THE COURTS.

The Immunities of Church Corporations.

Important Decision by the Court of Appeals.

A QUESTION FOR THE COURTS TO DETERMINE.

The Court of Appeals has just decided a case which affects the property of religious and other corporations situated in this city, and involves a large sum of money, probably over $1,000,000. The Church of the Holy Sepulchre, Rev. Dr. J. Tuttle Smith, was assessed for paving Seventy-fourth street, and the legality of the assessment was contested by Mr. Elliot Sandford, counsel for the church, on the ground stated in the opinion of Judge Folger given below. The case was argued at Special Term, before Justice Lawrence, who granted an order to vacate the assessment. Appeal was taken by the city to the General Term, in this and two other church cases, and the General Term reversed Judge Lawrence in an opinion written by Judge Daniels and concurred in by Judges Davis and Brady. An appeal was then taken by the church to the Court of Appeals, when that Court reversed the General Term and affirmed the order of Judge Lawrence. The following is the opinion of the Court, which was delivered by Judge Folger:—"The appellant concedes and it may be assumed that its property was not by any express provision of law exempt from an assessment of the nature of the one in question. If the manner of laying the assessment upon that property was in accordance with law the appellant may not escape. Whether it was or not depends, in the first place, upon which party to the controversy has the substantial affirmative upon it. If the appellant is required to establish that the city has exceeded the limit of one-half the valuation placed upon its property by the officers authorized to make valuation the appellant is unable to do so, for where no valuation has been made any sum assessed cannot in strictness be said to exceed one-half of the valuation made. But the substantial affirmative is not upon the appellant. It is a rule that the municipality which seeks to affect the property within its jurisdiction by taxation or proceeding in the nature thereof must produce express power therefor in legislative enactment, and must show that in its attempt to tax it has strictly followed all the legal requirements. It seems then that the substantial affirmative is upon the city. It does, indeed, upon the concession and assumption above noted, have the abstract power to assess the property of a religious corporation used for religious purposes, inasmuch as it has the power to assess for a local improvement all property benefited thereby which is not exempted from assessment. But there is a limit to that power in the amount to which it may carry its assessment. It may assess up to one-half of the value placed upon the property by certain of its officers. To justify its assessment in this case it must show that it has kept within that limit, that it has not assessed more than one-half the value. It cannot show that without showing what was the value named by those officers. This it cannot do, for no value has been placed upon it by them. Practically it is as if the law authorized the city to assess upon the basis of a prior existing assessment roll, and not to exceed in the assessment put upon any piece of property an amount equal to one-half the valuation placed upon that price in that prior assessment roll. If there be no assessment roll at all, or no roll upon which appears that piece of property with a valuation attached to it, how can the city make it appear that it has kept within the power given to it by law? It is a power given with a proviso annexed. The demand of the proviso must be answered as a prerequisite to a legitimate exercise of the power. The city is unable to show that demand answered, for the reason that the facts do not exist by which the extent of the demand may be measured. The respondent claims that it does not appear that there was not a valuation before the term of five years before the trial. But it has not proven that there was. It is apparent that the case proceeded upon the tacit assumption that there had never been a valuation put upon the lots by the ward assessors or by their successors. In the second place, however, if this limitation was not intended to apply to such a case as that of the appellant then a liability to assessment may exist. It is said that the provision limiting the amount of assessment to one-half the valuation fixed by the tax assessing officers could not have been meant to apply to a case in which those officers were not required by law to make a valuation. The difficulty in assenting to this idea is that it does not take a correct notion of the extent and character of the power given. A proviso in a grant or enactment is something taken back from the power first declared. The grant or enactment is to be read not as if the larger power was ever given, but as if no more was ever given than is contained within the terms of the bounds of the proviso. The authority to the city in the purview of the proviso is no more than to assess for local improvements all property benefited thereby when that property has been previously valued by the general tax assessing officers, and then not to an amount greater than half the value named by them. Said the Legislature to the city, This, and no more; you may assess any piece of property for local improvements one-half of the value placed upon it by certain of your officers. A valuation previous to assessment thus becomes the chief basis of the power to assess at all. It would be an interpolation in the act to insert as a further declaration, If those officers have made no valuation then you may assess at your discretion. It would be more than is found in the language of the act, and more than can be fairly implied from it. The correct conclusion is that the draughtsman of the law overlooked the fact that some property by reason of exemption from general taxation would not be valued at all. If this act read in terms:—The city may assess for local improvements all property which has been assessed by the Tax Commissioners, not to exceed one-half the valuation given to it by them, there could be no implication therefrom that property not valued might be assessed. Yet the true office of the proviso in this act is to reduce the meaning of the letter to just those terms. In the third place, it is to see whether there is other legislation than that already noticed which affects the question. It is not contended that there is any affecting the appellant, unless it is found in the act of 1874 (Laws of 1874, chap. 312, page 566; Ibid, chap. 313, page 566). It is provided that no assessment for a local improvement shall be vacated—first, for the omission of any officer to perform any duty imposed upon him; second, for any defect in the authority of any department or officer to perform any duty imposed upon him; third, for any omission to carry out the detail of any law or ordinance; fourth, for any irregularity, unless the case be one of fraud or an assessment for repaving, and that all property benefited by a local improvement shall be liable to an assessment therefor, notwithstanding such omission, defect in authority or irregularity. The matter alleged by the applicant is not an irregularity; it is back of fundamental power; it is not an omission to carry out the details of a law; it is the total want of authorizing law; it is not a defect in the authority to perform a duty imposed which supposes an official obligation without power adequate, but it is a case of no power given, because no duty is imposed; it is not an omission to perform a duty imposed, but a case where, as last said, there is no duty created. There is a legislative casus omissus. We have no reason to suppose that the Legislature would have purposely withheld from the city the power to assess such property for such object. It did not, however, by the terms of the statute, make a grant of it. As the power may not be exercised without an express grant, we must hold that the city may not exert it." The whole Bench concur, excepting Judges Rapallo and Andrews.

