THE CITY.

The Thermometer.

MARCH 2, 1862.			MARCH 2, 1863.		
6 A. M.	28	12 M. 37	6 A. M.	38	12 M. 52
3 P. M.	30½		3 P. M.	49	

WIND. WNW....N...NW by N. | WIND. SW.....S.....SW

NO CARDS.—To be at once elegant and exclusive, it is necessary for the newly-wedded pair to issue no cards at all. Their reception-rooms are open to the whole world. However wide opened in its charity this arrangement may seem, it is certainly as exclusive as any that could be desired. It is a silent, yet absolute ignoring of all whom one wishes to ignore; it is a sneaking, snivelling way of "getting out of it," of cutting dead, indirectly, those whom one would never openly cut. So, as a generous and refined invitation to the world, the result of a delicate polish in etiquette, only producible in the best circles of civilized society. A cotemporary remarks:

"The affix of 'no cards,' which is now so commonly appended to marriage announcements, is the trophy of a considerable effort of courage on the part of some unknown young lady. The bride who first conceived the idea of forcing her friends to be satisfied with receiving their knowledge of her change of state through the advertisement sheet of the *Times*, and to forego the luxury of learning it through the medium of shiny squares of pasteboard, must have been a woman of no ordinary mould. The mental agitation through which she must have struggled was such as only great reformers know. An English woman who could succeed in conventional observance, especially if she be of the middle class, possesses as courageous a soul, in her way, as The Buddhist who kills a mosquito, or the Jew who breakfasts upon sausages. But this was the least of her trials. When her own mental conflict was over, there was the public opinion of relatives and friends to be defied. With what bitter derision and affectionate insinuations was her project received in the bosom of her family! How it was talked over and over, on every possible occasion, by the simultaneous voices of all her sisters and all her female relatives! Her father shook his head, and said that no good ever came of these new-fangled notions. Her mother wept, and was sure it was those horrid essays and reviews that had put these ideas into young people's heads. Her brothers gustily pronounced it to be 'confounded stingy.' Her old nurse tearfully remarked that she remembered her when she was such a dear little thing, and who would did think it would have come to this; but, for her part, she was quite sure that Sir Cresswell Cresswell, who was a good, sensible sort of gentleman, never would allow it. But in the teeth of all these assailants, the heroic young bride, whose name is lost to history, persevered to the end, and in due time the announcement of her marriage appeared in the paper, with the fateful words, 'No cards' attached. And thus the first blow was given to that great and cancerous upon which English social life reposes. Many others have since followed in her steps, but they are only imitators and disciples. They have not led the forlorn hope of English respectability. They have not done that of which it could be said, 'My dear, nobody ever did such a thing before.'"

THE CITY TREASURY.—The City Treasurer and his active corps of assistants are daily engaged in paying off city-warrants as they are presented at the counter. No distribution is made in favor of any department of the City Government. During the short time in which all warrants have been paid, embracing a period of about two weeks, over $600,000 have been paid. During the week ending on Saturday the sum of $295,000 was paid by the Treasurer. Besides this, there were also paid on trust funds, $3,966.30; for matured loans, $1,600; and interest on loans, $31,117.74. The receipts during the week were from the following sources:

Taxes of 1862	$20,551 28
Taxes of 1863	7,048 78
From market rents	263 00
Water rents	19,402 33
Loan Department	978 33
City railroad tolls	102 22
Highway Department	834 40
Interest on bonds and mortgages	24 00
Fines and penalties	27 65

The Trust Funds realized $884.26, and the total receipts for the week amounted to $219,011.07. In this period of the year the receipts at the Treasury are generally heavy, and the payments are consequently equally so. The Treasurer states that it is his determination to pay the school teachers' warrants as long as the condition of the treasury will permit, and he is making every effort to remove all causes of complaint in that direction. The payment of the claimants is very much affected by the manner in which the citizens themselves pay their taxes and other obligations. So long as the City and its party-holders are negligent in the payment of their bills will the City Treasury be embarrassed, and the time for the payment of warrants be uncertain and indeterminate. The difficulties which the City Treasurer has to contend with, in order to deal with an even-handed justice, are not well understood by the public generally.

It should be remembered that nearly one-half of the receipts are credited to Sinking Funds and interest on the large debt of the City. The other receipts at the Receiver of Taxes' office would almost be sufficient to pay the warrants of all the municipal departments when presented, were it not for the drain upon the treasury, for the sinking Funds and payment of interest on city debt, and the loans as they are continually maturing. We are unable to see how long the present happy state of things may continue at the Treasurer's office, but we are assured by Mr. Schaeffer, the efficient chief clerk, that it will not end until all the money that can be spared from the treasury is paid out.

