

THE CITY RECORD.

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PROCLAMATION.

The exemption of our city during the present year from pestilence, while some of our sister cities have been sorely afflicted, and the numberless bounties and blessings which we have received from a beneficent Creator, call for the grateful recognition of our people, in the observance of the 27th inst., set apart by the President of the United States, and the Governor of this State, as a day of Public Thanksgiving and Prayer; and I would recommend the suspension of all business on that day, and that the liberality of our citizens be extended to the poor and unfortunate among us, to enable them to participate in the enjoyments of this religious festival.

Given under my hand and seal at the Mayor's office this twentieth day of November, in the year of our Lord one thousand eight hundred and seventy-three.

W. F. HAVEMEYER,
Mayor.

BOARD OF ESTIMATE AND APPORTIONMENT CITY AND COUNTY OF NEW YORK.

COMPTROLLER'S OFFICE,
NEW COUNTY COURT HOUSE,
Wednesday, November 19, 1873—3:20 P. M.
The Board met pursuant to the following call:
OFFICE OF THE MAYORALTY,
EXECUTIVE DEPARTMENT, CITY HALL,
New York, Nov. 18, 1873.

In pursuance of the authority contained in the 112th section of the act entitled "An act to reorganize the local government of the City of New York," passed April 30th, 1873, and an act entitled "An act in relation to the City of New York," passed June 13th, 1873, and an act entitled "An act in relation to raising money by taxation in the County of New York, for County purposes," passed June 14th, 1873, a meeting is hereby called of the Mayor, Comptroller, President of the Board of Aldermen, and the President of the Department of Taxes and Assessments, constituting a Board of Estimate and Apportionment, to be held at the office of the Comptroller, on Wednesday, the 19th day November, 1873, at 2 o'clock P. M., for the purpose of acting upon such matters as may come before said Board, under the provisions of the acts above mentioned.

W. F. HAVEMEYER,
Mayor.

ENDORSED:

Admission of a copy of the within as served upon us this day, Nov. 18th, 1873.

W. F. Havemeyer, Mayor; Andrew H. Green, Comptroller; Samuel B. H. Vance, President Board of Aldermen; John Wheeler, President Department of Taxes and Assessments.

Present—All the members, viz.:

Wm. F. Havemeyer, the Mayor of the City of New York; Andrew H. Green, the Comptroller of the City of New York; Samuel B. H. Vance, President of the Board of Aldermen; John Wheeler, the President of the Department of Taxes and Assessments.

The Comptroller moved that the reading of the Minutes of the previous meeting be dispensed with.

Which was adopted by the concurrent vote of all the members of the board.

The Comptroller offered for adoption the following resolution:

RESOLVED, That the sum of seventy-five thousand dollars be and the same is hereby appropriated under the head of "Cleaning Streets under Police Department" during the months of November and December, 1873, said amount to be transferred from the appropriation for "Extra Contingencies."

The chairman put the question, whether the Board would agree with such resolution, which was decided in the affirmative by the following vote:

Affirmative—The Mayor of the City of New York (Chairman), the Comptroller of the City of New York, the President of the Board of Aldermen, the President of the Department of Taxes and Assessments—4.

The Comptroller offered for adoption the following resolution:

WHEREAS, Section 3 of chapter 756 of the laws of 1873, provides for the issue of bonds when they become due, and payable as follows, to wit:

Sec. 3. "If at any time hereafter the amount in the treasury of the City of New York derived from collections of assessments, shall be insufficient to meet and pay when they become due and payable any bonds issued by the Mayor, Aldermen and Commonalty of the City of New York for expenditures incurred on public improvement, payable in whole or in part from assessments, then it shall be lawful for the Comptroller, and he is hereby authorized to issue like bonds for an amount sufficient to pay and from the proceeds thereof to pay the bonds so falling due as aforesaid;" therefore

RESOLVED, That the Comptroller be and he is hereby authorized to issue, in pursuance of law, from time to time, in such amounts as may be required, and at such rates as he may determine, not exceeding seven per cent. per annum, the following described bonds, to wit:

Street Improvement Fund Bonds, to the amount of one million one hundred and sixty-five thousand dollars, payable within such periods as he shall deem expedient, not exceeding five years, to pay from the proceeds thereof the "STREET IMPROVEMENT FUND BONDS of the City of New York," falling due in November and December 1873, and ASSESSMENT BONDS to the amount of one hundred and fifty thousand dollars, payable within such periods as he shall deem expedient, not exceeding five years, to pay from the proceeds thereof the "Assessment Bonds of the City of New York," falling due December 1, 1873.

The Chairman put the question whether the Board would agree with said resolution, which was decided in the affirmative by the following vote:

Affirmative—The Mayor of the City of New York (Chairman), the Comptroller of the City of New York, the President of the Board of Aldermen, and the President of the Department of Taxes and Assessments—4.

The Comptroller presented the following report, and offered for adoption the accompanying resolution.

To the Board of Estimate and Apportionment:

At a meeting of the Board of Estimate and Apportionment, held Nov. 7, 1873, a communication having been referred for examination and report to the Comptroller from a "Committee on building new stands at West Washington Market," requesting the Board to make an appropriation for paving with stone blocks the alleys between said new stands at West Washington Market, and laying with new planks a portion of the Vesey street Pier adjoining, I respectfully

REPORT:

That I have obtained from Col. De Vos, the Superintendent of Markets, information in regard to the subject of the communication referred to me, and have had an estimate made of the probable cost of the work for which an appropriation is asked.

It appears that the stockholders have erected 34 new stands, at their own expense, at West Washington Market at a cost of over \$300 each, amounting to nearly or quite \$12,000; that by this improvement the city will derive a large increase of revenue from the rents to be paid for these new

stands, and in order to provide for the heavy traffic through the alley-ways of the market adjoining them, stone pavements are necessary, and also the old planking on the Vesey street Pier at West Washington Market, near these stands, is in a very dilapidated condition and requires entire renewal immediately.