A NICE LAW POINT.

Matthias Zeigler was called upon to plead, in June, 1870, in the Court of Special Sessions, to two complaints made by Anthony Comstock, who charged him with manufacturing and having in his possession a large number of obscene photographs. He pleaded guilty and was sentenced by the Justice to two years' imprisonment and $200 fine on the first charge and one year and $200 fine on the second complaint. The prisoner, through his counsel, Mr. Benjamin Russell, yesterday obtained from Judge Westerbrook, in Supreme Court, Chambers, a writ of habeas corpus and certiorari, and claims his discharge on the ground that his sentence is not justified by statute. It seems that the act under which he was committed provided that for the offence charged, if the prisoner be over twenty-one years, he shall be imprisoned for a term not less than three months nor more than two years at hard labor, with a fine of not less than $100 nor more than $5,000; but if under twenty-one years, for a term not exceeding three months' imprisonment nor more than $500 fine. Mr. Russell now claims that the prisoner's commitment was defective, because it did not set forth his age, and that the punishment is excessive. It is expected that the matter will be argued this morning.

CAPTURE OF ITALIAN SMUGGLERS.

On Tuesday evening, as Officer Cornelius Leary, of the Seventh precinct, was standing at the corner of Gouverneur and Water streets, his attention was attracted by the suspicious appearance of two Italians who were carrying a well filled sack. Suspecting them to be smugglers the officer arrested them, and on taking them to the station house found that the sack contained a five gallon demijohn of olive oil. While they were undergoing examination they were recognized by Officer Nugent as two men whom he had arrested on Sunday evening with a demijohn of wine in their possession and whom he had allowed to go for want of proof against them. The prisoners, after considerable trouble, owing to their professed inability to speak English, were identified as Savaro Vulpi and Vincenzi Mangora, of the Italian bark Alba, lying at pier 56 East River. The prisoners were taken before Commissioner Dowd yesterday, and were held in $1,000 bail each for further examination.

SUMMARY OF LAW CASES.

The old case of O'German against Kamak, which has been so long before the courts, was finally disposed of yesterday. The suit, as will be remembered, grew out of a claim on the part of the plaintiff that he had been induced by defendant to sign a deed of his house while drunk. The jury on the third trial found that this was so, but also found that the plaintiff afterward voluntarily acknowledged the conveyance. Judge J. F. Daly, in giving final judgment, finds that the conveyance was valid, but says the defendants have an offset for rent, and orders an accounting.

DECISIONS.

SUPREME COURT—CHAMBERS.

By Judge Westbrook.

Pierce vs. Daly.—Order granted.

Smyth vs. Wallace.—I do not see any reason why this order should be made now. The Special Term can order it to a jury if it sees fit. Motion denied.

Central National Bank vs. Richland National Bank.—Granted.

Hayes vs. Ryan.—Order granted.

Esther Hilborn vs. Julius Hilborn.—Referee's report confirmed, and decree of divorce granted to the plaintiff.

COMMON PLEAS—SPECIAL TERM.

By Judge J. F. Daly.

O'Gorman vs. Kamak.—Judgment in accordance with decision and opinion filed with papers.

Wheeler vs. Murray.—Same.

SUPERIOR COURT—SPECIAL TERM.

By Judge Curtis.

Shearman et al. vs. Watkins.—Motion to strike out name of co-defendant as party defendant dismissed, with costs.

Ritter vs. Lee et al.—Report of referee confirmed and judgment of foreclosure and sale ordered.

Spader vs. New York Elevated Railroad Company.—Undertaking approved.

Schillery vs. Schillery; Davis vs. Central Park, North and East River Railroad Company; Kuester vs. Conner, Sheriff.—Orders granted.

GENERAL SESSIONS—PART 1.

Before Recorder Hackett.

THE CAR HOOK ASSAULT.