DISMISSED FROM THE SERVICE.—A general order, just promulgated, dismisses from the service of the United States the following named Pennsylvania and New Jersey officers:

First Lieutenant Thomas P. Traynor, 99th Pennsylvania Volunteers, cowardice; Lieutenant Colonel R. L. Griffiths, 8th Pennsylvania Cavalry, neglect of duty; Lieutenant Colonel Peter Baily, 12th Pennsylvania Volunteer Reserve Corps, absence without leave; Second Lieutenant John McGrath, 26th Pennsylvania, absence without leave; Lieutenant Colonel W. H. Armstrong, 129th Pennsylvania Volunteers, disobedience of orders and conduct prejudicial; Lieutenant Colonel Jesse Lee, 1st Pennsylvania Volunteers, mutinous language; Lieutenant Andrew J. Hoey, 1st Pennsylvania Volunteers, cowardice; First Lieutenant Thomas Ely, Lieutenant Wm. L. Gold, 61st Pennsylvania Volunteers, disobedience of orders; Adjutant Daniel B. Murphy, 38th New Jersey Volunteers, neglect of duty and absence without leave; First Lieutenant John M. Kline, 40th Pennsylvania Volunteers, disobedience of orders; Captain Peter Keeler, 1st Lieutenant John B. Donald, 8th New Jersey Volunteers, drunkenness; Second Lieutenant Joseph A. Stanton, 1st Pennsylvania Volunteers, disobedience of orders; Second Lieutenant Joseph B. Rischey, 1st Pennsylvania Reserve Cavalry, desertion of his post in the face of the enemy; Lieutenant Colonel T. Fred. Gast, 123d Pennsylvania Volunteers, encouraging mutiny; Assistant Surgeon John S. Angle, 123d Pennsylvania Volunteers, absence without leave; First Lieutenant Samuel Hopper, 126th Pennsylvania Volunteers, absence without leave; First Lieutenant Samuel Hopper, 126th Pennsylvania Volunteers, absence without leave; First Lieutenant Thomas Goodman, 6th New Jersey Volunteers, disobedience of orders; First Lieutenant William Brown, quartermaster, 28th New Jersey Volunteers, and Second Lieutenant William J. Cook, of same regiment.

TAX ON WHITING, PUTTY, &c.—J. Fletcher Budd, Esq., assessor of the Third Collection district, is in receipt of the following important decision by the Chief Commissioner of Revenue:

"Your letter of the 28th ultimo, covering a communication from Messrs. French, Richards & Co., on the subject of whiting, putty, &c., has been received. In answer I have to say, that I am compelled to think that the process of making whiting is a manufacture, and liable to a duty of three per centum ad valorem; and the manufacturer is equally liable to the tax thereon whenever he shall use or consume the same in the manufacture of putty or otherwise, as when he sells the whiting as an article of traffic or commerce, or removes the same for sale. Putty is also a manufacture, and is also liable to duty because whiting, one of its principal ingredients, has already paid a tax of three per cent. If you strictly enforce the decision, the manufacturer who converts chalk into putty has no advantage, in the matter of tax, over him who purchases and mixes the whiting with oil."

DEATH OF MRS. ADMIRAL READ.—We are pained to record the death of Mrs. Admiral Read, which occurred, suddenly, on Sunday evening, at her residence, No. 1333 Pine street. Mrs. Read attended her accustomed place of worship, at Tenth and Chestnut streets, on Sunday morning, in apparent health, and it was on her return thither in the evening that she was taken ill. She was conveyed to her residence, where she expired a few minutes afterwards, from an attack of paralysis. Among the hundreds in this city who will mourn the departure of this estimable and highly accomplished lady, are multitudes of the poor to whom in life she was a minister of mercy. There are but few indeed in the annals of life such whose lives have more beautifully or more constantly reflected the appreciable *goodness* of a devoted Christian.

STATE MEDICAL BOARD.—Surgeons Read, Rohrer, and Lane, of the Pennsylvania Reserves, with the Surgeon General and Assistant Surgeon General A. W. Green, will compose the Board to examine candidates for medical appointments in Pennsylvania Reserves.

The examination as authorized, will commence Thursday 26th inst., and will be held in Sansom-street Hall, between Sixth and Seventh streets, Philadelphia.

Candidates are invited to register their names, as early as possible, between 9 and 10 o'clock A. M., at the Hall.

PHILADELPHIA WATER WORKS.—The following statement will exhibit the operations of the Philadelphia Water Works during the month of February, 1863:

	Gallons of water pumped during the month.	Average number gallons pumped per day.
Fairmount	249,813,626	8,921,911
Schuylkill	123,321,910	4,404,322
Delaware	95,889,000	3,425,174
Twenty-fourth ward	34,072,740	1,216,853
Total	492,796,355	17,959,359

CONTRACTS AWARDED.—The following awards of contracts have been made at the quartermaster's office, in this city:

75 pualins to John Welsh, at $103; 115 medicine wagons to Wilson, Childs, & Co.—30 at 225, 10 at $239.95, and 15 at $275; 55 medicine wagons to Henry Simons—30 at $235, and 15 at $275.