The estimated cost of the work is as follows:
Stone block pavement, 830 6-9 square yards at \$2 43..... \$2,018 52
Yellow pine planking, say..... \$1,500
Less ½ paid by owners adjoining 750 750 co
\$2,768 52

The new stands cannot be occupied to do business, nor rents collected, until the paving is done, and I therefore recommend that the appropriation for this purpose be made and the work be executed immediately.

Respectfully submitted,

ANDREW H. GREEN,
Comptroller.

RESOLVED, That the sum of \$3,000 be and the same is hereby appropriated under the head of "Paving and Planking West Washington Market" for the purpose of paving the alleys between certain new stands at West Washington Market, and planking with yellow pine a portion of the Vesey street pier adjacent thereto, the said amount to be transferred from the appropriation for "Extra Contingencies."

The chairman put the question, whether the Board would agree with said resolution; which was decided in the affirmative by the following vote:

Affirmative—The Mayor of the City of New York (chairman), the Comptroller of the City of New York, the President of the Board of Aldermen, and the President of the Department of Taxes and Assessments—4.

The Comptroller presented a communication from the National Rifle Association, asking for an appropriation of \$5,000; which was laid over.

The President of the Department of Taxes and Assessments, presented demand of John Gilligan for an appropriation of \$580.77.

Which upon motion of the Comptroller was referred to the Counsel to the Corporation.

The Chairman presented communication dated November 15th, from the Department of Public Works asking for an issue of "Croton Water Main Stock," to the amount of \$300,000.

Which was laid over.

On motion the Board then adjourned to meet at the call of the Chair.

JOHN WHEELER,
Secretary.

BOARD OF EDUCATION.

The stated session of the Board of Education was held on Wednesday evening, the 19th inst.

Present—Wm. H. Neilson, Esq., President, and Commissioners Baker, Beardslee, Brown, Dowd, Farr, Halsted, Jenkins, Klamroth, Lewis, Man, Matthewson, Patterson, Seligman, Townsend, Traud, Vermilye, West and Wetmore—19.

Absent—Commissioners Hoe and Kelly.

The President laid before the Board the following communication from His Honor the Mayor:

MAYOR'S OFFICE
CITY OF NEW YORK, Nov. 19, 1873.

To the Board of Education of the City of New York.

GENTLEMEN,—I have to inform you that, in accordance with chapter 112, of the Laws of 1873, I have this day appointed the following named gentlemen as Commissioners of Common Schools for the City of New York for a term of three years, commencing on the first day of January, 1874:

Rufus G. Beardslee, Andrew J. Matthewson, Albert Klamroth, James W. Farr, James W. Halsted, Eugene Kelly, Robert Hoe.

Also, the following named gentlemen as Inspectors of Common Schools for the term of three years, commencing on the 1st day of January, 1874, and for the School Districts set opposite their names:

John Patten,	1st District.
Washington Thomas,	2d "
Charles Spear,	3d "
Harvey H. Woods,	4th "
Alexander M. L. Agnew,	5th "
Mark Blumenthal,	6th "
Feodore Mierson,	7th "

Very respectfully,

W. F. HAVEMEYER.

Communications were received from the School Trustees of the various Wards relative to the schools, nominating teachers, asking for repairs, and to excuse absence of teachers, which were

referred to the several standing committees having the special matters under their respective supervision.

A report from the City Superintendent was received as follows:

CITY SUPERINTENDENT'S OFFICE,
NEW YORK, Nov. 9, 1873.

To the Honorable the Board of Education:

GENTLEMEN—In accordance with the requirements of law, I have the Honor respectfully to report, that since the 14th ult., the several corporate schools subject to the supervision of the Board have been visited by myself and assistants, and a careful inspection made of their organization and discipline, text-books and methods of instruction employed therein; also an inquiry instituted with the view to ascertain, as far as possible, whether or not the provisions of law prohibiting sectarian teaching are properly complied with in said schools.

The whole number of schools thus examined is forty-six, as follows: In the New York Orphan Asylum, two; Roman Catholic Orphan Asylum, three; Colored Orphan Asylum, one; Leake and Watt's Orphan House, two; Protestant Orphan Asylum, one; Five Points House of Industry, one; Ladies' Home Missionary Society, one; House of Refuge, two; New York Juvenile Asylum, two; Hospital for the Ruptured and Crippled, one; American Female Guardian Society, ten; Children's Aid Society, twenty.

The number of teachers employed in these various schools is 183, of whom only 45 have been licensed by City or State authority. Since these schools are permitted to participate in the apportionment of the Common School Fund, and the wages of the teachers employed are paid from said fund, and since the general State Law prohibits the payment of any part of this fund to any other than a qualified teacher, it would seem to be requisite that all the teachers in these schools should be licensed according to the regulations provided by the Board for the licensing of the teachers of the primary and grammar schools. Moreover, since the distribution of the School Fund among the school districts of the state depends in part upon the number of licensed teachers employed, this city loses a portion of the money to which it is entitled (\$47.50 per teacher) by this neglect or omission. The attention of the Board of Education was duly called to this fact by the undersigned in October, 1870, but no action having been taken in relation to the matter, it has not been deemed proper at this time again to refer to it in this report.

In these several schools 171 classes were examined, in most of which the instruction appeared to be efficient. The whole number of pupils on register was found to be 10,240, with an attendance of 8,257 at the time of examination. The average for the year ending on the 30th of September, 1873, was 8,302. The provision of law in regard to the teaching of sectarian tenets, etc., appear to be complied with in these schools, the exercises during the time of each session being exclusively those of a secular character, except that in some of the schools of the Children's Aid Society it is reported that it has been the practice for the teacher not only to read the Scriptures at the opening, but to make comments upon the portion read, and to use the Bible as a class book for the usual reading lessons and exercises. In some cases it is reported the Apostles' Creed is recited by the children. It is proper to state, however, that my attention has been called to an order recently issued by the secretary of the society prohibiting any comment on the Scriptures when read at the opening of the schools.

