Pittsburgh Gazette.

OFFICIAL PAPER OF THE CITY.

MONDAY MORNING, JULY 22, 1861.

CITY AFFAIRS.

METEOROLOGICAL Observations for the *Gazette*, by G. E. Shaw, Optician, 88 Fifth St.—corrected daily:

	IN SUN.	IN SHADE.
9 o'clock, A. M.	102	80
12 " M.	132	84
6 " P. M.		72
Barometer		29 9-20

The Cunningham Case—New Trial Granted. In the Court of Oyer and Terminer, on Saturday, Judge Mellon, Associate Law Judge, gave a decision upon the motion for a new trial in the case of John Cunningham, convicted of murder in the second degree, in the killing of David Frew, of Allegheny. He stated that he had carefully investigated the case, and was compelled reluctantly to render a different opinion from that held by the President Judge. His opinion, however, was that of a majority of the Court. He then gave, at considerable length, the views of the majority, and concluded by granting the motion for a new trial.

Judge M'Clure remarked that he had not written a dissenting opinion, as his Associate had not committed his opinion to writing. He took occasion to remark, however, that after careful examination, it was his firm conviction that a new trial should not be granted. The jury were the judges of the *facts*; and the Court had no more right to disturb their verdict, than the jury would have to disregard the *law* as laid down by the Court. Nevertheless, he cheerfully acquiesced with his brethren in the conclusion at which they had arrived—all being governed by honest and conscientious motives.

Judge M'Clure then read the following, which he ordered to be filed:

"After a careful review of the law and the testimony in this case, the President Judge of the Court is constrained to dissent from the opinion of the majority in granting a new trial. I am of opinion that a new trial should be refused.

"Where a prisoner is convicted of a lower grade of homicide, and obtains a new trial, it by no means follows that he will be acquitted on a second trial, nor found guilty of a lower grade than that of which he was convicted. For example—if, on a second trial, a prisoner is convicted of a higher grade of crime, his former verdict furnishes no reason for disturbing it. In this case, as in all others where a new trial is granted, it becomes the duty of the Court to enter of record their solemn warning, that a prisoner is voluntarily placing his life in jeopardy. This Court, therefore, and each and every Judge thereof, as in duty we are bound to do, now place on record our solemn warning and admonition, in which all the members of this Court concur."

Important Railroad Case Decided. A few days since Judge Williams delivered a decision in the case of James Robinson & Co. vs. the Ohio and Pennsylvania Railroad Company, upon a rule to show cause why the levy, condemnation, etc., should not be set aside. The rule was made absolute, and the point decided was—that property in the hands of a Receiver, appointed by a Court of Chancery, is not liable to seizure and sale under execution on a judgment at law.

The facts in the case are thus stated: On the 24 of May, 1855, James Robinson, the plaintiff, instituted an action of assumpsit in the District Court of Allegheny county, against the Ohio and Pennsylvania Railroad Company, and on the 20th of October, 1857, obtained an award in his favor against the said Company for the sum of $6,728; upon which a writ of *fi facias* November term, 1860, was issued, and on the 16th of October, 1860, by virtue of said execution, a levy was made on a lot of ground situate on the north side of Fifth street, in the Third ward of the city of Pittsburgh, having a three story brick building erected thereon, which was condemned by the Sheriff's inquest on the 27th of December, 1860, and thereupon a writ of *vend ex* was issued to January Term, 1861, for the sale thereof.

The property levied on was purchased by the O. & P. R. R. Co., for the purpose of establishing therein a General Office for the transaction of its business, and at the date of the institution of the plaintiff's action was occupied as the Principal Office of the Company, with the exception of the cellar and first floor, which had been previously leased to Robinson & Co., for a carpet store, and who are still the lessees thereof.

Upon the ratification of the articles of consolidation by the several railroad companies now embraced in the Pittsburgh, Fort Wayne and Chicago Railroad Company, the property in litigation was taken possession of by the latter named corporation, and occupied by them until the 10th of January, 1860, when Wm. Ogden was appointed Receiver of said company by the Circuit Court of the U. S. for the Northern District of Ohio, and also by the Circuit Court of the U. S. for the Western District of Pennsylvania, and at the date of the levy in this case the Receiver had the custody and possession of the property.