DEATHS AT ARMY HOSPITALS.—The deaths at army hospitals, reported yesterday, are as follows:

Chestnut Hill—John D. Hovis, Company G, 99th Penna.

Broad street—Hugh Mannon, Company G, 6th N. J.

THE PENNSYLVANIA RAILROAD ANNUAL ELECTION.—The annual election of the stockholders of the Pennsylvania Railroad Company was held yesterday. The following is the ticket for directors voted: J. Edgar Thomson, Josiah Bacon, Thomas Mellon, John Tatnall, D. D. Rosengarten, Wister Morris, G. W. Cass (Pittsburg), William H. Smith (Pittsburg), Samuel T. Bodine, Joseph B. Myers.

ATTEMPTED SUICIDE.—A lodger in the Twentieth-ward station, named Valentine Hoffman, cut his throat with a penknife about half past six o'clock yesterday morning. A severe wound was inflicted, although it did not prove fatal. Hoffman is about 55 years of age, and says that his wife resides at Egg Harbor city, N. J.

COLLISION.—About ten o'clock yesterday morning some coal cars came in collision with a passenger car, at Second and Willow streets. The passenger car was thrown from the track against a lamp-post, and was considerably damaged. One or two passengers were slightly bruised, but no one seriously injured.

ENTERED ON HIS DUTIES.—Mr. George Schofield, the new Commissioner of Highways, entered upon his official duties yesterday morning. Edward Willer was appointed license clerk, and Robert J. Hemphill miscellaneous clerk.

ATTEMPTED ROBBERY.—About 7 o'clock, on Sunday evening, an attempt was made to rob a cigar store, at No. 68 North Sixth street. The back door was forced open, but the thieves were frightened off without any booty.

EFFECTS OF THE WIND.—An unfinished brick dwelling house on Tenth street, below Tasker, was blown down on Sunday evening by the high wind. No one was injured.

FOUND DEAD.—John Riley, aged fifty years, a lodger in the Twenty-third-ward station-house, was found dead in his cell yesterday morning.

THE POLICE.

[Before Mr. Alderman Beitler.]

Danville Tax Collector Arrested.

Israel Critz, a constable and collector of school tax, in Danville, Montour county, Pa., was arraigned yesterday before Mr. Alderman Beitler, on the charge of collecting about $1,500 of the tax and then absconding. It was ascertained that he had gone to Philadelphia. A warrant was issued by Joseph K. Philips, a justice of the peace of Danville, and this legal document being placed into the hands of Detectives Bartholomew and Lamon, these gentlemen laid their plans to arrest the alleged fugitive. A decoy box was sent to the Reading railroad depot, and a wrench was set. Yesterday morning Critz applied at the depot, and enquired if anything was there for him. The clerk told him yes and delivered the box into his custody. A few moments after this, the detectives tapped him on the shoulder.

"How are you Critz," exclaimed one of them, at the same time extending the hand of "a friend you don't recognize me."

"Well, no, not exactly," replied he.

"Don't you remember seeing me at Danville last summer?"

Critz couldn't bring him to recollection.

By this time the detectives were quite sure of the man, and then made themselves known, and their business.

Critz became chop-fallen; he stared and gaped, and quietly went with the officers to the Alderman. After a hearing, he was committed in default of $1,500 bail. He will be taken to Montour county to-day. It is said that he had left home, and arrived in this city a few days since, and was in company of a woman with two children. The party were about to go to housekeeping somewhere in Philadelphia, so it is thought by the police, but his unexpected arrest has suddenly checked his intentions.

[Before Mr. Alderman White.]

Robbery and Prompt Arrest.

A colored man, giving the name of Wm. Fleming, was arrested yesterday afternoon by Officer Mervine, on sight, charged with breaking open the trunk of John Wesly Sharkly, another colored man, residing on Market street, between Eighth and Ninth, Knightsville, Camden, N. J., and stealing $10 in United States money, a watch worth $10, and a pair of pants worth $3. The accused was arraigned before Mr. Alderman White. It seems from the evidence that the accused lived in the same house with Sharkly, and yesterday while the latter was at work at the railroad depot, it is alleged the prisoner went into his room, forced open the trunk, stole the things named above, and then came to Philadelphia.

Mr. Sharkly knew nothing of the robbery until he went home to dinner. After he had partaken of this meal he came to this city in search of the suspected individual, and yesterday afternoon saw him somewhere about Dock street. He had on the stolen pantaloons. Officer Mervine was at hand and at once arrested the individual. After a hearing, the accused said he had no questions to ask nor any statement to make.

He was committed in default of $1,000 bail to await the requisition of the authorities of New Jersey.

Larceny of Shirts.

George Wilson was arraigned before Mr. Alderman White, on the charge of the larceny of a box of shirts stolen from the store of Thomas Maston, on Market and Water streets. The accused was seen to take it, and was arrested by Officer Shankland, of the harbor police. The accused was committed for answer.

Constructive Larceny.