The pupils who attend the schools under the care of this society consist chiefly of children whose parents are reported as being unable to send them to the public schools from the want of means to clothe them. The society supplies this want, and to a certain extent provides them with food. By its special ministrations and agencies it gathers under its beneficent care very many destitute and friendless children who, without its aid, would be helpless vagrants in the street—a prey to vice and ignorance.

The teachers employed appear, as a class, to be zealous and industrious, but their opportunities for teaching are too limited to produce entirely satisfactory results. The order and discipline of many of these schools appear to be quite deficient.

The schools under the care of the American Female Guardian Society are of a similar character, but are attended exclusively by girls. Of these schools, it is reported that the order is frequently imperfect, and that the work done is neither thorough in its character nor important in its results. This is due in a degree to defective organization, and perhaps to a want of sufficient supervision. The instruction given in these schools appears to be wholly of a secular character.

The whole number of pupils on register in these schools at the time of the examination was 1,382, and the average for the previous week was 1,443. The whole number of pupils on register in the schools of the Children's Aid Society was 3,952, with an average attendance for the previous week of 2,357.

Since the date of the last report, the undersigned have caused all the evening schools under the care of this Board, except the evening high school, to be visited and carefully inspected. Of 307 classes thus supervised, 283 were found to present a creditable appearance in respect to order, and seemed also to be under efficient instruction. Such teachers as were found to be incapable of properly controlling their classes have been removed by the trustees, and others more competent appointed in their stead.

Previous to the opening of the school there were registered 9,923 pupils; and the attendance on the first night was 9,549. Since that time the reports show a register of 10,240 pupils, and an average attendance of 12,878. All the indications are such as to promise the accomplishment of much efficient service on the part of these schools during the present term.

The monthly returns from the several grammar and primary schools show for the month of October a register number of pupils of 102,872, and an average attendance of 92,361. The latter is 3,330 in excess of that reported for the corresponding month last year. The whole number of days lost by the absence of teachers during the same month was 1,462, which is 584 less than during the month of October, 1872.

As required by the by-laws, I append herewith a list of the names of all teachers in whose classes the absenteeism during the month of October was in excess of twenty per cent.

Respectfully,

HENRY KIDDLER,
City Superintendent.

Miscellaneous communications were received from G. P. Putnam's Sons, publishers; J. B. Hyde, relative to model of steam engine; J. W. Bain, proprietor of "Pilgrim" panorama; from the Trustees of the Allen Street Methodist Church, relative to damages to building; from Citizens of Twenty-fourth Ward (Westchester County annexed), the following named gentlemen for School Trustees of the 24th Ward: Morris Wilkins, No. 3, Pine street, Tremont; Wm. G. Ackerman, Kingsbridge, Kingsbridge; Mark K. Hamilton, 12 Wall street, West Farms; Fordham Morris, 25 Pine street, Fordham Heights, Daniel Valentine, Fordham; and Mr. Henry Arends and Charles Ran, asking the appointment of Assistant Superintendent.

French and German. Also, a communication signed by nearly twelve hundred teachers, strongly urging the adoption of the report of the Committee on Teachers, in favor of corporal punishment in the schools.

Commissioner Halsted offered the following resolution, which was adopted:

Resolved, That the new Primary School on the Third Avenue, near 105th street, be and is hereby designated, and shall hereafter be known as Primary School No. 19.

Commissioner Beardslee offered the following resolution, which was adopted:

Resolved, That the Committee on Supplies be authorized to advertise for proposals for delivering the supplies to the several schools under the jurisdiction of this Board for the year 1874; also, for proposals for printing on account of this Board for the year 1874; and that the committee be empowered to reject any or all bids, if deemed for the public interest.

REPORTS OF STANDING COMMITTEES.

Commissioner Townsend presented a report from the Committee on By-Laws, containing a revision of the by-laws, which was ordered printed for the use of the members, and laid on the table.

Commissioner Dunn presented a report from the Committee on Buildings, to appropriate \$150 for gas fixtures in grammar school building No. 40, also in favor of paying janitor of grammar school No. 29, \$37.25 for cleaning.

The President laid before the Board the report of the Special Committee on Salaries and Economy, recommending an amendment to the by-laws, which was adopted.

Commissioner West presented a report from the Auditing Committee, recommending the payment of the following bills:

- D. B. Pierson & Son, repairing, \$39 85
Slote, Woodman & Co., printing, 42 50
Judson & Jennings, measuring wood, 25 00
J. E. Peers, atlas, 10 00
Journal of Commerce, 8 50
John Harrison, repairs, 29 36
Office of the Board, postage and incidentals, 68 88
H. L. Davenport, services, 45 00

Commissioner Halsted presented several reports from the Committee on Teachers.

Commissioner Vermilye presented several reports from the Finance Committee relative to several appropriations for small bills, which were adopted.

Commissioner Mathewson presented the report of the Committee on Evening Schools, which was adopted.

Commissioner Wetmore presented the report of the Committee on Nomination of Trustees, recommending that the resignation of Wm. Balzee, Seventeenth Ward; James T. Kilbreth, Eighteenth ward, and Charles A. Flammer, Twenty-second ward, be accepted, and recommending the appointment of Theodore H. Mead, Seventeenth ward; Francis H. Weeks, Eighteenth ward, and Walter Center, for the Twenty-second ward. Also, Hugh King, in place of Daniel H. Stone, resigned, in the Fifth ward. The report was adopted.