The judgment being regarded, under the articles of consolidation, as a judgment against the Pittsburgh, Fort Wayne and Chicago Railroad Company, the question then arose—is the property then liable to seizure and sale on a judgment and execution of the District Court while it is in the possession of a Receiver appointed by the Circuit Court. Upon this point, Judge Williams uses the following language:

"The case of Wiswall vs. Sampson, 14 How. U. S. 52, is decisive of this question. It was there ruled that where real estate was in the custody of a Receiver, appointed by the Court of Chancery, a sale of the property under an execution issued by virtue of a judgment at law, is illegal and void, and parts for title to the purchaser."

The case was ably argued by J. H. Hampton, Esq., in support of the rule, and by Judge Shaler contra.

Habeas Corpus—Application for the Discharge of a Volunteer.

In the Court of Common Pleas, on Saturday, on motion of C. W. Hasbrouck, Esq., a lad named George Kremer, a member of Co. F, Capt. Bierer, Eleventh Regiment, Pennsylvania Reserve Corps, was brought from Camp Wright upon a writ of habeas corpus, and his discharge asked for upon the ground that he had enlisted against the consent of his parents; that he was under the legal age of eighteen years; and that he was incompetent to serve in consequence of being afflicted with hernia, or rupture.

It appeared that the boy enlisted willingly, and has been mustered into the service; that the officers are desirous of accepting to the wishes of his parents, but cannot discharge him except under the military rules governing such cases.

After hearing the case, Judge M'Clure remarked that the application was very important—not only to the parents, who naturally felt a keen anxiety in the welfare of their patriotic son, but it was also important as regards the matter of precedent. Should this application be granted, five hundred others might follow. After consultation, the Court had unanimously agreed to refuse the application, for the following reasons: That the consent is implied from the acts and declarations of the parents at the time of the enlistment; that the age of the boy was not conclusively proved; that he, or some one else, had given his age at eighteen, as it is apparent upon the muster roll of the company; that his discharge can be obtained by military authority; that the facts were not made out sufficiently clear to warrant the Court in interfering; and that, if required, the boy will be discharged by the surgeon.

Judge McClure remarked that if the patriotic impulses of the boy induced him to take up arms in defence of his country, his advice was—"let him go." However, this decision would not interfere with a similar application before another judge, neither would it prevent his discharge by military authority.

The lad was remanded into the custody of the sergeant, Lieutenant Deford, of Co. F, Eleventh Regiment.

The Pennsylvania Avenue Extension Fund. On Saturday, the 13th inst., John W. Riddell, Esq., late Solicitor of the city of Pittsburgh, gave notice to the Court of Common Pleas, of his desire to pay into Court the sum of $10,000, being money collected by him under the act authorizing the extension of Pennsylvania avenue to Fifth street. At the suggestion of Judge Mellon, the matter was laid over for one week, the Court having given notice that in the meantime certain rules would be prepared for the government of the Court, under one of which the money could be paid in.

Saturday, C. Magee, Esq., asked the Court to make an order that all moneys now collected, or to be hereafter collected, on account of the extension of Pennsylvania avenue, be paid into some bank to be designated by the Court, to the credit of said avenue extension, and to be drawn out upon the check of the Solicitor of the city of Pittsburgh—said checks to be approved by the President or Associate Law Judge of the Court, and not otherwise.

The object of the motion was to secure the payment of the entire fund, into some reliable and solvent bank, where it can be applied at once to the purposes for which it has been collected. The fund is now in the hands of several parties—the late Clerk of the Courts, Thomas A. Rowley, having a large amount. The present City Solicitor, J. J. Siegle, Esq., has about $500 in his hands, which he is ready to pay over as soon as required.

The Auditors appointed in the matter of the said extension are expected to report at an early day, when the work, it is earnestly hoped, will be commenced and vigorously pursued to completion. The Auditors, it is presumed, will also make some suggestion in regard to the best method of paying out the funds to those entitled to receive them.

At the request of the Court, Mr. Riddell withheld the payment of the moneys in his hands for the present.

