Pittsburgh Gazette.

TUESDAY MORNING, DEC. 23.

CITY AFFAIRS.

THE OFFICIAL PAPER OF THE CITY.

METEOROLOGICAL OBSERVATIONS for the *Gazette*, by G. H. Shaw, Optician, No. 55 Fifth street—corrected daily:

	IN SUN.	IN SHADE.
9 o'clock, A. M.	00	40
12 " " M.	08	44
6 " " P. M.		46
Barometer		29·720

NOTICE.—J. T. Sample, of Allegheny city, supplies passengers with the GAZETTE on the Mail Train West at 8 a. m., the Express Train West at 1:40 p. m., and on the Accommodation Train West at 4 p. m. Mr. Sample can supply any orders along the line to Crestline, Ohio, from either of the trains first named, and has also a supply of every edition at his news depot, at the Federal street station, Allegheny city.

Judge Grier on Our City Railroad Liabilities—Important Decision.

We have already announced the decision of Judge Grier, of the Circuit Court of the United States, setting aside the writs of mandamus issued against the Controller and Treasurer of the city, and discharging the rules to show cause why attachments for contempt should not issue against them. The decision has been forwarded to this city, and we lay it in full before our readers:

Evans *et al.* vs. The City of Pittsburgh. Motion for attachments against the Controller and Treasurer of said city.

Per Curiam.—The plaintiffs obtained their several judgments against the city of Pittsburgh, at May term, 1861, for interest due in 1852 and 1853, on coupons on railroads bonds. At November term, 1861, the plaintiffs' attorneys applied to the Court by petition, to direct "that a mandatory writ be issued directed to the Controller and Treasurer of the city, commanding the said Controller to prepare and deliver to the said plaintiff or his attorney, a warrant on the Treasurer for the amount of the judgment, payable out of any money in the treasury, or if there be no money in the treasury, then out of the first money that shall come into the treasury," etc.

The Court made the order requested, no question having been made as to whether it was directed to the proper persons or not. It was entirely *ex parte*, and without notice to the defendants' attorneys. They have therefore a right to meet the rule in this case for an attachment, by an allegation that the mandamus writs which have been served on these officers have been improvidently issued, and that the process should have issued to the Mayor and City Councils; and consequently, that the Court, instead of enforcing obedience to the mandatory process, should set it aside as irregular and void.

The Supreme Court of Pennsylvania has decided that the act of 15th April, 1834, which provides a mode for enforcing the payment of judgments against counties and townships, should be applied to cities also. In conformity with which decision this court decided in the case of Evans vs. the City, that such process might issue from this court to enforce the payment of judgments obtained in the Circuit Court of the United States.

To what officers of the corporation should this mandatory process issue?

The law requires it to issue to the Commissioners who have the taxing power. "The only means that a municipal corporation has for the payment of its liabilities is the power of taxation." (4 Casey, 210.) Its property necessary for public purposes cannot be levied or sold. The command of the mandatory writ authorized by the statute is, "*to cause* the amount of the judgment with interest and costs, to be paid, etc., out of any moneys unappropriated of such county, or if there be no such moneys, out of the first moneys that shall be received for the use of said county."

The proper party, therefore, to such process should be those who have the power of taxation, who have the executive and legislative powers of the corporation, and can "*cause the money to be paid.*" The treasurer is but the servant of this power; he is merely the collector of the city taxes and the custodian of its funds, bound to receive and keep them as the City Councils may direct, and to pay them out only upon the warrants of the Mayor, countersigned by the Controller and drawn upon specific appropriations made by the Councils according to law.

The answer of the Treasurer to the interrogatories, sets forth clearly and correctly his position in this matter, and contains the statement of facts which we must assume to be correct for the purposes of the present motions.

In answer to the 7th interrogatory he states that "the judgments of the plaintiffs have not been paid, either in whole or in part, because there was no money in the treasury which could be legally appropriated to such payment. All the moneys that have been received by the Treasurer, and all the moneys now in the treasury, have been and are specifically appropriated by ordinances of the City Councils, under Acts of Assembly, authorizing and directing the same to be done. The act of 6th April, 1850, directed that the Councils should each year previous to the annual *levy*, assign and appropriate the revenue of said city derivable from all sources, and prescribed the order to which it should be applied, to wit: 1st, for the payment of interest for the funded debt; 2d, the payment of the salaries of city officers; 3d, for the payment of the ordinary current expenses of the city, and 4th, for extraordinary improvements, erections and purchases, and if there be any surplus it is to be paid into the sinking fund created by said act, the act of 16th May, 1837, directed that the moneys arising from the assessments for grading and paving, should be paid into the sinking fund, and should be applied to the same purposes and held under the same restrictions as the other moneys of that fund. In pursuance of said acts, the City Councils did in the month of January in each of the years 1861 and 1862, "*assign and appropriate*" all the revenue of those years respectively to and for the purposes authorized and directed by said act. There has not, therefore, any money come into the hands of the City Treasurer, and there is now none in his hands which, as he has been advised, he could have legally applied, or which he can now legally apply to the payment of the plaintiff's judgments."