Commissioner Halsted moved to take up the report of the Committee on Teachers in relation to corporal punishment; which was read, and made the special order after the third order of business at the stated session of the Board, to be held on the third day of December. The report is as follows:

To the Board of Education:

The Committee on Teachers to whom were referred the following preamble and resolutions:

Whereas, In the annual report of the City Superintendent submitted to the Board of Public Instruction on the 22d day of January, 1873, it is stated that after a careful observation of the results of the experiment of exclusive moral suasion in our public schools during the past two years, the said City Superintendent "unhesitatingly" recommends, "in the light of a long experience as a teacher and superintendent," to "re-invest the principals with a right to inflict, under proper regulations and restrictions, corporal chastisement upon those pupils who show themselves amenable to no other influence." Therefore, be it

Resolved, That the Committee on Teachers be instructed to inquire as to the character of the discipline practised in our Public Schools, and that for this purpose consultation be had with the City Superintendent and the more experienced of our teachers and principals.

Resolved further, That the result of this inquiry be submitted to the Board, with such recommendations as the said Committee may deem advisable.

Respectfully report:

That the subject contained in the foregoing resolutions has received our most careful consideration, and in accordance with the directions of the Board, we have had before us twenty-five of the Principals of our Male Grammar Schools, Primary Departments and Primary Schools, who have been examined at considerable length to ascertain their views as to the success of the experiment of the present system of exclusive moral suasion upon the discipline and scholarship of our schools. These Principals were selected in part by lot, and in part from the older and more experienced of our teachers, some of whom were known to have dispensed with the use of corporal punishment in the management of their schools before its abolition by the Board, but the result of the inquiry has shown that the unanimous sentiment of these teachers is in favor of the restoration to the Principals of Male Grammar and Primary Departments of the right to inflict corporal punishment, under proper restrictions, upon wilfully disobedient and incorrigible boys, and that such a change would be not only highly beneficial, but is indispensable to the proper discipline and general progress of the schools. Your Committee sincerely wish the Board, as a whole, could have heard the testimony presented on this important subject, for

with every desire to place the facts as they appeared to us before the Board, we are painfully conscious that much of the force of the testimony must be lost by any abstract we can give, and if we fail in presenting the case as strongly as we should like, we can only ask such members of the Board as may have any doubts as to the expediency of our present recommendations to inform themselves by personal inquiry of the facts of the case, and of the opinions of those who have our schools in charge.

The main points brought out by our investigations are as follows:

First—Obedience to ordinary commands relating to the customary exercises of the classes is no longer prompt and exact—the time of the teachers being wasted while waiting for careless and dilatory pupils to obey—so that the "drill" of classes in their ordinary movements and exercises has deteriorated.

Second—Obedience in matters calling for self-denial or submission of the pupils' will so that of the teacher is seldom promptly secured, very frequently only after troublesome intercession of the parent, and sometimes not at all.

Third—Wilful and defiant disobedience is much more common than heretofore, and manifestations of ill-temper and ill-manners much more frequent, thus showing a great falling off in the general tone of the pupils' manners and morals.

Fourth—Insolent behavior and saucy and sneering looks and remarks and indifference and disrespect toward all school authority have greatly increased under the present system.

Fifth—Truancy is more frequent.

Sixth—Personal cleanliness, also the proper care of books, slates and other school property are not as easily secured as formerly.

Seventh—Gross disobedience in all sorts of matters such as to require the interference of some authority external to the teacher has greatly increased. This is a great evil, because the class teacher ought, in the eyes of the pupils, to be the fountain of authority.

Eighth—The defiance of parental authority, especially in cases of children with widowed mothers, has more than doubled. Many such boys, proving entirely beyond control, have drifted out of the schools into the street or workshops or private schools.

Ninth—Pupils in our higher classes are less docile than formerly, our Vice Principals and First Assistants now having far more trouble than formerly with disorderly and indolent boys—thus showing that previous school training has not tended to form habits of obedience and submission.

Tenth—Teachers have to some extent fallen into the habit of overlooking offenses committed by boys known to be beyond parental control, and have thus lowered their standards of discipline to the injury of their pupils.

Eleventh—Children are ruder both in and out of school, and less self-respectful than under the old system.

Twelfth—Instances of gross and continued neglect of studies are more frequent. This, coupled with the necessity of spending much time in securing the attention and awakening the mental activity of the pupils, has nearly doubled the labor of the class teachers, while the advancement of the children in a given time has been much less.

Thirteenth—Poor men are often compelled to visit the schools to assist in governing their children, often at great inconvenience and loss of part of a day's work, and make it a cause of complaint against the Public Schools. Such visits were seldom necessary under the old system. Moreover, parental settlement of school difficulties and punishment for school offenses have no restraining influence upon other scholars, and thus one of the principal and most important uses of school punishment is nullified.

Fourteenth—Teachers resort to questionable expedients to secure that obedience and attention without which their classes cannot be brought up to grade.

Fifteenth—Juvenile lawlessness, rudeness, profanity and crime have manifestly increased since the abolition of corporal punishment, thus proving a directly evil influence upon society in general.

Sixteenth—A large number of bad children, who might have been reformed under the old system, have been "worked out" of the schools, or taken out and "put where they could be made to mind."

While, therefore, in the opinion of your Committee, this question is one of very serious import, and we have no reason to doubt that the tendency elsewhere is to imitate the practice which has lately been adopted in our schools, dispensing with the use of the rod altogether, we feel compelled to say that the experience of our ablest and most successful teachers in and out of our Public Schools leads us to the opinion that no real practical good has resulted from the change, but that on the contrary, much evil has been occasioned by it. The effect of unrestrained disorderly conduct on the part of one pupil in a class is of itself sufficient to demoralize the whole class. There is at present but one remedy under our rules for such cases, and that is to remove the bad influence and example by expulsion, which results in turning a bad boy into the streets. This not only does not work a salutary change in the pupil, but removes all chances of his permanent reformation, and in this connection we cannot refrain from calling the attention of the Board to the fact that in most of the Reformatory institutions in this city we find quite a number of bright boys who have actually been placed there simply because their parents, by their own confession, could not control them at home, and could not have them properly governed in our schools, where they ought now to be. It would scarcely be fair to conclude our report on such an important matter

without some reference to the existence of another report on this same subject, which can be found in full on pages 411 to 422, Journal of 1870, from the facts and conclusions of which we are compelled to dissent altogether; but having based our recommendation for action in this matter on the condition of things as we find them in our schools to-day, with the results before us of the three years' experiment of the system of exclusive moral suasion, so strongly advocated in that report, we are content to leave the matter to the intelligent decision of this Board.