The trial of Aaron Menzesheimer for assaulting a youth named John J. Ryan with a car hook at the corner of Second avenue and Twenty third street in July, 1873, was concluded. The accused was found guilty and sent to the Penitentiary for one year.

OBSCENE PICTURE SELLER SENTENCED.

Jules Frechet, the Frenchman living at No. 107 West Twenty-sixth street who pleaded guilty on Tuesday to an indictment obtained by Mr. Anthony Comstock charging him with making obscene pencil drawings and selling them to boys, was arraigned before the Recorder for sentence. His Honor, in a few concise remarks, showed how necessary it is for the well being of society that such offences should be severely punished, and ended by sentencing Frechet to the State Prison for two years.

WELL DESERVED PUNISHMENT.

Henry Bunte, a German grocery clerk, nineteen years old, was annoyed on the 9th of August by a couple of children playing in the yard of his residence No. 711 East Ninth street. He pointed a loaded gun at them from an upper window, whereupon they tried to dodge his aim, but finding the muzzle of the firearm following their movements, they became frightened, stood still and shut their eyes. The gun was instantly discharged, and seventeen grains of the shot with which it was loaded took effect in the body of James Kealy, aged eight, and two struck George Washington Turnir, aged five. The father of Kealy, who lives at No. 1,385 Third avenue, caused the arrest of the valiant shooter, and, on being tried before the Recorder yesterday, he was found guilty and sentenced to one year's imprisonment in the Penitentiary.

Mary Jane McQuade, a comely maid servant, aged nineteen, was convicted of breaking into the premises of a former employer at No. 1,026 Third avenue, on July 21, while the family was absent, and stealing $60 worth of property. She was not suspected of the theft until some time afterward, when she obtained employment in another family which she robbed, and being arrested for the crime, pawn tickets for the property stolen from the first family were found in her possession. She was sent to State Prison for two years.

YOUTHFUL BURGLARS.

Eugene Connerty and James Donnovan, boys of thirteen, living respectively at No. 145 Carlisle street and No. 75 West street, were charged by Mrs. Lane with having broken into her candy shop, at No. 11 Carlisle street, on the 30th ult., and stolen a tin box containing $12 in money and a quantity of jewelry. The chief witness for the prosecution was a somewhat older companion, named James Kearns. The latter, whom they called "the Englishman," had, they claimed, "put up the job" on them, and then to save himself turned State's evidence. Connerty, a pale, listless lad, said not a word; but Donnovan was a sturdy young chap and requested permission to tell his story to the jury, as, he said, he had been "arrested by the cop on suspicion for nothin'." He told a story to the effect that the really guilty parties were the English boy and another not under arrest. The jury believed the story of Kearns, however, and found the boys guilty of burglary in the first degree. The Recorder, in passing sentence, expressed his profound regret that one-third of all the prisoners tried before him were boys from eleven to fifteen. He sent the prisoners to the House of Refuge.

ROBBING THE DISTRICT ATTORNEY.

While Mary Garry, a domestic in the family of District Attorney Phelps, of No. 101 West Forty-seventh street, was sweeping the sidewalk in front of the house, on the 12th of August, a man made his way into the house, evidently for the purpose of robbing it. He was driven off by the girl, not, however, before he had abused her and threatened to shoot her. From the description furnished them, Detectives Field and O'Connor, of the District Attorney's office, recognized in him Attila Beyer, aged twenty-six, living at No. 47 Forsyth street. He was arrested, was identified by the servant, and was thereupon indicted for grand larceny and for assault with intent to kill. He pleaded guilty yesterday to the latter charge and was thereupon sentenced by the Recorder to ten years' confinement in State Prison.

A SWINDLER CAGED.

Arthur A. Hessler, who says he is a Frenchman and lived at No. 421 Third avenue, went on July 27 to Coney Island, where he met Lottie Stanly, of No. 543 Second avenue, with a friend, Mrs. Waldo. He obtained from the ladies $101 worth of jewelry on the pretence of bringing it to an officer for security while they were bathing, and made off with it. On the 4th of August the fellow turned up in Philadelphia, where he became acquainted with an Englishman named Alexander Howard, who was travelling in this country, carrying letters of introduction from Lord Derby. Hessler spent the night with his new acquaintance, and when the latter awoke next morning he found he had been robbed of a quantity of jewelry and a lot of curious Egyptian and other foreign coins which he had collected in his travels, and valued at $125. The police were informed of the transaction, and Detective Dunn arrested Hessler, in whose possession was found some of the stolen coins. Arraigned before the Recorder, he pleaded guilty to grand larceny, and was sentenced to three and a half years' confinement in State Prison at hard labor.

GENERAL SESSIONS—PART 2.

Before Judge Gildersleeve.

A "SHOOTIST" SENTENCED.

Martin Burke, convicted on Tuesday of an assault with intent to do bodily harm, in having shot ——— Hughes during the progress of a barroom fight at No. 102 Cherry street on the 10th of May last, was yesterday sentenced to imprisonment in the Penitentiary for six months.

