMITTEE—TESTIMONY OF PRESIDENT MATSELL.

The committee appointed by the resolution of the Assembly to sit during the recess of the Legislature for the purpose of investigating the cause of the increase of crime in New York city met yesterday, at two o'clock, in the old chamber of the Board of Aldermen. Mr. John D. Townsend acted as their counsel.

The full committee was present, including Messrs. Campbell, Dessar, McGowan, Hess and Husted. Mr. Townsend said the committee would examine the Board of Police, the Commissioners of Charities and Correction, the Police Court Judges, the various Judges of the criminal courts, the District Attorney, &c. The three great causes of crime in New York were intemperance, prostitution and gambling. Almost all the crime we had could finally be traced to our groggeries, houses of ill-fame and gambling dens. The purposes of this investigation are to establish where all this crime comes from, to detect dishonest officials and enable the Legislature to pass laws which will go toward the suppression of vice.

President Matsell, of the Board of Police Commissioners, was called, and, being examined by Mr. Townsend, said:—I am President of the Police Board. Have been so about one year. Prior to that time was Superintendent of Police for about a year and a half. Was Chief of Police in 1845. Have been an observer of police matters also for the past thirty years and an editor. The duties of the Commissioners are the direction and government of the police force. The duties of the Superintendent are to execute the rules laid down by the Commissioners. All orders originate with the Commissioners. The books containing rules and regulations are not printed, but are on file in the Chief Clerk's office. General orders are sent through the captains on duty. A portion of the duties of the Commissioners is to hold trials, and among the special duties is the management of the Street Cleaning Bureau. Regarding the having this under the Police Board, I should say that the least outside encumbrances the Commissioners had the better. Have meetings of committees every day excepting Saturdays. Three days a week were given to meetings of the committee on street cleaning. All reports of the Superintendent came to the Commissioners, but all complaints do not. The Superintendent has discretionary power in this respect. Not all the acts of the Superintendent come to the knowledge of the Board. The duties of the Superintendent do not go beyond the Police Department. He executes rules made by the Commissioners. General and specific duties of inspectors were to inspect divisions. The object of the force was the protection of life, limb and property. There were 2,300 men on the force. There are no special men. There are thirty-five precincts. There are not enough patrolmen. Our city is increasing every year, and the force should be increased proportionately. We want 100 more men. We have power to appoint 100 men more every year if we see fit, but the Board of Apportionment will not pay them, so we cannot employ them. The Treasurer of the Board has power to draw on the city only in cases of riot. The President has power to draw money to pay extra men, but there is no money in the treasury to draw. We have enough men to hunt up crime; what we want is more men on post duty to protect citizens and prevent crime while the people sleep. Patrolmen do all they can to hunt up crime, but are not detectives. These men's duty is to hunt up criminals. We have not time enough to give proper instruction to these men, as there are so few that they can only be allowed a month each for learning, and the remainder is taught them while they do duty. We appoint men from personal application or by recommendation. We prefer to appoint those who apply, not those recommended. By the law of 1861 we are ordered to destroy all gamblers' tools as soon as captured; but by a resolution of the Board, passed before I was in it, we surrender the tools as soon as the men are acquitted. The Board will take into consideration what suggestions they can make to this committee for the better prevention of crime.

Mr. Matsell was then allowed to go, and the committee adjourned until Wednesday next at three o'clock.