The funded debt here mentioned in the act is the old debt incurred for the cost of erection of the Water Works, etc. These bonds of the city for railroad purposes have all been issued since the passage of the act above referred to. It was the duty of the City Councils to assess a tax sufficient to liquidate the interest of the bonds as it became due. Instead of an honest endeavor to meet their liabilities, and support the credit and honor of the city, the Councils have chosen to litigate and repudiate their obligations; to obstinately resist every process of the Courts and evade the performance of their official duties. "*Pudet hæc opprobria dici et non potuisse repelli.*" From the public legal history of the County, we see that the Supreme Court have by mandamus endeavored to compel a faithful execution of these duties; but it does not appear from the facts in evidence that one dollar has ever been raised for the purpose of paying off these judgments.

It is no fault of the Treasurer that he has no moneys of the city "*unappropriated*" in his hands. He has acted in the matter with integrity and honor. We cannot give two different definitions to the terms "assign and appropriate" as used in the act of 1850, and the negative "*unappropriated*" in the act of 1854. It was the duty of the Councils under the former to increase their assessments to a sum sufficient to cover the payment of these interest coupons, and "assign and appropriate" a sufficient portion of the money in the same order as directed by the act "for the payment of the interest" of precedent debts. The honor, credit and character of the city, and its citizens, are as much bound to see the interest paid on their late debts as on their earlier ones. The fact that the money first borrowed was indiciously expended, and the latter not, can make no difference to the grade of the obligation. A conscience, it is said, cannot be imputed to a corporation; but the corporators and citizens, who enjoy its franchises, will be held as morally if not legally responsible before the world.

The case of Monaghan vs. The City of Philadelphia (4 Casey, 207) is cited as having definitely settled the question. If a case presenting the points raised in this case, and on the same state of facts, had been decided by the Supreme Court of the State, it would have relieved my mind very much in the decision of this case. Their construction of their own peculiar statutes is conclusive, and I would not question its correctness. But in that case no question was raised as to "appropriation" of the funds of the city. Monaghan's judgment was for some services rendered to the city, or on some contract—payable as all other of the current expenses of the city, out of its general funds in the hands of the Treasurer. The money in the Treasurer's hands was appropriated to pay just such demands. Monaghan's bill was disputed and he could not get an order for the amount of his claim. He is compelled to bring suit; he recovers a judgment and the Court decide that the judgment of Court is the highest evidence of the justice of the claim; and that it was the duty of the Mayor to pay the judgment without an order from the Mayor or Controller. There was no pretense that the Mayor had not sufficient funds of the city in his hands unappropriated to any other special purpose. In fact, so far as any "appropriation" existed, it was to pay just such demands as that sued for; and the judgment of the Court was justly considered to be the *first* appropriation of so much of the general fund as was necessary to satisfy the demand; consequently it was entitled to be paid out of any money in the treasury, and the first that should be received in it, without any further order of the officers of the corporation. An answer of the Treasurer that such money was necessary for more important purposes, and to support the government of the city in the exercise of its functions, could be no objection to the appropriation made by the judgment of the Court. By the theory of that case, the Treasurer had sufficient funds in his hands to pay all the demands, and the only question was whether the judgment of the Court was not itself a specific appropriation of that amount to that purpose. There was no defaulting in the City Councils. They had furnished means; the only difficulty was in the Treasurer's refusal to pay.

The case before us has no resemblance to that of Monaghan. Here the Treasurer has no "unappropriated funds" in his hands, nor any appropriated to the payment of these demands. The judgment of the Court is not an appropriation of that which was appropriated beforehand, by virtue of the statute, or acts of Councils. It is clear that the special funds ordered by the statutes to be paid into the sinking fund were "appropriated," and could not by any act of the Court be "*assigned and appropriated*" to a different purpose. Nor can I make any definition of those terms which would not also apply to the appropriations made for other purposes. The writ authorised by the statute does not make a new appropriation of funds, in the hands of the Treasurer, at the expense of others, but affects only such as are unappropriated to other special purposes. It was properly decided in the case of Pollock vs. Lawrence county, (*Legal Journal*, No. 41,) that the estimate of the Commissioners, as to the funds needed for the coming year, whether right or wrong, was not an "appropriation" of them to pay any particular debt due by the county, consequently the judgment of the Court was the first appropriation, and should have precedence.