The trial of Rene Raisin, a French tobacconist, for an infamous assault upon a child of seven years, was continued. The taking of testimony was concluded and the case summed up for the defence. It will go to the jury to-day.

COURT CALENDARS—THIS DAY.

MARINE COURT—TRIAL TERM—Part 1—Held by Judge Sheridan.—Nos. 7726, 8052, 8142, 8002, 8104, 8105, 8106, 4393, 4396, 4403, 4406, 4407, 4408, 4410, 4413, 8102. Part 2—Held by Chief Justice Shea.—Nos. 4352, 4359, 2589, 4373, 4374, 4375, 4377, 4378, 4380, 4381, 4383, 4384, 4389, 4390, 4418.

SUPREME COURT—CHAMBERS—Held by Judge Westbrook.—Court held in Part 2, Supreme Court.—Nos. 4, 12, 13, 14, 15, 16, 17, 18, 19, 20, 38, 50, 79, 88, 131, 136, 141, 191, 192, 224, 229, 234, 237, 238, 245, 246, 249, 253, 254, 255, 256.

COURT OF GENERAL SESSIONS—Part 1—Held by Recorder Hackett.—The People vs. Thomas Smith, robbery; Same vs. Christopher Haug, burglary; Same vs. Michael Quigley, felonious assault and battery; Same vs. John Higgins, felonious assault and battery; Same vs. James Smith, felonious assault and battery; Same vs. Peter Quinn, felonious assault and battery; Same vs. John Conners, grand larceny; Same vs. Michael Quigley, grand larceny; Same vs. Albert Leroy, Edward Kelly and John Schneider, grand larceny; Same vs. James Brennan, grand larceny; Same vs. Joseph Quigg, grand larceny; Same vs. Joseph Ropp, assault and battery; Same vs. Telford Stuyvesant, assault and battery. Part 2—Held by Judge Gildersleeve.—The People vs. David Scandlin, robbery; Same vs. Rene Raisin, rape; Same vs. Peter Mullin, grand larceny; Same vs. John C. Leach, grand larceny; Same vs. Luke Reilly, grand larceny; Same vs. Gustave Neinoff and Henry R. Noe, grand larceny.

POLICE COURT NOTES.

John Dunn, of No. 244 West Nineteenth street, and Patrick Casey, of No. 23 Bayard street, have been paying their addresses to the same maiden. Casey, it appears, became jealous at having a rival in the field, and meeting Dunn in Elizabeth street on Tuesday asked him what he meant by "interfering with his girl." Words followed, and they quickly came to blows. Dunn was knocked down, and when he attempted to rise Casey stabbed him twice with a pocketknife. The assailant was arrested, and Justice Morgan yesterday held him to answer.

At the Tombs Police Court yesterday, before Justice Morgan, Charles Moworay, of No. 144 West Nineteenth street, was committed for trial on a charge of stealing a watch and chain, $12 in money and a quantity of clothing from the premises of John Robinson, of No. 17 Christie street.

Bridget Walsh, in the same Court, was held to answer on complaint of Edward Mason, of No. 30 Vandewater street, who charged that while standing in Cherry street counting money the prisoner came up and, snatching a ten-dollar bill, ran away.

Thomas Carrahan, of No. 1 Chatham square; Daniel Stephens, No. 422 Pearl street, Robert Mitchell, No. 71 Forsyth street, and Michael Mahon, of No. 197 Rivington street, were yesterday held in $100 bail, by Justice Morgan, for selling liquor without license.

Daniel Gilmore, of No. 327 West Forty-second street, was held for trial by Judge Otterbourg, at the Fifty-seventh Street Court, yesterday, on a charge of attempted burglary. James Murray, the occupant of the premises No. 997 Sixth avenue, testified (and he was corroborated by other witnesses) that the accused forced an entrance into his house about midnight on Tuesday and was detected while going through the house in his stocking feet. His purpose is supposed to have been to steal the silverware. He endeavored to escape over the fence of the back yard, but was caught. Notwithstanding this last fact, he said in court that he was drunk and recollected nothing about the matter.

UNITED STATES SUPREME COURT.

DECISIONS.

JURISDICTION—ADVERSE POSSESSION—TRUE TITLE—FEDERAL QUESTIONS.

No. 543. Isabella McManus, Administratrix, vs. G. D. O'Sullivan, et al.—In error to the Supreme Court of California.—Terence B. McManus, under whom the plaintiff claims, entered into the possession of the premises in controversy in 1854, or thereabouts. He continued his possession until his death, in 1861, at or about which time the defendants entered and held adversely to his estate until the commencement of this action, in August, 1867. At the time McManus entered, and all the time he was in possession, the city of San Francisco was asserting title to the property under a Mexican Pueblo right, before the commission appointed under the act of Congress providing for the settlement of private land claims in California, and before the courts upon appeal. A decree was rendered in favor of the city by the Circuit Court of the United States, May 16, 1865. From this decree an appeal was taken to this court. Pending action an act was passed March 8, 1868, entitled "An act to acquire the title to certain lands within the corporate limits of the city of San Francisco," 14 Stat., 4. Upon the passage of this act the appeal pending in this court dismissed.