BOY SHOT AND KILLED.—On Thursday last a boy named Banner, residing in Knox township, Clarion county, was accidentally shot by his uncle, named Joseph Bolster. It appears that two boys had gone out to shoot a sheep-killing dog, and not being able to accomplish it, the uncle took the gun to kill the animal. The boy who was shot was sitting on the fence, and the other boy gave the gun to Bolster, who, in taking it, drew it along his leg, when the trigger caught in his clothes and the weapon exploded, lodging the contents in the breast of Banner, killing him almost instantly.

WELCOME HOME.—It is understood that the Twelfth Regiment of Pennsylvania Volunteers will return home to be disbanded on next Thursday—the term of their engagement having nearly expired. These brave boys have been engaged in the very necessary dangerous and wearisome duty, of guarding the Northern Central Railroad, from the Maryland line to near Baltimore. They have performed the duty like soldiers, and should meet a soldier's welcome home. We would suggest the propriety of a grand military reception by the Home Guards, on the occasion.

Another Cutting Affray. Another cutting affray took place on Saturday evening, which makes the second within the past week. It appears that a young man named Colwell, had a difficulty with an old man named Brown, near the residence of the latter, on Robinson street, First ward, Allegheny. It seems that both parties are shoemakers, and that the quarrel originated in one claiming to be a better workman than the other. After a good deal of loud talk on both sides, Brown struck Colwell some two or three blows with his fist, to which it is said the latter did not retaliate. A few moments after, a son of Brown's, who having heard of the trouble, interfered in behalf of his father, and he also dealt Colwell some three or four blows about the head. Finding himself overpowered, Colwell drew a knife from his pocket, and cut young Brown in three places—below the armpit, in the side and on the leg, a short distance above the knee. None of the wounds, however, are considered dangerous. The cut in the side is the most painful, and had it not been that the knife struck against one of the ribs, it would in all probability have proved fatal.

Colwell, supposing he had killed young Brown, immediately fled, and has not since been heard of. This matter coming to the ears of Mayor Drum, he visited the house of Mr. Brown on Sunday morning for the purpose of having the offenders brought to justice. Young Brown refused to prosecute, stating that he had acted rashly, and that his injuries were of a trifling character.

DESTRUCTIVE FIRE.—Yesterday afternoon, about four o'clock, a large volume of smoke was discovered issuing from the cellar of Messrs. Wilson, Carr & Co., wholesale dry goods' merchants on Wood street. On investigation it was ascertained that there was a fire in the rear part of the cellar, which fronts on Diamond alley. The alarm was immediately given, and in a few minutes several engines were promptly on the ground. The fire was soon extinguished, but to accomplish this it was found necessary to damage a large amount of goods. Between the fire and water together nearly all the goods in the cellar and first story were more or less damaged. Their loss will doubtless be heavy, but we presume that it is mostly covered by insurance. The origin of the fire is not positively known, but it is supposed to have been the work of an incendiary.

UNITED PRESBYTERIAN FASTING AND PRAYER.—The General Assembly of this Church, at its last meeting, passed resolutions with reference to a day of fasting and prayer—directing the clerk to forward the same to the President of the United States, asking him, in behalf of the Assembly, to invite all the people of the United States to fasting and prayer; appointing a committee to correspond with other bodies respecting said proposed fast day; and leaving it to the Moderator, after said consultation, to appoint the day. The President not having issued any proclamation (and there being no prospect of uniformity of observance,) the Moderator does what his duty to do so, and has designated "Wednesday, the 7th day of August, to be observed as a day of fasting humiliation and prayer, throughout the United Presbyterian Church."

SAVAGE.—On Saturday afternoon two boys, named "Poodle" Hall and Scotch Elkins, entered the orchard of Dr. Pressly, in Allegheny, for the purpose of helping themselves to some apples. They were caught in the act by the Dr., who gave chase and succeeded in catching Elkins. The little rascal, in endeavoring to get loose, seized the farmer with his teeth, and before he could be made release his hold, left the marks of his teeth plainly visible on his left Dr.'s arm. Had it not been for the fact that the Dr. had on a heavy coat, the little thief would in all probability have taken out a piece of the arm entirely.

MOVEMENT OF TROOPS.—The Erie Regiment left for home on Saturday morning. It is said that a camp will be established at Erie, and that this Regiment will be ready to take the field whenever their services are required.