The definition there given of the term "appropriation," "*to set apart or vote a particular sum of money for a particular purpose,*" as given by the learned Judge, is undoubtedly correct, and according to it the answer of the Treasurer is true, not only in its assertion of facts, but in its inference of the law. The funds committed to his care were appropriated and set apart for certain special objects, and consequently he had no unappropriated funds with which to satisfy the exigency of the process served on him, nor could he, under existing circumstances, have any. If the assessments are increased by order of the Councils to an amount sufficient to pay their debts, being of the same order as the old debts, and the Treasurer should have funds from taxes in his hands, and would not apply them to the judgments, the writ might then properly to compel him to appropriate the money as it came to his hands to their payment. If the Town Councils in pretended obedience to the orders either of their own Supreme Court, or of this Court, pursue the plan of the Commissioners, to baffle collections of those claims, by the ingenious contrivance of two different assessments, one to be paid and one not to be paid—or by anticipating the funds before they reach the Treasury by orders, or *posteriori* appropriations, such conduct may be considered as a contempt of Court, and the Treasurer possibly made a party. But as the case stands at present, the treasurer is not in contempt, because the writs issued by this Court have been improvidently issued and must be set aside. Under the circumstances disclosed in this case, it is clear that the process should have issued to the City Councils as the legislative power, and the Mayor and Controller, the proper executive officers, whose duty it was to "cause the money to be paid," and who only had the power. If after a due performance of their several duties, the treasurer, who is their officer or servant, should refuse to perform any duty imposed on him, or attempt by ingenious devices, to evade the performance of it, he may be treated as for a contempt by serving of proper process upon him for that purpose.

Let the rule be discharged and the several writs set aside. *Per curiam.*

R. C. GRIER.

Our Book Table.

THE Pentateuch and Book of Joshua Critically Examined. By the Right Reverend John William Colenso, D. D., Bishop of Natal. NEW YORK: D. Appleton & Co. Pittsburgh: for sale by R. S. Davis, 93 Wood street.

Here we have a book, from a Bishop of the Church of England, expressly designed to prove that the five books of Moses and the book of Joshua are not historically true! Such a work from a layman would excite but little attention; for the world has become familiar with the results of infidel and rationalistic criticism: but the fact of a Bishop of the Church of England writing and publishing a somewhat elaborate argument showing the non-credibility of a large portion of the historical books of the Old Testament, is so singular, so novel an affair, that on all hands the greatest surprise has been manifested, ever since the publication of the work was announced. We have heard that, immediately on its appearance in England, 10,000 copies were ordered from the publisher,—and doubtless the American edition will in like manner be eagerly and extensively sought for. Independently of any intrinsic quality which, if known and acknowledged, might attract readers, this book attracts solely by its being the unacountable, inconsistent, preposterous, and self-stultifying work of its author. Hew Bishop Colenso went through his university course without meeting the greater number of the critical difficulties which he brings forward in this volume, we cannot pretend to understand. It does appear strange, that the Zulus of Africa, amongst whom he went as a Missionary Bishop, should have been the first to raise objections which most students meet with almost at the threshold of their theological studies—especially if they have access to the works of the "free handling" critics of the German schools. The Bishop critilises and disputes the historical truth of such statements as the following—the enumeration of the family of Jedah, the gathering of all the congregation of Israel in the court of the temple, Moses and Joshua addressing all Israel, the number of Israel in camp, the arming of Israel, the institution of the Passover, the sheep and cattle in the desert, the march out of Egypt, the number of Israelites and of priests at the time of the exodus, etc. Bishop Colense's book, like the celebrated "Essays and Reviews," which a number of Rationalistic clergymen of the Church of England published some time ago, will excite wide-spread controversy, and indirectly serve the cause of truth, by leading to the strengthening of the defenses of the faith, by such works of an apologetic character as will meet the requirements of the human mind under those new conditions of experience and attainment, in which it must encounter such doubts and perplexities as have led to the publication of this book.

THE NATION'S GRATITUDE AND HOPE. A Sermon preached in the First Presbyterian Church, Pittsburgh, Pa., on Thanksgiving Day, *Nov. 27, 1862.* By the Rev. William M. *Paxton*, D. D. Printed by W. G. Johnston & Co.

This excellent discourse, characterized by the usual ability and gracefulness which we always looked for in the compositions of Dr. PAXTON, has been published at the instance of quite a number of intelligent and respectable gentlemen. It is for sale at all the Book stores, price 15 cents. *The proceeds are for the benefit of the Ladies' Soldiers' Relief Society.*

THE ATLANTIC FOR JANUARY.—This young giant among our monthlies commences its eleventh volume with the New Year. Praise is superfluous, however; so that we shall merely say that the contents of the present number are of the usual high order in point of literary ability; they are also of considerable variety, and generally of living interest. J. W. PITTOCK, *Fifth* street, opposite the Post-office, is agent for the *Atlantic Monthly.*

ONE THOUSAND different kinds of photograph pictures of Generals, copies of fine pictures, stationery, etc., for photographic albums, sold at Pittock's, opposite the Post Office.

The Criminal Court.

On Monday afternoon the Court took up the case of Messrs. Freeman Jones, A. Black, J. W. Bougher, Wm. Stoup, Joseph Bougher, James Bougher, Andrew Harper, John Flick and John Allison, indicted for riot, on oath of Charles Gibson, storekeeper, at Bakerstown, Richland township. This prosecution had its origin in a disturbance raised at a Democratic meeting held at Gibson's store, on the evening of the 9th of October last. The prosecutor, Mr. Gibson, was a member of the Democratic County Committee, and the meeting was held at or near his store. The defendants are all Republicans, and are charged with having raised a disturbance which finally terminated in a riot. On trial.