McManus and his representatives do not pretend to connect themselves with the city title by any actual grant. The extent of their claim is that their possession was evidence of their connection with the true title, which was at that time the city title. Neither do the defendants assert any claim under the true title. Their only defence is possession adverse to the estate of McManus, but admitted to be not adverse to the city. Against this the plaintiff insists that, as the defendants did not claim adversely to all the world their possession adverse to him could not defeat his right of action.

Thus it will be seen that two questions were properly presented to the Supreme Court of California for adjudication, to wit:—

First—Does possession necessarily connect itself with the true title in the absence of proof to the contrary? And

Second—Is possession, within the meaning of the statute of limitation in California, adverse to one who claims title, if it is not also adverse to all the world?

If these questions were decided against the plaintiff no federal question could be involved. The record, without the opinion of the Court, shows that they were presented and does not show that any federal question was decided. Under such circumstances it is proper, if it can be at any time, to look to the opinion of the Court, which has been sent here with the record, to ascertain whether, in point of fact, the Court necessarily passed by the intermediate questions, and actually did decide as to the effect of the Pueblo right and the treaty, with the accompanying acts of Congress, upon the title of the plaintiff. Looking to that we find the Court did decide that possession did not carry with it the presumption that the plaintiff did hold under the city title, and that if the possession of the defendants was adverse to the plaintiff it was a bar to his right of action, even though it was not adverse to all the world. These are questions within the exclusive jurisdiction of the State courts, and not subject in any manner to our re-examination. Their decision against the plaintiff made it unnecessary to consider the proposed federal question. Thus it is seen that the federal question was, in fact, not decided, and that in the view the Court below took of the case such a decision was not necessary. Writ dismissed.

The Chief Justice delivered the opinion.

DARING HIGHWAY ROBBERIES.

Joseph Jefferson, a negro, residing at No. 17 Sullivan street, was arraigned before Judge Duffy, at the Washington Place Police Court, yesterday, on a charge of highway robbery. On Tuesday night, about eleven o'clock, Alexander Denike, a countryman hailing from Peekskill, walked through South Fifth avenue somewhat under the influence of liquor. When between Broome and Grand streets, he was seized from behind by Jefferson, who caught him around the chest and arms and threw him to the sidewalk. The highwayman then rifled his pockets of $10. Denike cried for help, and held his assailant until Officer Sullivan, of the Eighth precinct, arrived and arrested the thief. On the way to the Prince street station Jefferson was caught in the act of throwing the stolen money into a basement. The prisoner pleaded guilty and was held for trial in default of $1,000 bail and the complainant was sent to the House of Detention. The prisoner is a well known Eighth ward ruffian, and, according to the statements of the police, has been arrested on several occasions for similar offences.

Ignatz Moll, a German gardener, residing at Fifth avenue and 125th street, while walking through Eleventh avenue, between Twenty-fifth and Twenty-sixth streets, on Tuesday night, was assaulted by Joseph McGrath, of No. 504 West Thirtieth street, a railroad employé, and Thomas Lynch, of No. 353 West Twenty-sixth street, a box maker. They knocked him down, beat him badly and robbed him of a meerschaum pipe and $7 in money, although he made a desperate resistance. A short time later both the prisoners were found sitting in a vacant lot by Officer Armstrong, of the Twentieth precinct, who arrested them. On being arraigned before Judge Duffy at the Washington Place Court yesterday, McGrath and Lynch were held for trial in default of $2,000 bail each.

REAL ESTATE.

The following business was transacted at the Real Estate Exchange yesterday:—

Richard V. Harnett sold, by order of the Supreme Court, in foreclosure, Alfred McIntire, referee, twelve houses, with lots, in East Fifty-seventh street, south side, between Lexington and Fourth avenues, to Andreas Dold, defendant in the legal proceedings. No. 1, 90 feet west of Lexington avenue, lot 20x100, sold for $16,625; No. 2, 110 feet west of Lexington avenue, lot 20x100, for $16,075; No. 3, 130 feet west of Lexington avenue, lot 20x100, for $15,575; No. 4, 150 feet west of Lexington avenue, lot 20x100, for $15,675; No. 5, 170 feet west of Lexington avenue, lot 20x100, for $15,575; No. 6, 190 feet west of Lexington avenue, lot 20x100, for $17,775; No. 7, 210 feet west of Lexington avenue, lot 20x100, for $15,575; No. 8, 230 feet west of Lexington avenue, lot 20x100, for $15,575; No. 9, 246 feet west of Lexington avenue, lot 16x100, for $12,430; No. 10, 262 feet west of Lexington avenue, lot 16x100, for $12,430; No. 11, 278 feet west of Lexington avenue, lot 16x100, for $12,330; No. 12, 294 feet west of Lexington avenue, for $11,430.