The Eighth Regiment, in command of Col. Hays, left on a special train on Sunday morning, their destination, we understand, being Hagerstown, to take the place of the Twelfth Regiment.

The Ninth Regiment, Col. Jackson, it is reported, will leave in a few days.

THE THREE MILLION STATE LOAN.—We are desired to say by the State Treasurer, that the Bonds for this Loan have been delayed in the hands of the engravers much longer than he had reason to suppose they would be, and that he has not yet received them. They will, however, be received from the engravers in a few days, and as soon as they can be signed by the various officers, and registered, as the act directs, they will be ready for delivery to the subscribers, as early in the coming month of August as possible.

STATE SENATE.—We are authorized to state that D. L. Eaton, Esq., has withdrawn his name, and will not, therefore, be a candidate for the State Senate, before the approaching Republican County Convention. Mr. Eaton has many warm friends here, and would have been a formidable competitor for that or any other office before the people of this county. His engagements in Washington city will prevent his friends here from the anticipated pleasure of supporting him for the State Senate.

DISORDERLY.—A deaf and dumb man named David Feaster, was arrested by the Allegheny police on Saturday night, while in the act of breaking in the door of Mr. Wm. Colmyre, in the Fourth Ward. Feaster is a desperate character, when under the influence of liquor, and it is with great difficulty that he can be restrained. In default of money to pay his fine, he was sent to jail for ten days.

SENT TO THE REFUGE.—Two boys, named Thos. McDonnell and Edward Houck, were sent to the House of Refuge yesterday by Mayor Wilson, for larceny. It appears that they entered a beer saloon on Market street, on Saturday evening, and succeeded in extracting from the till about six dollars, after which they decamped. McDonnell was 14 and Houck 12 years of age.

FATAL ACCIDENT.—Austin Brown, living on Sinnamahoning creek, Clearfield county, accidentally shot himself a few days ago. It is supposed that he had seen a deer and came into the house in haste for his gun, when it was discovered accidentally, the ball entering at the mouth and passing up through the head, killing him instantly. He leaves a wife and five children.

WE would again remind our readers of the forced Sale of Silver Plated Ware at the Auction House of McClelland, Weaver & Co., this day at two o'clock. This is a rare opportunity for housekeepers to procure tea sets, castors for household dishes, ice pitchers, forks, spoons, goblets, etc., at an hour when one half the cost of manufacture. Goods on exhibition this morning.

U. S. DISTRICT COURT.—The United States District Court, for the Western District of Pennsylvania, will hold a session in this city, commencing on Monday, and continuing for a week or two days. Several alleged counterfeiters are awaiting trial in this Court, and these cases will occupy most of the session.

ONE CHANCE MORE.—Twenty young, active men will be taken to complete the full complement in the Eighth Ward Home Guards, Capt. E. S. Wright. This is a first rate corps, well officered, and will encamp immediately on Webster Avenue, and some large adjoining stables, together with 25 horses and mules; also a dwelling house and a portion of the San Jaquin brewery.

The steamer Cortes arrived here last night from the Columbia, bringing papers from Portland, Oregon, to the 5th of July. Independence day was celebrated at Portland with great enthusiasm. Delegations were present from Marion, Yam Hill, Washington, Clackamas and Clatsop counties, and from Washington Territory. A fine display of fireworks took place in the evening, which was witnessed by upwards of 7,000 people.

The present season has been the most remarkable for rain ever known in Oregon. Instead of year's consumption. Unless in every condition of life show their devotion and manifest laudable pride in upholding their independence, unaided by any resources other than their own; and the subscriptions to the loan proposed by the government cannot fall short of $50,000,000, and they will probably largely exceed that sum.

LOUISVILLE, July 20.—It is currently reported that S. M. Buckner, Inspector General of Kentucky, has resigned; Ben Hardin Helm, Assistant Inspector General, is about resigning; Col. Hunt, of the 2d regiment of the State Guard, and Major Symmes, of the State Guard, have also resigned. The impression is that the above resignations cause the disbanding of the State Guard.

In consequence of repeated midnight disturbances at the Louisville depot of the Louisville and Nashville Railroad, in which property belonging to contraband freight during the past week and the falling off of business, the contractors have concluded to run the train from Southward per day hereafter, to leave Louisville at 9 o'clock in the morning.