THE HOLMAN OPERA TROUPE.—A large audience greeted the Holman Troupe, on the occasion of their first appearance, at Masonic Hall, last evening. The performance was of a very pleasing and interesting character. The singing of the children, who execute the most difficult airs with marked proficiency, is at once pleasing and wonderful. The entertainment is sufficiently varied to render it attractive to both old and young, and those who would enjoy a musical treat should not fail to see this troupe. They appear again this evening.

SPECIAL LOCAL NOTICES.

GROVER AND BAKER'S SEWING MACHINE, for family and manufacturing purposes, are the best in use.

A. F. CRAVONY, General Agent,
No. 18, Fifth street.

AMONG the many articles adapted for Christmas presents, there is none more useful or appropriate than a well-finished, serviceable sewing machine. Books and trinkets are very well in their way, but viewing the matter from a utilitarian stand point, no more acceptable gift can be presented to a lady friend than a nicely gotten up sewing machine. The appropriateness of sewing machines for holiday presents determined, the next thing is to inquire, where the best may be had? Experience has settled the fact that of the numerous machines which have, from time to time, been brought before the public, two or three only can be said to possess any practical value, and as a worthless sewing machine is of all things to be avoided, it is, therefore, necessary that we should, in all cases, try and get the best. To do this it is only necessary to call upon W. Sumner & Co., Western Agents for the Wheeler & Wilson Sewing Machine, No. 27 Fifth street, Pittsburgh.

The superiority of the Wheeler & Wilson Machine to any and all others now before the public, has been so well established that the briefest allusion to their merits will suffice. They sew equally well the thickest and thinest fabrics, and make a stitch that cannot ravel. Then they work much faster than any other machine, are far more easily operated, and are so simple in their construction that it is almost impossible for them to get out of repair. In the matter of finish, too, they excel, and so confident are the agents of their superiority that they warrant every machine leaving their establishment for three years. There is no kind of sewing that may not be done by these machines. They stitch, hem, fell, gather, bind and braid with equal excellence, and what is a matter of some importance now they consume but half the amount of thread used when working with other machines. They are, in short, just the machine for the family, and no household should be without one of them. Messrs. Sumner & Co. have a splendid stock of these machines now on hand, and any of our readers about purchasing will consult their interests by sending them their orders. They have them in different styles, and at various prices, and in every case when a sale is made they give full instructions for operating the machine, and warrant it to give the largest possible amount of satisfaction.

FOR FALL AND WINTER WEAR.—The winter is upon us, and we must provide ourselves with the material to keep us comfortable. A good and well-made overcoat is the very article, and we don't know of any place where our readers can get one that will look so well, and at the same time be sufficient to resist the severe weather, as at W. H. McGee & Co.'s, corner of Federal street and Diamond Square, Allegheny. Their stock of overcoatings, business and dress clothing, pantaloons of all descriptions, are well assorted, and of the latest style. The gentlemen's furnishing goods department is all that a purchaser would wish. Call on McGee & Co. if you desire a nice suit.

SAMUEL GRAHAM, merchant tailor, would most respectfully inform his friends and the public generally that he has returned from the East with his new stock of fall and winter goods. His stock consists of the latest styles of cloths, cassimeres and vestings, selected from the latest importations. Gentlemen desiring a neat fitting garment, and at prices lower than at any other tailoring establishment in the city, would do well to give him an early call. Samuel Graham, merchant tailor, No. 54 Market street, one door from Third.

FOR HOLIDAY PRESENTS, that are useful as well as ornamental, call at Hanson Love & Co.'s, 74 Market street, and see their stock of Shawls, Cloaks, Dry Goods, Needle Work, Hosiery, &c. Also, Balmoral and Hoop Skirts, Goods for gents and boys' wear, and a very large stock of domestic and staple goods purchased before the late advance, and will be sold at a very small profit, for cash only.

SABER CUTS, GUNSHOT WOUNDS, and all other kinds of wounds, also sores, ulcers and scurvy, heal safely and quickly under the soothing influence of Holloway's Ointment. It heals to the bone, so that the wound never opens again. Soldiers, supply yourselves. Only 25 cents per pot.

THE fine Oil Paintings at Davis' Auction, in the second floor Sales Room, will be sold by catalogue this morning, at ten o'clock. Ladies and gentlemen are invited to attend punctually. Descriptive catalogues will be distributed.

GREAT TOY SALE.—The sale of French, German and Italian Toys and Fancy Goods will be continued this afternoon at two o'clock, and evening at seven o'clock, at McClelland's Auction House, 55 Fifth street.

GET THE BEST.—A New York manufacturer of Photograph Albums has opened at No. 52 Fifth street, third door above the Theatre, a large stock of Photograph Albums, the best manufactured in the world. They sell them at prices which defy competition.