A young man, giving the name of William McFarland, was also arraigned before Alderman White, on the charge of the larceny of a pair of boots, the property of John Ward, a shoemaker, on Locust street, above Eighth. The prisoner evinced a desire to take airs upon himself, under the impression, perhaps, that the suit against him should be a civil one. The revised code, however, makes it criminal. The facts, as developed at the hearing, are as follows: About two weeks before Christmas, the accused entered the shop of the prosecutor, and procured for a pair of boots; they were done in a day or two, when he called again, and tried them on; they fitted him uncommonly nicely, and he seemed pleased with them. It was about one o'clock in the day. He said he was going to bank to draw some money, and would stop again in the afternoon and pay for the boots. He left his old shoes to be repaired. This was the last seen of him until yesterday, when he was taken into custody. An opportunity is given him to pay for the boots thus obtained, but he has not avail himself of it effectually. He was committed to prison in default of $800 bail to answer.

[Before Mr. Alderman Dougherty.]

Hunting a Fight.

Wm. Ryan and Wm. J. Burns have been held to bail by Alderman Dougherty, to await a further hearing on the charge of assault and battery, with intent to kill John Madden. All the facts have not yet been developed in this case, but from what has been elicited it seems that Madden hunted a fight and got badly whipped. He was terribly gashed on the head and face, either with a knife or bottle. It seems that two rival parties met at a dance-house somewhere in or about the locality of Brend and Race streets. Considerable wrangling and disputing occurred. Finally, one of the parties went to a neighbor, on Third street, near Callowhill. In a short time Madden and a young man named O'Neill, and one or two others, perhaps, went there. It was not long before the war of words was resumed, whereupon, as it is alleged, some person having authority in the cellar told them they must make no noise there; if they wanted to fight, to go into another room. This reference was accepted, and the parties went in, and the fight commenced. It was of short duration, and decidedly bloody. Madden has been in the hands of the police before. He was taken to the Sixth-ward station-house, where his wounds were dressed by Dr. Childs. He had several frightful gashes on his forehead, and temples, and scalp. From the fact that particles of glass were sticking in his skull, it is evident that a glass bottle was used to beat him with.

[Before Mr. Alderman Welding.]

Alleged Conspiracy Among Military Men.

The case of Alfred Liken and Edwin Liken, charged with conspiracy by Colonel Erawein to take his commaud taken from him, is still pending before Mr. Alderman Welding. There have been already two hearings. The third, and probably the last, will take place at 10 o'clock to-morrow morning.

The facts, so far as developed, are these: Alfred Liken was quartermaster of the regiment of Colonel Erawein; Edward Liken is a son of the quartermaster. He had no pretensions to a captaincy in the regiment provided he mustered in a sufficient number of men. He did not obtain enough, but had sufficient to entitle him to a second lieutenancy. He had himself been mustered in as such. Colonel Erawein proceeded to Colonel Ruff, and had him turned out from that position, and appointed a man of his own choosing in his place. This is the cause for the alleged conspiracy. It was in evidence that the father of the deposed second lieutenant exhibited $500 in green-backs, and swore by his Maker that he would have satisfaction, and would pull him off his horse. It was also in evidence that Colonel Ruff knew how to fix the plan; he was booked up, &c. It was further in evidence that a person said to the father and son that he believed they were conspiring to throw the colonel out of his position, to which the father replied, that's just what they intended to do, and he would spend five hundred dollars to accomplish it. It is alleged by the colonel that one of the levers in the conspiracy was to sue him, because he had not paid over to a certain soldier bounty money received. The colonel alleges that he is the guardian of said soldier, who is a minor, and has a legal right to hold the money.

These are about all the facts that have so far been developed in the case. The proceedings have excited more than usual interest. The defendants were held in $800 each to appear at 10 o'clock tomorrow morning.

[Before Mr. Alderman Carter.]

Brutality of a Husband.

John Farrel is the name given by a man who was arraigned yesterday morning, before Mr. Alderman Carter, at the Eighth ward station, on the charge of wife-beating. The accused resides in the vicinity of Twenty-fourth and Sansom streets. On Sunday night he beat his wife in a cruel, savage manner. She screamed for help, and awakened the neighborhood with the appalling cry of murder. Officer McKinney, of the Eighth division of police, rushed into the house to rescue the woman. He was despatched to the house by the police station, and assured for a pair of boots; they were done in a day or two, when he called again, and tried them on; they fitted him uncommonly nicely, and he seemed pleased with them. It was about one o'clock in the day. He said he was going to bank to draw some money, and would stop again in the afternoon and pay for the boots. He left his old shoes to be repaired. This was the last seen of him until yesterday, when he was taken into custody. An opportunity is given him to pay for the boots thus obtained, but he has not avail himself of it effectually. He was committed to prison in default of $800 bail to answer.

Police Statistics.