Your Committee, therefore, recommend that section 40 of article 14 be amended so as to read as follows:

Section 40. No corporal punishment of any description shall hereafter be inflicted in any Female Grammar or Female Primary Department or school under the jurisdiction of the Board of Education. Any punishment inflicting bodily pain of any kind shall be deemed corporal punishment.

Corporal punishment in the male departments of the Grammar Schools, or of male pupils of the Primary Departments and schools, shall be inflicted only by the principal, or, in his or her absence, by the vice-principal, on proof of flagrant and persistent misconduct, after all other reasonable efforts to reform the offender shall have been made.

The offence for which corporal punishment shall be inflicted shall be distinctly stated to the pupil, and it shall be the duty of the Principal to keep a record of such punishments and of all and any corporal punishment inflicted in the school by any teacher, stating the name of the teacher and the pupil, the offence committed, the evidence of such offence as ascertained by personal investigation by such Principal or Vice Principal, and the nature and extent of such punishments, and said Principal shall forward a transcript of such record monthly, on or before the third day of the month succeeding, to the City Superintendent of Schools, who shall keep the same for the inspection of the Board of Education, the School Inspectors and the School Trustees.

Any Principal neglecting to keep such record, or to forward a transcript thereof, as above required, or who may be guilty of inflicting any cruel or excessive punishment; and any teacher other than the Principal or Vice-Principal of a male department who shall inflict any corporal punishment shall, on the recommendation of the City Superintendent, on proof of such delinquency or improper punishment, be removed by this Board.

J. M. HALSTED, JOHN CROSBY BROWN, WM. DOWD, FERDINAND TRAUD, Committee on Teachers. The Board then adjourned. L. D. KIERNAN, Clerk.

POLICE DEPARTMENT.

The Board of Police met on the 20th day of November, 1873. Present Messrs. Smith, Gardner, Duryee and Russell, Commissioners.

Leaves of Absence was granted to

- Patrolman John Shea, 20th precinct, 1/2 day without pay.
Patrolman James Bloomer, 31st precinct, 1 day without pay.
Patrolman Walter Kelly, 3d precinct, 1 1/2 day without pay.
Patrolman Winfield Booz, 11th precinct, 1/2 day without pay.
Captain Henry Hidden, 13th precinct, 1/2 day.

Parades Allowed.

- Flavendam Light Guard, Nov. 17—target excursion.
Geo. Elliott Musketeers, Nov. 27—target excursion.
Fort Washington Guard, Nov. 27—target excursion.
Roosevelt Light Guard, Nov. 26—target excursion.
Thos. Welsh Rangers, Nov. 27—target excursion.
Flax Mills Guard, Nov. 27—target excursion.
Freligh & Jones Musketeers, Dec. 3—target excursion.
Starlight Musketeers, Nov. 26—target excursion.
The Boys from our Place, Nov. 27—target excursion.
Ionic Lodge, Nov. 20—funeral.
Ivanhoe Commandery, Nov. 20—funeral.

Bills ordered Paid.

- Wm. H. Jackson & Co., \$27 10
Harmer, Hays & Co., 6 50
Robt. C. Brown, 20 98
" 78 23
" 6 00
" 11 27
Reeves & Co., 12 00

Report of the Examining Surgeons of examinations of Tuesday, 18th inst., was referred to the Committee on Surgeons.

Communication from Tiffany & Co., requesting the appointment of James T. Mally, as patrolman was ordered on file.

John Finnegan and Dennis Hayden were denied leave to apply for re-appointment. Henry Gross was allowed leave to apply for re-appointment.

Communication from the Comptroller, stating that he had deposited \$15,000 in the National Butchers' and Drovers' Bank, and \$7,500 in the National Shoe and Leather Bank, to the credit of the Treasurer of Police, was referred to the Treasurer.

Transfers Ordered.

- Patrolman John Rollins, from Eighth to Twenty-fifth precinct.
Patrolman Henry Read, from Fifteenth to Fourteenth precinct.
Patrolman Richard Burke, from Eighth precinct to Second Court.
Patrolman Chas. M. Elliott, from Fifteenth to Ninth precinct.
Patrolman Daniel Cody, from Nineteenth to Third precinct.
Patrolman Percival Hull, from Eighth to Eleventh precinct.
Patrolman Bernard Devlin, from Sixth to Fourteenth precinct.
Patrolman R. A. Chapman, from Fifteenth to Nineteenth precinct.

- Patrolman Michael Coffey, from Twentieth to Sixth precinct.
Patrolman Michael Crowley, from Twentieth to Fourteenth precinct.
Patrolman Thomas Reilly, from Twentieth precinct to Sixteenth precinct.
Patrolman Edward Joyce, from Twentieth precinct to Eighteenth precinct.
Patrolman Robert Dunlop, from Twenty-eighth to Twentieth precinct.
Patrolman James Edwards, from Twenty-eighth to Twentieth precinct.
Patrolman Adolph Schmidt, from Nineteenth to Sixteenth precinct.
Patrolman Chas. E. Homan, from Twenty-eighth to Twentieth precinct.
Patrolman James McGill, from First to Twentieth precinct.
Patrolman David H. Golden, from Thirty-second to Twelfth precinct.
Patrolman John Hayes, from Fifth to Twenty-third precinct.
Patrolman William Read, from Twelfth to Fifth precinct.