NOTICE to the property owners of this city is hereby given, that any repairs needed about their houses will be done promptly, if they leave their order at Cuthbert's Carpenter and Joining Shop, on Virgin alley, just above Smithfield street.

OMNIBUS CALLS will be taken at the Omnibus office, No. 408 Liberty street, day or night. All orders left at the above place will be promptly attended to. All calls must be paid in advance. 6m

THE WHEELER & WILSON SEWING MACHINE has taken the first premium at the World's Fair just held in London, all the machines of the world competing. Salesroom 27 Fifth street.

HOLIDAY PRESENTS.—The best place to buy Photograph Albums and books for presents is at the Gift Book Store, No 118 Wood street. A costly present is given with each sold.

PRESENTS.—Photographic Albums is nice presents for Christmas, and the place to buy them cheap is at Pittock's, opposite the Post Office.

CHILDREN'S toy books and games, a large lot to be had at Pittock's opposite the Post Office.

DENTISTRY.—Dr. C. Sill, No. 246, Penn st., attends to all branches of the Dental profession.

READ Pittock's advertisement.

MARRIED!

BOLLMAN—PEARSON—On Monday, the 22d inst., by the Rev. Richard Lee, Mr. GEORGE W. BOLLMAN, of Allegheny, to Miss MARY F. PEARSON, of Lawrenceville.

DIED:

BREWAIR—On the 21st inst., at 6 o'clock a. m. CHARLES BREWAIR, in the 56th year of his age.

NEW CONSIGNMENTS RECEIVED THIS DAY—
100 bbls. Flint Hominy;
10 do. Grits;
53 bags Dried Peaches;
90 bush. Pared Peaches;
10 bbls. fresh Eggs;
6 do. Roll Butter;
4 kegs Lard;
And for sale by
A. S. JOHN & CO.

CLOTHES PINS.—75 Dozen Clothes Pins just received and for sale by

THE LATEST NEWS
BY TELEGRAPH.

FROM WASHINGTON.

OUR SPECIAL DISPATCHES.

Special Dispatches to the Pittsburgh Gazette.

WASHINGTON, Dec. 22, 1862.

The President is said to have assured the Border State Committee who wanted him to withdraw his emancipation proclamation, that he had carefully considered the subject before issuing the proclamation, and having seen no occasion to change his views, there would be no withdrawal, modification or postponement.

The recent government censorship of the press which forbade to have the announcement of the offer of resignation by Secretaries Seward and Chase made public, begins to excite marked attention.

This morning's *Intelligencer* has the following paragraph:

"It having been stated that Gen. Burnside had tendered a resignation of his command, we think it proper to mention what we understand to be the fact, that the President has not accepted his resignation, and it is believed does not intend to do so."

The same paper has the following on the Cabinet crisis: Hon. S. P. Chase, on Saturday morning, tendered his resignation of office of Secretary of the Treasury. This unlooked for step, on the part of Mr. Chase, we understood, was caused by his desire to leave the President unhrammelled, should he, in view of the recent political occurrences, desire to change his Cabinet.

It is reported that the President, on Saturday evening last, addressed to Mr. Seward and Mr. Chase a note requesting them to withdraw their resignations, and to resume the duties of their respective departments, and we are sure that the country at large, in view of the eminent ability with which they have both discharged their important duties in the present critical state of public affairs, will unite in the wish that they may both yield to the President's request.

It is believed that the truth about General Burnside is that he has not formally tendered his resignation, but has only repeated what he has often before said, that while he is willing to serve wherever his country calls him, he would personally prefer to be allowed quietly to return to his family.

WASHINGTON, Dec. 22, 1862.

CHASE AND SEWARD RESUME THEIR RESPECTIVE DUTIES—ANOTHER CAUCUS.

The President has informed Chase and Seward that he cannot accept their resignations with due regard to the public welfare, and, therefore, requests them promptly to resume their duties in their respective departments, which they have accordingly done. The President stated to-day that he could not permit an idea to go out in the country now that the Cabinet was divided, and that he would not allow either Chase or Seward to leave the Cabinet without others left also.

The Senators had another caucus on the subject this afternoon, in which the present aspect of the case was debated at length. Thus far their conclusions have been carefully concealed, but it is doubted whether they will take any further decisive steps in the matter.

Gov. Curtin is said to have protested strongly against the removal of Seward, and to have intimated that it would throw Pennsylvania into the opposition. On the other hand the President has been warned that the West has no confidence in Seward and no faith in the policy he may dictate, by numerous Western members.

REPORT OF THE COMMITTEE ON THE CONDUCT OF THE WAR.

The Committee on the Conduct of the War will make their report about Fredericksburg to-morrow. The statement of losses, responsibility, etc., will correspond with those in Burnside's preliminary official report, made public to-day, and will differ little, if any, on this subject in these dispatches. The general feeling here, since the publication of the official report, is one of kindness to Burnside, and even confidence in him. It disarms all hostile criticism, and it is apparent to every one that, without concealment, it tells the worst.