The arrests made by the police of all divisions during the month of February are as follows:

1st District	214	11th District	62
2d "	364	12th "	65
3d "	256	13th "	38
4th "	256	14th "	30
5th "	188	15th "	61
6th "	133	16th "	52
7th "	74	Harbor	17
8th "	80	Reserve	119
9th "	101		
10th "	125	Total	2,228

LEGAL INTELLIGENCE.

Supreme Court of Pennsylvania—Chief Justice Lowrie, and Justices Thompson, Strong, and Read.

RAILROAD COMPANIES NOT LIABLE FOR INJURIES TO PERSONS WHO ARE ON THE LINE OF THE RAILROAD WHERE THEY HAVE NO RIGHT TO BE.

The Philadelphia and Reading Railroad Company vs. Hummell. Error to the District Court of Philadelphia. Opinion of the court by Strong, J.

There is but a single question in this case. It is whether any evidence was given at the trial tending to prove that the hurt of the plaintiff was caused by the negligence or want of ordinary care of the defendants. All other questions were correctly disposed of by the learned judge who presided in the District Court. What is ordinary care, and what is negligence, are inquiries, in most cases, to be answered by a jury; but a negligence is not to be found without evidence. There is always a presumption against it, and therefore a plaintiff who asserts it, and avers that he has received an injury in consequence of it, must always adduce proof that the defendant did not exercise ordinary care. If no such proof be adduced, the presumption of law remains, and it is error to submit to the jury the question whether there was negligence.

What, then, was the evidence? The accident by which the plaintiff was hurt occurred on a railroad, not at any street or crossing, but where neither the plaintiff nor any other persons except those employed in the railroad company had any right to be. The defendants were doing what it was their right and their duty to do; the cars were moving slowly by the force of gravity, yet so perfectly under the control of the engineer that they could be immediately stopped, and the plaintiff was not injured by striking against them, but by his coming upon the track and getting under them while they were in motion. Passing by now the affirmative proof of prudence and caution exercised by the defendants with which the case abounds, and admitting that the carelessness of the plaintiff is not a bar to his recovery, because he is a child, we ask what did the defendants leave undone which ordinary care required them to do? The only alleged omission is that the whistle of the engine was not blown and no signals given to the people in the neighborhood that the cars were about to start, or that they were in motion. No other evidence of negligence is pretended.

It is time it should be understood in this State that the use of a railroad track, cutting, or embankment is exclusive of the public everywhere, except where a way crosses it. This has more than once been said, and it must be held so, not only for the protection of property, but, what is far more important, for the preservation of personal security, and even of life. In some other countries it is a penal offence to go upon a railroad. With us, if not that, it is a civil wrong of an aggravated nature, for it endangers not only the trespasser but all who are passing or transporting along the line. A long ago as 1862 it was said by Judge Gibson, with the concurrence of all the Court, that "a railway company is a purchaser, in consideration of public accommodation and convenience, of the exclusive possession of the ground paid for to the proprietors of it, and of a license to use the highest attainable rate of speed, with which neither the person nor property of another may interfere."

The company on the one hand, and the people of the vicinage on the other, attend respectively to their particular concerns, with this restriction of their acts that no needless damage be done. But the conductor of a train is not bound to attend to the uncertain movements of every assemblage of those loitering or roving cattle by which our railways are infested: Railway Company vs. Skinner, 7 Har., 298. So in Railroad vs. Norton, 12 Har., 465, it was said, "That until the Legislature shall authorize the construction of railroads for something else than travel and transportation, we shall hold any use of them for other purposes to be unlawful, if not, indeed, a public offence punishable by indictment. But if the use of a railroad is exclusively for its owners, or those acting under them; it others have no right to be upon it; if they are wrong-doers whenever they intrude, the parties lawfully using it are under no obligations to take precautions against possible injuries to intruders upon it. Ordinary care they must be held to, but they have a right to presume and act on the presumption that those in the vicinity will not violate the laws; will not trespass upon the right to a clear track; that even children of a tender age will not be there; for, though they are personally irresponsible, they cannot be upon the railroad without a culpable violation of duty by their parents or guardians. Precaution is a duty only so far as there is reason for apprehension. No one can complain of want of care in another, where care is only rendered necessary by his own wrongful act. It is true, that what amounts to ordinary care under the circumstances of a case is generally to be determined by the jury. Yet a jury cannot hold parties to a higher standard of care than the law requires, and they cannot find anything negligence which is less than a failure to discharge a legal duty. If the law declares, as it does, that there is no duty resting upon the parties to anticipate wrongful acts in others, and to take precaution against such acts, then the jury cannot say that a failure to take such precautions is a failure in duty and negligence. Such is this case. The defendants had no reason to suppose that either man, woman, or child might be upon the railroad where the accident happened. They had a right to presume that no one would be, and to act upon the presumption. Blowing the whistle or ringing the bell, or making any other signal, was not a duty owed to the persons in the neighborhood, and consequently the fact that the whistle was not blown, or a signal made, was no evidence of negligence. Were it worth while, abundant authority might be cited to show that the law does not require any one to presume that another may be negligent, much less to presume that another may be an active wrong-doer. The judgment must be affirmed.