Resolved, That the Chief Clerk furnish to the Board of Canvassers evidence of the action of this Board on the 20th and 26th of September last, designating two newspapers for advertising the official canvass and other election matters, in pursuance of chapter 823 of the laws of 1873.

Street Cleaning.

Daily reports (2) of the Superintendent of Boats were referred to the Committee on Street Cleaning.

Adjourned.

S. C. HAWLEY, Chief Clerk.

LEGISLATIVE DEPARTMENT.

Abstract from the minutes of the meeting of the Board of Aldermen, November 20th, 1873.

The following resolution was offered by Alderman Morris:

Resolved, That permission be and the same is hereby given to the proprietor of premises No. 102 East Fourteenth street, to erect an ornamental lamp in front of his premises, the gas to be supplied from his own metre and the work to be done at his own expense, under the direction of the Commissioner of Public Works; such permission to continue only during the pleasure of the Common Council; provided the size of the post does not exceed in dimensions the ordinary street lamp-post.

Alderman Van Schaick moved to amend by providing that the lamp-post shall not exceed in dimensions the ordinary street lamp-post.

Which was accepted by Alderman Morris. The resolution was then adopted.

G. O. 272.

The Committee on Finance, to whom was referred the annexed bill of Thos. S. Brennan, Warden of Bellevue Hospital, amounting to the sum of eight hundred and eighty-two 59-100 dollars, for a dinner provided by him for the members of the Evangelical Alliance, on the occasion of their visit to the public institutions under the charge of the Commissioners of Charities and Correction, as the guests of the city, on the 9th day of October, 1873, respectfully

REPORT:

That the bill, which has been closely scrutinized by your Committee, appears to be equitable and just, and is verified by the Commissioners of Charities and Correction. The bills of items, accompanying the claim of Warden Brennan, have also been examined, and found to be reasonable and in accordance with the ruling prices for the several articles furnished. The claim is a valid one against the city, was incurred in carrying into effect the intentions of the Common Council to exhibit to the distinguished strangers that composed the Evangelical Alliance the operations of the corrective and charitable institutions of our city, should be paid. The following resolution is, therefore, respectfully offered for your adoption:

Resolved, That the Comptroller be and he is hereby authorized and directed to draw a warrant in favor of Thomas S. Brennan, Warden of Bellevue Hospital, the sum of eight hundred and eighty-two 59-100 dollars, to be in full payment of bill hereto annexed, for providing a banquet for the members of the Evangelical Alliance on the occasion of their visit to the public institutions, under the charge of the Commissioners of Charities and Correction, as the guests of the city authorities, on the 9th day of October, 1873, and charge the amount to the account of "City Contingencies."

J. VAN SCHAICK, JOHN J. MORRIS, OSWALD OTTENDORFER, Committee on Finance.

Which was laid over.

G. O. 146.

being a resolution as follows:

Resolved, That Twenty-first street, from Tenth to Twelfth avenues, be paved with Belgian or granite pavement, and that, at the several intersecting streets and avenues, crosswalks be laid where not now laid, and relaid where those now laid are, in the opinion of the Commissioner of Public Works, not in good repair, or are not upon a grade adapted to the grade of the proposed new pavement, under the direction of the Commissioner of Public Works, and that the accompanying ordinance therefor be adopted.

Alderman Monheimer moved to amend by striking out from the resolution and ordinance the words "Twelfth avenue," wherever they occur and inserting in lieu thereof the words "Thirteenth or Exterior avenue."

Which was agreed to.

The resolution and ordinance as amended were then laid over.

JOSEPH C. PINCKNEY, Clerk.

LAW DEPARTMENT.

OPINIONS OF THE COUNSEL TO THE CORPORATION.

The votes cast for a Civil Justice in the three southern towns of Westchester County, on the fourth of November, 1873, under the act providing that on the first of January, 1874, those towns should become and be a part of the City of New York, were required to be canvassed, not in the County of Westchester, but in the city; and upon the Board of Canvassers of the County of New York was enjoined, under the true construction of the law, the duty of examining the returns and declaring the result.

LAW DEPARTMENT, OFFICE OF THE COUNSEL TO THE CORPORATION, NEW YORK, November 17, 1873.

The Honorable the Board of County Canvassers of the City and County of New York,

GENTLEMEN:—You submit to me a proposed resolution now under consideration in your Board, to the effect that the votes cast in the towns of Morrisania, West Farms, and Kingsbridge, (in future to constitute the 23d and 24th Wards of the City of New York, under chapter 613 of the statute known as the Annexation Act), for the office of Civil Justice of the district hereafter to be known as the Tenth Judicial District of the City of New York, be canvassed by your Board in the same manner and with a like effect as if said towns or wards were a part of the City and County of New York on the fourth of November, 1873.

You also transmit to me a resolution, that the Counsel to the Board be requested to give his opinion as to the right of the Board to canvass the votes cast for Civil Justice for the Tenth Judicial District of the City of New York.

It is impossible to rise from a careful reading of the act, without the conviction that the intent of the Legislature was that on and after the first day of January, 1874, the territory referred to should become and be an integral portion of the City of New York, with only such exceptions as are rendered necessary by some general laws in respect to Congressional and other districts. (See Section 1.) For instance, with regard to the higher Courts of Justice, in relation to which Westchester County, together with other sections of the State, contains a constituency, it was found convenient, if not necessary, that existing laws as regards elections should for a period remain unchanged. But as the annexed territory could be conveniently formed into a district by itself for the administration of justice with respect to minor civil claims, and with respect also to minor criminal offenses, the act seems express that the annexed territory shall be supplied with Courts and Justices from and after the very commencement of the coming year. Thus it is enacted that by the 15th of December proximo, the Mayor and Aldermen of the City of New York shall appoint a Police Justice for the Police Court which the act establishes over the territory referred to. (See Section 5.) And with regard to the Civil Justice, the act also, by section 5, constitutes a district, to be called the tenth, and provides for it a District Court, with a Civil Justice to be promptly elected by the voters of the district.