ST. LOUIS, July 19.—The *Republican's* Santa Fe correspondent says that it is probable Col. Canby will soon send a force to capture Fort Bliss, Texas, where there is a large amount of army stores belonging to the Federal Government.

Dr. Porter, from Springfield on the evening of the 16th, arrived to-night from Walker, ten miles south of the Missouri line and Yellowville, and states that he extends as far as Neosho, thirty miles north of Camp Walker.

Gen. Pope left to-day for St. Charles, where he established his head-quarters. His command in North Missouri will be seven thousand strong, and so posted that Jefferson city, Booneville, Lexington and all the principal points in Northern Missouri can be reached in a short time.

The Minnesota has steam up, but her destination is not known.

The Monticello yesterday fired into a body of Confederates, a short distance above Newport News. The Confederates fired some heavy guns last evening from the Pig's Point battery.

The Quaker City last night picked up a man in a sail boat who had come from Norfolk. He reports only what was well known before, namely: that the Confederates were raising three United States ships of war at Norfolk harbor, and that they were rifling cannon at the Navy Yard. He says that there are not ten thousand troops in Norfolk and vicinity; that the Confederates feel certain of success, and are determined to fight to the last extremity. Jeff. Davis was at Richmond. There was much depression on account of the Rebel defeat in Western Virginia.

WASHINGTON, July 20.—Fifteen rebels were captured at Bull's Run on Thursday. They have been brought to the city under a strong guard. One of them was a South Carolina sergeant, and the others are Alabamians. Gen. Mansfield sent them to the old Capitol building, which has been fitted as a prison. The prisoners are rough looking men, and were subjects of much interest as they marched through the streets.

Up to ten o'clock nothing of peculiar interest had been learned from the seat of war. General McDowell was concentrating his forces and reconnoitering. Reinforcements were sent over into Virginia to-day. The indications are that General McDowell is acting with caution and deliberation preliminary to a renewal of the conflict.

WASHINGTON, July 19.—Advices received here from Richmond, state that Gov. Letcher has called out nearly all the militia force of Virginia in order to give battle to the Federal army.

News of the defeat of Lieut. Col. Pegram by Gen. McClellan had reached Richmond.

The negroes in Richmond had been set at work to fortify the city.

Papers from North Carolina report that a federal war vessel, carrying forty-four guns, had made an attack upon Fort Hatteras, but with no effective result.

Wagon-trains from this city are busily engaged, night and day, in carrying provisions to our advancing army in Virginia.

LETTER FROM WASHINGTON.

[From Our Own Correspondent.]

WASHINGTON, July 18, 1861.

This is so far a day of much excitement. Reports indicating the intention of the enemy to make a stand at Centreville or Manassas thicken; but as yet there is nothing reliable. The last heard by the public, up to the moment of this writing, is that our advance guard was within two miles of the rebels, where the latter had made a stand. A thin strip of forest divided the opposing hosts. There are those who think the retreat a ruse of the enemy, and on the other hand, those who do not believe the Southern forces intend to make a stand above Richmond. It is certain that our advancing hosts will give the soldiers from the Gulf States, who were never before away from home, a somewhat vivid idea of the *force* now in the field against them. A better appointed and more enthusiastic body of troops never was marshaled to deeds of daring. The appearance of the regiments, particularly those from Rhode Island, excited the most irrepressible enthusiasm as they marched into Virginia on Tuesday. The city turned out to see them, and Col. Burnside was loaded with grateful gifts in wreaths and bouquets.

Those who profess to be wise in war matters say that a portion of our vast force will be pushed down to Occoquan, below here, in a position to cut off the retreat of Beauregard; that Genl. Tyler and Hunter will push their Brigades on and outflank the rebels above Manassas. This would cut Johnston's retreating force off from the main body of the army upon which he is now falling back, and leave both the disjointed masses of the rebels to be cut up in detail. The enemy must, however, appreciate the dreadful possibilities of his position, and will make a desperate struggle before he will fall into the pit. Perhaps this falling back, with the intention of making a final advantageous stand, is a part of the new tactics.