POSTMASTER-GENERAL BLAIR.

It is not true that Postmaster-General Blair at any time tendered his resignation. No Cabinet officers did save Chase and Seward.

THE M'DOWELL COURT OF INQUIRY.

In the M'Dowell Court of Inquiry to-day, the examination of Sigel was continued at length. He gave testimony that, in his opinion, the second battle of Bull Run was lost by General McDowell's failure to hold Longstreet in check, as he (Sigel) thought McDowell could and should have done.

THE PORTER COURT MARTIAL.

Is not in session. It has finished the examination of Pope's witnesses, and Porter's will not be ready till Wednesday. The prospect is now for an adjournment over the holidays, and a continuance of the Court Martial will be on to February.

THE NATIONAL REPUBLICAN AND GEN. HALLECK.

The *National Republican*, which has hitherto defended Halleck, is out this morning in an article speaking of the demand for a change in the military arrangements as universal, and of a nature not to be trifled with.

Evidence at last comes out, which leaves no doubt of a speedy change in the military control at New Orleans.

SENATOR LANE.

The feature of Congressional proceedings to-day was a long and really eloquent speech delivered by Senator Lane, of Indiana, on the subject of arbitrary arrests and the course of the opposition towards the administration. The speech was altogether the most noticeable one of the session, and abounded in passages of great power. The galleries were crowded and he was repeatedly applauded, notwithstanding the efforts of the chair and doorkeeper to keep down any demonstration of the kind.

Senator Lane justified the President's arbitrary arrests to the fullest and broadest extent. Mistakes might have been made, but in general the arrests were necessary, and the President had been too lenient in exercising the power which he clearly showed he possessed. He commented on the course of the opposition in having no word to say of the rebellion outrage, but reserving all their powers of denunciation to use in embarrassing the President in his efforts to suppress the rebellion. He explained the nature and cause of the partial opposition successes in the western elections, particularly in Indiana, and denounced the efforts to induce the northwest to desert the Union and go to the Southern Confederacy.

Intimations are thrown out this evening that, although the Senators did nothing definite about the cabinet in their caucus to-day, they are, nevertheless, manifesting a firmness that may yet carry their point.

VALLANDIGHAM'S

Traitorous resolution for the cessation of hostilities, with fresh constitutional guarantees for the benefit of Southern traitors, and the efforts for a peace on the basis of such a concession and guarantees, provoke universal comment on the unblushing impudence it required to present them.

They may be regarded as the key to the policy of the

FROM THE ARMY OF THE POTOMAC.

No indications of immediate active operations, but it is hoped that the troops may not be left idle this winter.

WASHINGTON, Dec 22.—Recent information from the Cherokee nation discloses a shocking condition of affairs there. The loyal and disloyal Indians are slaughtering one another—the government severed and a new one organized by the Confederate party, which is in the minority.

Several hundred nominations of Assessors and Collectors, under the tax law, were sent to the Senate to-day for confirmation. These were appointed during the recess of Congress.

The Senate confirmed the nomination of Caleb B. Smith for District Judge of the District Court of Indiana.

No nomination has yet been made to supply the vacancy thus occasioned in the Secretaryship of the Interior Department.

WASHINGTON, Dec. 22.—The *Intelligencer* says: "It having been stated that General Burnside had tendered the resignation of his command, we think it proper to mention what we understand to be the fact that the President has not accepted the resignation and it is believed does not intend to do so."

WASHINGTON, Dec. 22.—The President acknowledged the reception of the resignation of the Secretary of State and Treasury, and informed them that after due deliberation he has come to the conclusion that an acceptance would be incompatible with the public welfare. Therefore, he requested them to resume their respective functions. The two Secretaries have accordingly resumed their places as heads of the departments.

A communication was sent to the Senate to-day from the War Department, in answer to the resolution of inquiry relative to the chartering of certain worthless ships for the Banks expedition, in which it states that the hulls of the steamers Thames and Niagara were inspected, as ascertained unofficially, by Com. Van Brunt, and the engines by Ex-Chief Engineer Haswell, designated for that purpose by Gen. Banks. Accompanying is an indignant protest against the condemnation of the Thames, by her owners, Messrs. Everett, Stores, Taylor & Hubbell.

The protest against the passage of the bill to indemnify the President and others for certain arrests under the suspension of the writ of habeas corpus, etc., was drawn by representative Pendleton, and those who had signed it had voted against the bill. The bill agreed upon by the House and select committee on emancipation is substantially that recently introduced by representative Noell, of Missouri, for facilitating emancipation in that State, and appropriating twenty millions for that purpose.

Gen. Sigel upon his own request underwent a critical examination into the nature of the charges which he had preferred against Gen. McDowell last Saturday. He did not seem to impeach the latter's loyalty, but to point out though unwillingly, the occasions when Gen. McDowell, in his judgment, displayed incapacity. He gave reasons which induced such opinion, referring to McDowell's conduct at Thoroughfare Gap.