It is true that the choice of a Civil Justice might be deemed by some as required by the act to take place at the election following the time when the annexation is, by the terms of the act, to become complete. That time is the first of January, 1874, and the next general election after that would take place in the Fall of 1874. But I think the true sense of the various provisions is that the words, "the next general election," mean the election following the passage of the act. And this construction gives the new territory a Civil Justice by virtue of the election held on the 4th of November instant, just as the act furnishes a Criminal Justice by the requirement that the Mayor shall nominate a Police Justice by the 15th of December proximo.

The second section provides that the electors of this territory shall, until certain new districts are established by law, continue to vote for certain officers, as electors of the County of Westchester. Among those enumerated officers, a Civil Justice is not mentioned. The provision then goes on to say that for all other offices such electors shall vote as electors of the City and County of New York. It is directed in the second section, now under consideration, that the returns of every election held in such territory for Member of Assembly, Senator, Justice of the Supreme Court, and Representative in Congress, shall be made to the Board of County Canvassers of the County of Westchester as now provided by law, and the returns of elections for all other offices shall be made to the Board of County Canvassers of the City of New York. Among the other offices so mentioned, the Civil Justiceship must

necessarily be included. It seems to me there can be no escape from the conclusion, that under the words of Section 2 last quoted, the canvass of the votes for Civil Justice must be made not in Westchester, but in New York.

It is true the same section provides that the election must be held under the provisions of such laws as are in force in relation to elections in the city; and it may be objected that the election of Civil Justice was invalid, because the election was not, in many respects, conducted according to the election laws relating to New York. This may raise a difficult question; but the reasonable construction of the law seems to me to be, that the election in the towns referred to must conform, so far as practicable, to the regulations governing elections in the city. The Legislature having failed to extend to those towns the election laws specially relating to the city, can hardly have intended that the election for Civil Justice should be nullified by a failure in the towns to obey regulations relating to the City, many of which are directory and not mandatory. I acknowledge that lawyers and courts might differ on this subject; yet I cannot but think that the legal and fair way is to canvass the votes, and leave the question to subsequent adjudication, if counsel should regard the question sufficiently serious to call for judicial solution.

In further illustration of the legislative intent that the annexation, in all practicable respects, should be complete on the 1st of January, 1874, it will be seen that Section 4 provides for the then immediate extension of our New York school system to these towns. (See also Section 8.) So Section 6 provides that at the choice of municipal officers at the election next succeeding the passage of the act, which election would of course take place on the 4th of November instant, there shall be elected in the 23d and 24th Wards of New York, comprising the annexed territory, such municipal and other officers as may be lawfully voted for in each of the other wards of the city. Section 7 continues the functions of present officers in these towns only until December 31, 1873, except as may otherwise be provided by other parts of the act. And although during this present year of 1873 the officials of Westchester County are to collect taxes in these towns in the way there usual, yet taxes of 1873 that shall remain unpaid are to be collected and returned to the Comptroller of New York. A similar provision is made with regard to assessments for improvements. The public property in these towns is to be transferred to the City of New York, which assumes their public obligations. (See section 9.) And these provisions are to be carried out by the 2d of July, 1874.

It is not to be denied that although the act is in general well drawn, there are incongruities leading to doubts and uncertainties which require some amendatory and supplementary legislation. And neither is it to be denied that the act contains provisions which embarrass a decision upon the very question now submitted. For instance, in section 10 it is enacted that Justices of the Peace in office on the first of January, 1874, are to continue until the expiration of their respective terms. It will thus be seen that for a time these two new wards will be supplied with a double set of minor officers; yet this occurs with other provisions which continue pending litigations without change until they shall have been terminated. Without going into further particulars, it will be observed that other provisions confirm the view we have taken. So far as practicable, the annexation is to be made complete on the first of January, 1874; and to effect that object everything that could be practically done before that date is required to be consummated during the months of November and December preceding.

It is known that the 17th section, making annexation to depend upon a vote in its favor in both the counties of New York and Westchester, was not in the bill as originally passed. This section provides that the act shall be null if the electors of the two counties vote in the negative. The language is peculiar, and the validity of the act is perfect from the day of its passage, unless an adverse vote on the question of annexation should be cast on the 4th of November.

It will be observed that the votes given in both counties, for and against annexation, in accordance with section 17, are, in terms, required to be canvassed in the same manner as votes given for State officers are by law required to be canvassed and returned. But in section 5, which requires an election for a civil justice to be had only in the annexed territory, there is no provision as to where the canvass shall take place. But I think that section 2, in the words "other offices," must be held to include the

Civil Justice, and that the votes for this office must, according to the terms of this section, be canvassed in New York. I do not forget that section 18 provides that the act shall not take effect until the first of January, 1874, except as to such parts as are otherwise provided for; and as to such parts it shall take effect at the times in this act specified; and except also section 17, providing for a vote on annexation; which section 17 shall take effect immediately. Section 5, however, is express that the election for Civil Justice shall take place at the next general election, which I have already said, is, in my judgment, the election next after the passage of the act. The election for Civil Justice being ordered by section 5, I think the intent of the Legislature, that the votes shall be canvassed, is as plain as though such canvass had been in terms provided for. If I am right in this view, then the words of section 2, which I have referred to, are not, with respect to this Civil Justiceship, postponed in their operation; but must be regarded as taking effect upon the canvassing of the votes for this office, and must be held as requiring that the votes for this office, being one of the "other offices" not enumerated in section 2, must be canvassed not in the County of Westchester, but in the County of New York, and your Board should proceed with the duty enjoined by law.

I am, gentlemen,

Very respectfully,

Your obedient servant,

E. DELAFIELD SMITH,

Counsel to the Corporation, and Counsel to the Board of Canvassers.