The pirate Savannah, which was taken some time ago, has been or is being altered, and is to be named "Ellsworth," for our gallant young townsman, who behaved so well in the fight in which he fell. Ward fell. Lieut. Chaplin has been detached from the Pawnee, and will be put in command of the late Savannah. He will probably cruise upon the river, as heretofore.

The Hon. Henry May, "Union" man, of Baltimore, made his appearance and his debut in the House today. He came from Richmond. He is for the "*Union of course*;" in the same way that the robbers were, who fell upon the Massachusetts troops in that city on the 19th of April. His speech, which the telegraph has given you, was very abusive, and was noticeable only for a vigorous retort from ex-Governor Thomas, a real Union man to the core of Maryland. The tirades of the traitorous crew have now ceased to have weight. They find here and there a stricken few to applaud on the floor, but the galleries which were so vociferous in admiration for the Kelt's and Sildell's last Winter, have grown fearfully and ominously silent to South Carolina treats and figures.

It is a proven that "laws are silent amid arms," and equally true perhaps that the arts almost cease to attract attention in the midst of the din of conflict. Yet I cannot omit mention here of the determined effort now making by the city of Pittsburgh to have a National Armory there. The destruction of that at Harper's Ferry leaves a vacancy to be supplied. Of course the government will not rebuild there. It will find a site among a loyal people as a precautionary measure, and where the Union can be found a truer, a more devotedly loyal people than in Allegheny county! That point, I think, is settled.

The various other combined advantages which mark Pittsburgh as the place above all others have been forcibly presented in a neat pamphlet of 15 pages, largely circulated here, and for a copy of which I am indebted to F. R. Brunot, Esq., one of the committee appointed at your meeting on this subject, of June 6. Doubtless you have observed that a committee was appointed by Congress to take into consideration and report upon the subject. Hon. J. K. Moorhead is chairman of that committee. The other members are John A. McClernand, of Illinois, Wm. A. Bingham, of Ohio, J. W. Kellogg, of Michigan, John N. L. Stratton, of New Jersey, Charles Delano, of Mass., Wm. vandeever, of Iowa, James S. Rollins, of Missouri, and J. W. Wallace, of Penna. I have given their names that your readers may see that we are still citizens of the Union. The Confederate army, it does not in the least deter, but only changes our military operations in that direction, as it forms in the main forces of the enemy between the advances of Generals McDowell and Patterson's commands.

Secretary Cameron, to-day, in company with Col. Scott, of the military railroad, paid a visit to Centreville and secured several brigades. He returned to Washington this evening.

The prisoners taken on the privateer Savannah, and to inform Lincoln of our determined purpose to see Ellsworth avenged. Mr. Lincoln promises a reply—not yet received in reference to the peculiar relations which exist between the Government and the States usually termed border slave States, which cannot properly be withheld from notice here. Our people were animated by sentiments towards the Union men of those States which found expression in your enactment refusing to consider them enemies, or authorizing war upon them. That a large portion of the people of those States regard the northern, if unmitigated by the actual presence of large armies, in subversion of the civil authority and the declaration of martial law, and that some of them, at least, would joyfully welcome us; that they are, with almost entire unanimity, opposed to the prosecution of the war waged against us, are facts stated daily recurring events fully warrant the assertion.

The President of the United States refuses to recognize in those of our late sister States the right of withdrawal, or to recognize the existence of the Confederate States, by the interdiction of embargoes and blockade of all commerce between the two are cut off, and repudiated the follish idea that the inhabitants of the Southern States are still citizens of the United States, for they are now in a state of insurrection against the Union. Savage ferocity unknown in modern civilization. He compares the present insurrection with that of Great Britain in 1781, which was conducted in a more civilized manner. Mankind shudder at the outrages committed on defenceless females by those pretending to be fellow citizens. Who can depict the horror which we regard the deliberate malignity with which under the pretext of suppressing insurrection, inflict special pain on sick women and children, by carefully devised measures to prevent their obtaining medicines necessary to their care. The sacred claims of humanity are respected by all civilized nations. Military of battle by a careful deviation of attack. Hospitals are now outraged by the government, which pretends to claim to continue in fraternal connections. Suchcontrary to all civilized usage, unless the actual perpetrators are captured. Mr. Taylor's mission to Washington was to exchange the