CLAIM FOR LAND IN TAKING THE DELAWARE, LACKAWANNA, AND WESTERN RAILROAD COMPANY, 6 Casey, 454. It is too well founded in reason, however, to need authority. We act upon it constantly, and without it there could be no freedom of action. There is as perfect a duty to guard against accidental injury to a night intruder into one's bed-chamber as there is to look out for trespassers upon a railroad where the public has no right to be.

And the rule must be the same whether the railroad is in the vicinity of many or few inhabitants. In the one case as in the other, going upon it is unlawful, and therefore, need not be expected. In this case it appears that there are dwelling houses between the railroad and the public highway, all but two of them built since the railroad was constructed. The danger of trespasses may have increased because of the increase of the population, but the standard of duty in the use of one's property is not elevated or depressed by a varying risk of unlawful intrusions upon his rights.

Of course, we are not speaking of the duties of railway companies to the public at lawful crossings of their railways. We refer only to their obligations at points where their right is exclusive; and as we can find no evidence of any negligence of the defendants which caused an injury to the plaintiff, we think the jury should have been so instructed, and the third and fifth points of the defendants should have been affirmed.

Judgment reversed and a new venire ordered.

THE CITY OF PHILADELPHIA IS NOT RESPONSIBLE FOR THE MISCONDUCT OF OFFICERS ELECTED DIRECTLY BY THE PEOPLE AND OVER WHOM THE CORPORATION HAS NO CONTROL. THE PARTY INJURED MUST LOOK TO THE WRONG-DOER OR HIS SURETIES.

Alcorn vs. The City of Philadelphia. Opinion by Thompson, J.

The officer for whose dereliction it is attempted to hold the city was a local functionary authorized by statute, not by ordinance; elected by the people of a defined district, and not subject to removal by the corporate authorities. Notwithstanding this, it is claimed that the city is answerable to the plaintiff for alleged negligence on the part of the surveyor, resulting in a misdoctrine of the highways, for which the city corporation had no concern or control.

Without there is something springing out of the relationship between the surveyor and the city corporation, sanctioned by legal principles, local custom or usage, which will constrain us to adopt the conclusion contended for by the plaintiff's counsel, there being no statute which does so, we will not be likely to do so, considering it as a case of the first impression. The doctrine of respondeat superior cannot, I think, be invoked to aid a case of this kind. It applies most generally to cases of domestic servants, and to have been given by some supposed this, if we use the term in its popular sense. It rests, however, certainly on the fact that the servant is of the master's selection, and is by him appointed to do the particular work or perform a defined duty, although not under his direct superintendence. Now, in the case in hand, the selection of the officer was not by the corporation as a corporation, but by the people in their sovereign capacity. Nor was the surveyor directed or commanded by the corporation to perform any duties of Mr. Warden, of which the plaintiff complains. He did it in pursuance to the law of the statute. Unless, therefore, we disregard these well-settled principles, constituting the relation of master and servant, we cannot give effect to the consequence which do not flow from them, and render a party liable for them, although they do not exist in his case.

I have carefully examined the various statutes on the subject of city regulators or surveyors, from the act of 1705 down to and including the act of 1836, but will not encumber this opinion with a digest of them. They all show, what some of them express, that they were established for the public convenience in the location of foundations for buildings, party walls, and the lines of lots for individuals, and to prevent encroachments upon the streets, and to lay out streets, &c., for the city." Irregularities in surveys are supposed to be best prevented by having designated officers to survey, and the public convenience prevented by making their acts and awards final, unless appealed from. To facilitate the officer to make the surveys in each district, and require them to keep an office where they might be found, and where the plans of the city might be seen, was a great convenience to the people; but as they were to be paid by fees for each individual requiring their services, they thus would become the agent of the party so employing them, and not the agent of the city in the business, and, consequently, liable to the party thus employing them for any negligence in the performance of that duty. What seems to me a conclusive consideration in this question is, that the city has no right to direct the surveyor to perform the work in any particular way, nor could they correct it if wrong, or correct it in any manner except by the only mode pointed out for correction of mistakes or errors is by an appeal to the judicial tribunals either directly or indirectly; and if indirectly, that the officer would be answerable to the party injured by it, but not, I apprehend, for an error of judgment. The must be corrected as judicial.

It is supposed that cities and townships, being liable in their corporate capacities for the neglect of their officers to repair the highways, as held in Draw vs. Milford township, 9 W. and S., and in Erie city vs. Schangle, 10 Har. 384, and in more recent cases, sanctions a recovery in this case. We do not think so. Distinctions and must be observed where duties and obligations differ, although they may have their origin in the same source. Townships and cities are bound to keep the roads and highways, and upon them (for they open them) invite travel, and are the exclusive authority to raise the money to construct and repair them; and the party injured by reason of neglect to repair may look directly to the party bound to repair. But neither city, county, nor township is required or furnished by law with the means to employ the people to lay out their foundations for buildings or party walls. This is not a public duty; it is private, and they are required by virtue of their corporate capacity to do it, and there is no statute requiring it to be done. Public law has established the office of surveyor for the purpose of laying out the public highways, and are, as in the case in hand, of a private nature, and if, in the manner of performing, they cause injury from negligence or unskillfulness, the party employing the officer must look to him for redress.