By the ordinances of the city of New York in force before the Charter of 1873, the opening by the Commissioner of Public Works of proposals for contracts, might be adjourned from time to time, and the bids could not be opened until the presence of the Comptroller should be secured. The Charter provides that "The opening of the bids shall not be postponed if the Comptroller shall, after due notice, fail to attend." HELD, that the ordinary power of postponement is not abrogated by the provision last quoted, and that the opening of the proposals may legally take place upon an adjourned day, after due notice, with or without the Comptroller's attendance.

LAW DEPARTMENT, OFFICE OF THE COUNSEL TO THE CORPORATION, NEW YORK, Nov. 15, 1873.

Hon. Andrew H. Green, Comptroller,

SIR:—You request my opinion as to the effect of bids for contracts opened and awarded under the following circumstances:—

The ninety-first section of Chapter 335 of the laws of 1873, called the Charter, provides, among other things, that "all bids or proposals shall be publicly opened by the officers advertising for the same, and in the presence of the Comptroller, but the opening of the bids shall not be postponed if the Comptroller shall, after due notice, fail to attend."

In cases of proposed contracts now submitted for your approval of sureties, it appears that notwithstanding the language above quoted, the bids and proposals were not opened on the day advertised, but the opening was twice unavoidably postponed, and took place at an adjourned day.

Under the law as it stood before the enactment of the provision cited above, there was no such difficulty as I am now considering. The ordinance (Revision of 1866, page 192) provided that in the event of the Comptroller not attending, the estimates should not be opened, and that postponements might be had until his attendance could be secured.

The purpose was manifestly to ensure the assistance and supervision of the financial officer in the making of contracts which would ultimately become a charge on the city treasury, and require to be provided for by him; and also to constitute a check by one public officer upon another, probably in view of the fact that in former times street commissioners had been charged with fraudulent substitutions of bids, and with other similar practices in matters involving such large pecuniary interests.

The object of the recent provision in the new charter was obviously to permit the opening to take place in the absence of the Comptroller in the event of his inability to attend. Its purport is that the opening of the bids NEED NOT be adjourned in consequence of the omission of the Comptroller to be present. There was no intention to impair the ordinary power of postponement and adjournment.

In my judgment the provision can be construed according to its obvious intent, notwithstanding the peculiarity of the language.

Another part of the section requires that all contracts shall be given to the lowest bidder. He is entitled to receive it upon giving sufficient security. I am confident the Courts must so construe the entire section as to hold that the ad-

judgments referred to do not, under the circumstances of the cases now submitted, invalidate the award of the contracts to the lowest bidder, although the opening of the bids did not take place until an adjourned day. The old ordinances, including the one which allows adjournments of the opening of bids, are confirmed and re-enacted in one of the last sections of the charter. The provision, in effect, that there shall be no postponement on account of the Comptroller's absence is also found in the charter. Construing both the re-enacted ordinance and the new charter together, my opinion is that postponements of the openings may be had, but that it is not necessary to adjourn because the Comptroller may be absent.

Provisions of law relating to the time of opening bids for contracts are usually regarded as merely directory. (The People *ex. rel.* Knox et. al. v. The Village of Yonkers, 39 Barbour's Supreme Court Reports, page 270.)

I advise you that you can legally proceed to examine the offered sureties, and facilitate the completion of the steps necessary to the final consummation of the contracts.

I am, sir,

Very respectfully yours,

E. DELAFIELD SMITH,

Counsel to the Corporation.

A bill presented to the Board of Supervisors of New York, for the expense of removing a sunken obstruction from one of the slips of Brooklyn, at a point outside of low water mark, held a legal charge against the County of New York. The boundaries of the city stated.

LAW DEPARTMENT, OFFICE OF THE COUNSEL TO THE CORPORATION, NEW YORK, October 25, 1873.

Joseph C. Pinckney, Esq., Clerk of the Board of Supervisors,

SIR:—Your communication of the 17th inst., asks my opinion as to whether a bill presented to the Board of Supervisors for the removal of a sunken canal boat from one of the slips in Brooklyn, can be accounted a legal charge against the County of New York.

Section 1, chapter 522, of the laws of 1860, provides that in case of any sunken vessel or other thing which may become an obstruction to the navigation of the waters of the Port of New York, "the Board of Commissioners of Pilots shall cause the said obstruction to be removed, and the expenses of such removal shall be paid by the County within whose jurisdiction such vessel or thing shall be, and shall be recoverable from the owner or owners of such vessel or thing, by and in the name of the Board of Supervisors of such County; such expenses shall also be a lien on the vessel or thing so removed until paid."

Paragraph 5, of section 2, of title 1, of chapter 2, of the Revised Statutes, declares the boundaries of the County of New York to be as follows:

"The County of New York shall contain the islands called Manhattan's Island, Great Barn Island, Little Barn Island, Manning's Island, Nutten Island, Bedlow's Island, Bucking Island and the Oyster Islands; and all the land under water within the following bounds: Beginning at Spuyten Duyvel creek where the same empties itself into the Hudson river, on the Westchester side thereof, at low water mark, and running thence along the said creek at low water mark on the Westchester side thereof, to the East river or sound; then to cross over to Nassau or Long Island to low water mark there, including Great Barn Island, Little Barn Island, and Manning's Island; then along Nassau or Long Island shore at low water mark to the south side of the Redhook; then across the North river so as to include Nutten Island, Bedlow's Island, Bucking Island, and the Oyster Islands, to the west bounds of the State; then along the west bounds of the State until it comes directly opposite to the first mentioned creek, and then to the place where the said boundaries began."

It is evident from this statement that the sunken canal boat was within the boundaries of the County of New York, and that the bill is a legal county charge.

I am, sir,

Very respectfully yours,

E. DELAFIELD SMITH,

Counsel to the Corporation, and Legal Adviser to the Board of Supervisors.

MAYOR'S MARSHAL.

Licenses granted and amount received for licenses and fines by Marshal D. S. Hart, for week ending November 15, 1873:

Licenses granted..... 242
Amount received..... \$472 50