He states the bulk of McDowell's army was encamped but a short distance therefrom; that the roads were good, and the only force required to hold it would have been about ten thousand men. These might have easily retarded the enemy for a day, and so have materially deranged his movements. He also charged upon McDowell a want of attention to the position of his (Sigel's) corps, with which McDowell was at that time co-operating, and a want of discretion in bringing his troops into action at the battle of Manassas.

The Porter court martial held a brief session to-day.

The following witnesses were examined in reference to the condition of the road from Warrenton to Bristoe Station, and as to the character of the night of August 27th: Col. Benj. F. Smith, Lieut. Ed. Brooks and Capt. W. B. O. Duryea.

Here the court gave notice that they had concluded the examination of witnesses on the part of the government. No witnesses for the defence being accessible, at the request of Gen. Porter the court adjourned till Wednesday.

FROM PHILADELPHIA.

(Special Dispatch to the Pittsburgh Gazette.)

PHILADELPHIA, Dec. 22, 1862.

The correspondent of the *Inquirer* says: Mr. Clement Barclay, whose generous devotion to the interests of our soldiers is well known, has returned from the Army of the Potomac.

He states that the rumored demoralization of our army is without foundation, that the soldiers are devoted to Gen. Burnside, and have full confidence in him; they are eager again to be led forward to achieve a victory which shall compensate them for the recent failure.

In the attack on Fredericksburg they were willing to sacrifice themselves, believing that their efforts would enable Banks to enter Richmond.

The loss at Fredericksburg is now known to be less than ten thousand in killed, wounded and missing.

The Cabinet embroglio causes considerable anxiety in this city among the friends of the Government.

XXXVIITH CONGRESS—SECOND SESSION.

WASHINGTON, Dec. 22, 1862.

SENATE.—The Vice President laid before the Senate a communication from the Secretary of War, in answer to an inquiry of the Senate, relative to the chartering of the transports Thames and Niagara for the Banks expedition, stating that Gen. Banks was authorized to procure the vessels from Commodore Vanderbilt, of New York, but no official report had been received in regard to the matter, and further stating that the Secretary was unofficially informed that the vessels were inspected by G. A. Van Borent and the engines by G. H. Haswell; that Gen. Banks had full power in the matter, and upon the receipt of a report from him it would be transmitted to the Senate.

The Vice President also submitted a letter from the owners of the steamer Thames, Messrs. Hubbell & Sturgess, of New York, stating that the Thames was a new vessel, launched in 1862, built of the best material and in the best manner; that her engines were built at the Delamatre Works, New York; that she was bought for the China trade, and that the story that she was a worn out lake steamer is utterly without foundation. Also, a letter from the builders of the boat at Mystic, Connecticut, certifying to the same facts.

Mr. Grimes, of Iowa, said there seemed to be a great diversity of opinion in regard to these vessels, and offered the following resolution:

Resolved, That a select committee, of three members, be appointed to inquire into and report to the Senate the facts in regard to the chartering of the transport vessels for the Banks expedition—the sea-worthiness of such vessels, and the character of the men employed to navigate them; and that the committee be empowered to send for persons and papers.

Mr. Hale, of N. H., thought the resolution had better be enlarged so as to include this whole subject. He had been told that a brokerage of ten per cent. had been paid in some cases, and even ten per cent. paid every month. After a slight modification the resolution was adopted.

The vice-President laid before the Senate a communication from the Secretary of State transmitting the correspondence with the Russian Government relative to telegraphic communication between the mouth of the Amoor River and San Francisco, California. Order to be printed.

Mr. Latham, of Cal., presented a memorial of nearly all the Express companies in the United States, asking for an amendment to the Internal Revenue law.

On motion of Mr. Lane, of Ind., the bill relating to the discharge of the State prisoners was taken up.

Mr. Lane proceeded to address the Senate. He commenced by saying he should attempt no finely drawn distinctions between Presidential acts which are excusable and not justifiable. He justified, in the fullest sense of that term, the arrest of political prisoners, which had been referred to during the debate, and also the suspension of the privilege of the Writ of Habeas Corpus by the President, and argued to show that such suspension under the Constitution can be ordered only by the President. This he inferred from the nature of the power to be exercised from the oath of office of the President, and from his constitutional obligation to see that the laws be faithfully executed.

He next referred to arrests in Delaware, Maryland and Kentucky, and expressed the confident conviction that on examination it would be found that the President had abundant cause for believing the parties guilty. He read extracts from the proceedings of the Delaware Legislature, proving that a large portion of that body, if not in sympathy with traitors, had at least no disposition to take side with the National Government in its present struggle for existence.

Mr. Saulsbury said the Senator, from Indiana, had omitted the most important part of the record in regard to the State of Delaware. The record is full, and shows that Delaware had always been true and loyal to the United States government, and the only disloyalty that could be shown was treating with courtesy an envoy from a sovereign State. He read the resolutions passed by the Legislature, utterly disapproving of the objects of the gentleman's mission.

After Executive session the Senate adjourned.