There are many local offices and some of them particularly municipal in their functions, established for the convenience of individuals composing society, as well as society in its aggregate or corporate character, such as aldermen, justices of the peace, constables, sheriffs, county surveyors, and the like; and it would be a very hard doctrine that the parties are elected being held answerable for their acts or omissions. I do not find anything in ordinary municipal incorporations, and nothing in the charter of Philadelphia to change this general principle of non-liability, nor in the law applicable to municipal corporations, where the relation of principal and agent does not exist in fact. Where private parties are injured by the carelessness or negligence of all such functionaries, the redress is had directly from the wrong-doer. So we think it must be in a case like this. We speak not of a case where there is security, for then it may be upon the bond of the officer and his sureties. This system of surveyors or regulators has been in force for over a hundred and forty years in this city, and we find no adjudicated case of a recovery such as is claimed here. It can hardly be supposed that this is the first time that occasion has arisen inviting the trial of the experiment; but we have no reported case, and that no one has before thought it possible to succeed in it.

When Amos Styles, the surveyor complained of here, was elected, there was no authority given him to give security for the faithful performance of his duties. But I do not think we need discuss this branch of the case, even supposing that security might have been required of him for the faithful performance of *all* his duties, public and private, which I think ought to be the rule, if the law will permit it, as I do not see how it will be evidence going to show that the plaintiff was injured for want of the security. The point reserved below was, not whether, upon all the evidence, the plaintiff was entitled to recover. Now, although it is by the 13th section of the act of 1856, made the duty of Councils to "examine the Surveyor's department, and take security from and prescribe the duties of the District Surveyor," still there could be no recovery for the omission to do so, unless there is some way that it contributed to the injury of the plaintiff.

We do not mean to decide any question about the security to be taken, and for whose use it is entered when taken. We have in this last case stated the case hypothetically—that is to say, if the city was bound to take the security from Styles, and neglected to do it, it was necessary that the plaintiff should show when and how he was injured thereby. This he has not done. And for all these reasons the judgment is affirmed.

The following decisions were also rendered by the court.

BY CHIEF JUSTICE LOWRIE.—

City of Philadelphia vs. University of Pennsylvania. From District Court of Philadelphia. Judgment affirmed.

Price's appeal. From Orphans' Court of Philadelphia. Affirmed on an equal division of the judges.

BY THOMPSON, J.—

Theological Seminary vs. Wall. From Supreme Court at Nisi Prius. Judgment reversed and a *venire de novo* awarded.

Sim's appeal (Burd's estate). From Orphans' Court of Philadelphia. Decree affirmed.

BY STRONG, J.—

Speakman vs. Forepaugh. From Supreme Court at Nisi Prius. Decree affirmed.

Hill vs. Bowman. From District Court of Philadelphia. Judgment affirmed.

BY READ, J.—De Barry vs. Withers & Peterson. From District Court of Philadelphia. Judgment affirmed.

The following orders were also entered:

The Berks and Cheraleld counties list was then taken up, and the following cases disposed of:

Mullen vs. Wilson. From Common Pleas of Berks county. Argued by J. Hagenman and John S. Richards, Esq., for plaintiff in error, and Henry W. Smith, Esq., and Hon. John Banks for defendant in error.

Shollenberger vs. Filbert. From Common Pleas of Berks county. Argued by Hon. John Banks for plaintiff in error. The court declined to hear counsel for defendant in error.

Delaware vs. Cutler. From Common Pleas of Berks county. Argued by Hon. John Banks for plaintiff in error, and by Jacob J. McKinty, Esq., for defendant in error.

Full vs. Kerper. From Common Pleas of Berks county. Argued by J. S. Richards, Esq., for plaintiff in error, and by Hon. John Banks for defendant in error.

Adjourned until this morning at 10 o'clock.

Supreme Court at Nisi Prius—Justice Woodward.

Abraham vs. Trepner. An action of ejectment to recover possession of certain real property. On trial. Wm. H. Rawle, Esq., for plaintiff; F. C. Brewster, Esq., for defendant.

Court of Oyer and Terminer and Quarter Sessions—Judge Allison.

Owen Hughes was put on trial yesterday, charged with maintaining a nuisance at his factory in the vicinity of Lonsdale Pike and Thirty-fourth street, West Philadelphia. The defendant is engaged in the business of rendering tallow, and it is alleged that the noisome vapors escaping from the factory are an intolerable nuisance. The defence called residents of the neighborhood, who testified to having experienced no inconvenience from the factory and its use as above stated. On trial. T. Passmore Hanbest for prosecution; E. Spencer Miller, Esq., for defence.