Richard V. Harnett also sold, by order of the Supreme Court, in foreclosure, S. W. Morehouse, referee, a house, with lot 214x989, on East Twenty-ninth street, north side, 156 feet east of Madison avenue, to William Nelson, for $14,600.

E. A. Lawrence & Co. sold, by order of the Supreme Court, in foreclosure, E. D. Gale, referee, a house, with lot, 16.1x81 feet, on avenue A, east side, 329 feet south of Eighty-seventh street, to Germania Life Insurance Company, plaintiffs, for $8,000; also, by order of the Court, in foreclosure, house, with lot, 16.8x91.11 feet, on West Twentieth street, south side, 130 4 feet east of Ninth avenue, to plaintiff, for $8,500.

William Kennelly sold, by order of the Supreme Court, in foreclosure, W. A. Boyd, referee, a house, with lot, 20.4x100.2, on East Eighty-fourth street, north side, 366 feet west of Second avenue, to H. Stoebe, for $7,800; also, by order of the Supreme Court, in foreclosure, E. D. Gale, referee, one lot, 24.6x51.2 by 116x48.11, on Tenth avenue, east side, fifty feet north of 150th street, to S. B. Hurd, for $6,000.

E. H. Ludlow & Co. sold, by order of the Supreme Court, in foreclosure, J. A. Deady, referee, a house, with lot 18x62.11, on East Eighty-seventh street, south side, 153 feet west of avenue A, to Anna L. Waite, for $7,000.

TRANSFERS.

29th st., s. s., 16½.1½ ft. w. of Lexington av., 21x98.9; E. Blondel to E. C. Ball	Nom.
4th st., s. s., 44 ft. e. of Charles, 21.10x76.7; W. P. Dun (as to M. R. Gibbons)	$8,000
4th st., s. s., 150 ft. w. of 8th av., 36x73; L. E. Duenkel and wife to G. P. Schinzel	23,000
Forsyth st., w. s., 75 ft. s. of Stanton, 25x75; A. Goldstein and wife to H. Friedlander	23,750
Greene st., w. s., 100 ft. s. of Grand, 40x100; J. E. Hyams and wife to S. Rosalo	Nom.
75th st., s. s., 100 ft. w. of Madison av., 25x102.2; G. W. McCarthy and wife to M. Dymock	Nom.
Av. A, w. s., 76.7½ ft. s. of 76th st., 25.6x100; J. McCarthy and wife to M. Dymock	3,300
21st st., s. s., 127.3 ft. e. of 7th av., 20.4x92; Ann E. Shipman to M. M. Spear	Nom.
20th st., n. s., 441.8 ft. w. of 6th av., 16.8x98.9; Anna H. Underhill to J. D. Wright	6,800
22d st., s. s., 120 ft. w. of 7th av., 20x98.9; H. Van Buren (executor) to S. F. Crane	18,000
Road leading from West Farms to Kingsbridge; also Munro av., s. s. (24th ward); S. Zeimer and wife to J. Schaedler	40,000
Rutgers st. (Nos. 54, 56 and 58), 100x100; R. M. Harrison, referee, to S. E. Scofield	45,000
Irving place, s. e. corner 19th st., 27x100.8; R. M. Harrison (referee) to L. G. Brigham	40,000
72d st., s. s., 150 ft. w. of 3d av., 50x102.2; A. D. Weeks (referee) to Manhattan Life Insurance Company	8,800
Attorney st., e. s., 175 ft. n. of Stanton st., 25x100; E. D. Gale (referee) J. Fielschhauer	11,850
Christie st., w. s., 175 ft. n. of Rivington st., 25x100; W. S. Yard, referee, to J. M. Olmers	23,300
MORTGAGES.	
Barney, A. H. and wife, to Clinton Hall Association, s. s. of 56th st., w. of 6th av.; 3 years	4,000
Same to same, s. s. of 56th st., w. of 6th av.; 3 years	4,000
Same to same, s. s. of 56th st., w. of 6th av.; 3 years	4,000
Barre, Mary W., to City Chamberlain, s. s. of 50th st., e. of 5th av.; 1 year	2,550
Fielschhauer, Jacob, to Washington Life Insurance Company, s. s. of Attorney st., n. of Stanton st.; 1 year	10,000
Gutweiler, Joseph and wife, to F. Armbruster, c. s. of 1st av., n. of 4th st; 1 year	1,650
Lichtenstein, F. E. and husband, to G. D. Kilborn, s. s. of 82d st., e. of 3d av.; 3 years	5,200
McKinney, C. and wife, to G. R. Crawford, s. s. of Findlay st.; 3 years	700
MacKellar, Thomas, to H. P. De Graaf, s. s. of 131st st., e. of 5th av	850
Rice, Marinda W. and husband, to New York Life Insurance Company, n. s. of 51st st., w. of 8th av.; 3 years	1,000
Raubetschek, E. K., to W. P. Parson, s. s. of Henry st.; 2 years	2,200
Weil, Marvin and husband, to R. Loewi, s. s. of 74th st., e. of Madison av.; 5 years	5,000

THE REVIVAL OF TRADE.