HOUSE.—Mr. Sheffield, of R. I., presented the credentials of Michael Hahn, representative elect from the first Congressional district of Louisiana.

On motion of Mr. Bingham, of Ohio it was referred to the Committee on Elections.

Mr. Wilson, of Iowa, offered a resolution directing that the Secretary of War inform the House what number of volunteer regiments are in the service to whom arrears of pay are now due, and for what length of time due to each regiment, and the reason why they have not been paid.

Mr. Wickliffe, of Ky., said a similar resolution had already been adopted.

On motion of Morrill, of Vt., the resolution was referred to the Committee on Military Affairs.

On motion of Mr. Arnold, of Ill., a resolution was adopted instructing the Committee on Ways and Means to inquire into the expediency of amending the tax law, so that licenses may be transferred and be good in the hands of assignees for the time given.

Mr. Lovejoy, of Ill., offered a resolution instructing the Committee on the Judiciary to inquire whether any further legislation is required on a letter submitted to him from an Illinois Colonel, who sets forth annoyances to which he has been subjected in consequence of negroes freed from the rebels travelling with the army. The resolution was adopted.

Mr. Vallandigham, of Ohio, offered the following, saying that he intended to debate, which caused it to lie over:

Resolved, That this House earnestly desire the most speedy and effectual measures be taken for restoring peace in America, and no time be lost in proposing an immediate cessation of hostilities, in order to speedy final settlement of the unhappy controversies which have brought about this unnatural, and ruinous civil war, by a just and adequate security against the return of the like calamities in time to come, and this House desire to offer the most earnest assurance to the country that they will in due time cheerfully co-operate with the Executive and the Senate for the restoration of the Union by such explicit and most solemn amendment and provision of the Constitution as may be found necessary for securing the rights of the several States and sections within the Union, under the Constitution.

Mr. Pendleton, of Ohio, offered a resolution that the protest and remonstrance of thirty-six members of the House, submitted therewith, against the unconstitutionality and injustice of the bill recently passed indemnifying the President and others for suspending the writ of habeas corpus, be entered on the journal.

On motion of Mr. Cox, of Ohio, it was

Resolved, That the President be requested, if it is not incompatible with the public service, to communicate to this House any correspondence, or other information in his possession, relating to the alleged interference of our Minister to Mexico in favor of the French in the present war between the Mexican Republic and the Emperor of the French, by signing a protest against the expulsion from Mexico of the French subject.

On motion of Mr. Shallabarger, of Ohio, the Committee on Ways and Means was instructed to inquire into the expedience of amending the tax law so that newspapers having a circulation of not exceeding five hundred copies may not be subject to the tax.

Mr. Bingham, of Ohio, introduced a bill which was referred, for the emancipation of slaves of rebels in States and territories of the United States.

Mr. Hutchins offered a resolution proposing fine gold medals to the soldiers who, in the midst of peril, first crossed over to Fredericksburg. Referred to the Committee on Military Affairs.

Mr. Mallory's resolution that the Senate concurring in an adjournment, to take place from Tuesday to the first Monday in January, was passed. Yeas 79, nays 47.

Mr. Bingham, of Ohio, moved that the Committee on the Judiciary be discharged from the further consideration of the bill declaratory of the emancipation of slaves in the rebel States and territories.

The bill was read for information. It provides that all persons held in involuntary service or slavery, except for crime, in any State or territory of the United States or any part thereof, the people of which may be in insurrection on the 1st of January, 1863, shall, on the day and year aforesaid, be declared free and forever released from involuntary servitude or slavery aforesaid; and the President of the United States shall, by proclamation, on that day declare all persons so held within such States and territories in insurrection to be free and entitled to protection in their personal liberty, according to the Constitution and laws, and by all persons in civil and military service of the United States, and that full compensation shall be hereafter provided by the United States to all loyal citizens, whose slaves may be emancipated by this act. The question was taken; yeas 62, nays 62, a two-thirds vote being required.

Mr. Burnham's motion was disagreed to.

Mr. White, of Ind., from the select committee on the Border State Emancipation asked leave to report a bill appropriating twenty millions to aid Missouri in emancipating slaves, and that it be recommitted to a select committee—yeas 77—nays 38. The House then adjourned.

From Richmond.

FORTRESS MONROE, Dec. 21.—It will be seen from the Richmond newspaper accounts of the battle at Fredericksburg, that while Gen. Lee, in his official report, places their loss at 1,800 killed and wounded, the same paper containing it says that up to Monday 2,000 rebel wounded had arrived in Richmond, and mentions many more at the Fredericksburg depot drenched with rain and unprovided for.

The Richmond *Inquirer*, of the 18th, says: Up to yesterday a. m. 229 abolition prisoners arrived at the Libby prison, from the Rappahannock, among whom is Captain S. J. Marchant, of the 35th Va., Lieut. John E. Powers, of the 2d Va., F. Lamb, of the U. S. telegraph corps, Wm. Foster, of N. Y., and a number of sutlers and clerks