District Court in Banc—Judges Sharswood, Strong, and Hare.

The March term of the District Court commenced yesterday, and the court was engaged with the current and deferred motion lists. The new trial motion list will be taken up this morning.

PHILADELPHIA BOARD OF TRADE.

THOMAS KIMBER, Jr., ISRAEL MORRIS, JOSEPH C. GRUBB, } COMMITTEE OF THE MONTH.

LETTER BAGS

AT THE MERCHANTS' EXCHANGE, PHILADELPHIA.

Ship Shetsenne, Oxnard	Liverpool, soon
Ship Cowings, Card	Liverpool, soon
Ship Berry Cook, Morgan	London, soon
Brig Ella Reed, Jarman	Havana, soon

MARINE INTELLIGENCE.

PORT OF PHILADELPHIA, March 3, 1863.

SUN RISES.....6 52—SUN SETS.....5 54
HIGH WATER.....12 03

ARRIVED.

Steamship Continental, Marshman, 20 hours from New York, to Alexander Heron, Jr. & Co. Passed off the Buoy on the Brown bark Washington Butcher, from Messina, bound up.

Bark Imperador, Power, 24 days from Pernambuco, with sugar and hides to Lewis & Dimon. Feb 26, lat 26 53 N, long 67 43, passed a U S bark steering south. Left no American vessels at Pernambuco.

Bark Pilot Fish, Chase, 12 days from Matanzas, with molasses to John Mason & Co—vessel to J E Bazley & Co.

Brig Tangent, Tibbetts, 9 days from Cardenas, with molasses to S & W Welsh—vessel to J E Bazley & Co.

Brig Wm F Parks, McAlery, 16 days from Sagua, with molasses to Stewart, Carson & Co—vessel to E A Souder & Co.

Brig Julia, Smith, 2 days from New York, with indse to D S Stetson & Co.

Brig A Hopkins, Leerhoff, 3 days from New York, in ballast to Workman & Co.

Schr Margaret Powell, Fenton, 4 days from Annapolis, in ballast to Tyler, Stone & Co.

Schr Jane E Baker, Henderson, from Fortress Monroe, in ballast to captain.

Schr Wm L Springs, Adams, from Pensacola, in ballast to D S Stetson & Co.

Schr Rachel Seaman, Seaman, 15 days from Cienfuegos, with sugar and molasses to S & W Welsh.

Schr Hattie Ross, Poland, 15 days from Cardenas, with sugar and molasses to S & W Welsh—vessel to J E Bazley & Co.

Schr Martha Nichols, Munson, 13 days from Cardenas, with molasses to master—vessel to J E Bazley & Co.

Schr Lady Suffolk, Moody, 12 days from Gloucester, Mass, with scows to captain.

Schr F C Simmons, Atkins, 4 days from Providence, with indse to Geo B Keyes.

Schr Corn, Masten, 1 day from Brandywine, Del, with flour to R M Lea.

Schr Fast, Trunx, 1 day from Leipsic, Del, with grain to Jas L Bewley & Co.

Schr E H Conrad, Rich, 6 days from Boston, with mdse to Crowell & Collins.

Schr Leesburg, Blake, 12 days from Portland, with lumber to master.

Schr J B Austin, Davis, from New York, in ballast to order. Caldwell.

Schr Mountaineer, Green, 3 days from Baltimore, with salt to Wm Bumm & Son.

Schr Delaware, Conner, 1 day from Smyrna, Del, with corn to Jas Barratt & Son.

Schr Diamond State, Sill, 2 days from Milford, Del, with corn to Jas Barratt & Son.

Schr Andrew Mauship, Collins, 2 days from Milford, Del, with corn to Jas Barratt & Son.

Schr Wampanoag, Savin, 1 day from Smyrna Del, with corn to Jas Barratt & Son.

Schr Black Diamond, Young, from Greenport.

Schr Antarex, Cordery, from New London.

Schr Geo M Smith, Smith, from Salem Creek.

Schr Glenwood, Dickerson, from Newbern.

Schr Mary Haley, from Fortress Monroe.

Schr J Birdsall, Hazelton, from Washington.

CLEARED.

Brig F M Strong, Strong, St Thomas, J E Bazley & Co.

Schr White Rock, Ellwood, Alexandria, Tyler, Stone & Co.

Schr M Powell, Fenton, Alexandria, do

Schr S P Lee, Haley, Fortress Monroe, do

Schr Mary & Frances, McDonald, Alexandria, do

Schr Kansas, Outten, Alexandria, do

Schr E A Hall, Pickup, Alexandria, do

Schr Black Diamond, Young, N York, J R Blakiston.

Schr Antarex, Cordery, N York, Noble, Caldwell & Co.

Schr Glenwood, Dickerson, New