Brighter Prospects Indicated for Retail Dry Goods Dealers.

WHAT PROMINENT FIRMS SAY.

Busy Scenes in Our Great Thoroughfares.

RESUMPTION OF TRADE.

Yesterday HERALD readers were apprised of the healthy condition of the wholesale dry goods trade of New York. Importers, jobbers, manufacturers and auctioneers gave their testimony in regard to the revival of trade, and in doing so generally expressed the opinion that the present activity in the wholesale markets was the precursor of a better condition of things throughout the whole country, one gentleman, whose sagacity in business circles is unquestioned, expressing the opinion that the "improvement would be a permanent one." In order to ascertain if this cheerful state of affairs was reflected in retail dry goods circles a HERALD reporter made a tour of the principal thoroughfares devoted to the retail business, the result of which is herewith given.

CANAL STREET HOUSES

formerly engaged in a small way of business have now either removed or gone into importing and jobbing. This street, which formerly in the forenoon was filled with ladies shopping, is now deserted by fair purchasers, and, instead, the sidewalks are encumbered with boxes and bales, and warehouse trucks have taken the place of "my lady's carriage." West of Broadway the street is generally occupied with millinery and hair goods jobbers. Arnold & Constable have a wholesale house on the north side, and on the south side are importers of laces, white goods, embroideries, &c. Canal street on the east of Broadway is occupied by furniture, paper box and clothing dealers, so that the reporter reached

GRAND STREET

before the proper representatives of the middle class of New York merchants was found. West of the Bowery the shops are petty, and are generally occupied by small grocers, tea dealers, paper box, lantern and sewing machine traders, but east of the old Bowery the shops are more pretentious. Crowds of pedestrians jostle each other on the sidewalks, and signs of an active retail business meet the eye everywhere. Strips of carpet hang from the awning posts like flaunting banners; hoop skirts, that look like cages for strange birds; caps, linen gowns, shoes, blankets and colored cloths wave in the wind as on a *fête* day in Venice. Groups of pretty girls—the grisettes of New York—pass and repass, and by their tasteful dress and fresh, piquant beauty lend a charm and variety to the scene.

AT WALLER & M'SORLEY'S,

No. 245 Grand street, the reporter was told that the business thus far had been all that could be desired, and fully fulfilled their hopeful anticipations. They have received a large amount of suburban custom, people from Morristown, N. J., and all along the line of the Erie Railway patronizing Grand street and this house liberally. They are dealers in general dry goods and manufacturers of cloaks and suits. The general run of trade had so far been on a cheap line of goods—domestics—people who in past times bought dress silks confining themselves to cheaper materials. It was, therefore, evident that a very healthy spirit of economy had been inaugurated, and this in itself should inspire confidence in a better state of things. Their trade was strictly cash; in fact the trade on the street was generally understood to be cash. They imported only special lines of goods, but according to the present outlook, and the growing excellence of our home manufactures, they would decrease rather than increase their importations. Although it was the hour of noon this store was doing a lively trade, yet Mr. Waller said:—"The bulk of our business is done after two o'clock. We close at seven o'clock every evening, except Saturdays, when we keep open until nine. I will say, in confirmation of the cheerful tone of the wholesale dry goods market, which I read with pleasure in the HERALD this morning, that our trade within the past month has increased over thirty per cent beyond last year, although in July it was five per cent behind."

A. FIELDS,

Nos. 249, 251 and 253 Grand street, was next visited. Mr. D. E. Marshall, the manager of this establishment, told the reporter that this fall's business went far beyond their expectations. He said:—"The sales of domestic dress goods exceed greatly those of last year; there are scarcely any imported goods selling; people who came here in 1875 and paid $1 and $1 50 per yard for material now buy goods at fifty cents. There are numbers of strangers in the city who have embraced the opportunity of seeing the Centennial, and are doing a little "shopping" at the same time. These folks keep us very busy in our suit department. Numbers are from Texas and the far West and Southwest. I am certain of this, having travelled through those countries for seven years, in the employ of an importing firm, and recently I have met many old acquaintances from those remote localities. In the silk department we are behind last year, as we cannot buy goods low enough to sell to our customers. Now, for an example of low prices, here are Roubaix poplins, from the well-known Arlington Mills, which are sold at thirty-five cents per yard; last year the Manchester alpaca fancies cost us three shillings to import; now the domestic goods cost about twenty-five cents in currency, and, I think, are fully equal to them in style and quality. Insertings are cheaper than ever; there is not much difference in gloves; domestic hosiery this year must beat the imported goods, and, no doubt, will be very cheap. We intended laying in a large stock, but have been waiting for the auction to take place of Cochran, McLean & Co., who are winding up their business. Here are some English camels' haircloth goods for making polonaise we can sell for twenty-five cents per yard that cost seventy-five cents to make, so you can get some idea of the shrinkage in value of goods. We sell suits for $8 that we got $14 for last year, and so on through the catalogue."

LORD & TAYLOR,

at the corner of Grand and Chrystie streets, have an immense retail establishment. Mr. Percy, the manager, told the writer that the outlook was very cheerful, indeed. They were quite busy, and the sales run through the general stock, although the cheaper fabrics were in most demand. In the general market all classes of goods were firm, and, as everybody knows, it is always easier to sell goods on a rising than a falling market. Their furniture trade was particularly good, a number of young people apparently going to housekeeping—as far as Mr. Percy could judge—generally in flats. There were many persons also renewing their furniture and housekeeping articles after a return from the country. Lord & Taylor have recently extended their building, and on this account, as well as by reason of improved business, expect soon to employ an increased number of hands.

DOYLE & ADOLPHI,

Nos. 267 and 269 Grand street, reported trade as unchanged from the status of last year. They saw no difference in the amount of custom, but inferred from general observation that the future promised well. Western merchants are in the city, and as their section was bare of goods they were free buyers. Of course nearly all the trade is in cheap domestic goods. There is a large hosiery trade, and prices are very low; flannels and underwear are in demand, but only the staple goods, and no luxurious articles. This firm disagree with their neighbors that there is a large influx of Centennial visitors, they believing the only class of autumn buyers alone are filling the market.

HILL, MOYNAN & CO.

occupy the stores from No. 271 to No. 277 Grand street, inclusive. A member of the firm stated that they dealt in a general line of fancy dry goods, and that they found the prospect very fine for a large fall trade. There did not seem to be any change in the class of customers.

E. RIDLEY & CO.

This immense establishment is one of the old landmarks in Grand street, and every part of its vast area—the building itself being five stories in height—is occupied by the firm in the manufacture and sale of fancy millinery goods. Mr. William A. Moore, the gentlemanly manager, showed the writer every attention, and gave him much valuable information as to the retail trade in their line of business. He said:—"We have had but little to complain of as a general thing in regard to trade, but within the last fortnight we have been exceptionally busy; the prospects for a continuance of good business, I think, are very bright. Our profits are not so large on the goods we sell, but we find the business increasing. Recently we have been obliged to nearly double the size of our building, and now have in our employment nearly 700 persons in this building. We sell boots and shoes, household wares, suits, all kinds of millinery goods, and are visited by customers from every part of the Union; thus I am able to judge of the number of strangers in New York, and it must be very large to judge of those visiting here. You have seen our show rooms, but you have not seen the upper portion of the building or the basement; when you do you will admit that this is a human beehive. We have 120 milliners alone employed."

UP THIRD AVENUE,

the establishment of Nicoll, the tailor, was the first retail establishment reached by the reporter. The stores extend from No. 141 to No. 149 Bowery, inclusive. There are branches on Broadway, Nassau street and Eighth avenue in New York; Fulton avenue, Brooklyn, and in Chestnut street, Philadelphia. Mr. Nicoll reported business in his line as very brisk and decidedly better than last year. All kinds of garments are made by this house from both imported and domestic goods, but generally prices are lower than in 1875. There is a very good transient trade, although the city custom is large. Mr. Nicoll has only been six years in business, and commenced in a small shop next to his present large establishment.

A. LISSNER,

fringe dealer, No. 310 Bowery, thought the fall trade was opening very auspiciously, although in their business as yet there had been but little change.

L. PHILLIPS,

successor to Bradbury Brothers, Nos. 312 and 314 Bowery, is a general dry goods dealer. He states that last week's business was fully twenty-five per cent in advance of the same time last year, yet he does not anticipate a very heavy fall trade, although admitting that the prospect on every side is more encouraging than at any time since 1873. Mr. Phillips said that he looked for a dull season always during a Presidential campaign; people are more or less occupied in politics and engaged in spending their money in political affairs; the laborer just now is out of employment and naturally has no money to spend, and as long as this is the case he cannot look for great recuperation; yet certainly a return of confidence in better things and better times is the first step toward a realization of them. Honesty in trade, too, must be more generally cultivated; dealers should have inflexibly one price for their goods, so that a child could come to the store and purchase goods as cheap as an intelligent man.

A. T. STEWART'S RETAIL STORE

in Broadway was next visited. Here vast numbers of clerks, cash boys and runners were serving the bevies of beauties throughing the aisles, leaning over the counters, tossing over the glove boxes, dipping dainty hands into the ribbon baskets, fondling the filmy laces, and generally toying with velvets and cashmeres and sheeny stuffs, "so high to reach, so hard to leave."

Mr. Denning, the manager, stated that the writer could see for himself how business was in that establishment. It was simply a rush, and not a good hour for trade either; the prospects for a continuance were flattering; there were a great many strangers in the city and these nearly all visited "Stewart's." Their regular customers, most of them at least, had not yet returned from the country, but in a few days no doubt they would do so, when they looked very confidently for a very large trade.

AITKEN, SON