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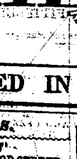
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REPORT OF CITY SOLICITOR.
Read in Councils Dec. 29th, 1862, and ordered to be published once in the papers authorized to do the City Printing:

To the Select and Common Councils of the City of Pittsburgh:

GENTLEMEN—Your recent ordinance, prescribing the duties of City Solicitor, requires that, at the last meeting in December of each year, he shall make a report to Councils, containing a statement of the legal business of the city transacted during the year, and of such matters as are still pending; to which may be added other information on the subject as he may deem proper.

In pursuance of that ordinance I submit this Report—and as this is the first of the kind ever presented to Councils, it will be necessary to refer to some of the transactions of the last few years, in order to understand clearly the present condition of the city business.

1. *Grading and Paving Liens.*

Under the Act of Assembly of May 16th, 1857, the value of the grading and paving of all the streets, alleys, &c., of the city, which had been paid for by the city, was appraised, and the amount of each street assessed upon the property abutting on that street. This was declared a lein upon the property, and was filed as such in the Prothonotary's Office. The total amount of the assessment was $235,000, and was payable in five equal annual instalments. Many of the citizens neglected to pay the instalments as they fell due, and quite a number refused altogether to pay, alleging various legal objections to the proceedings. In July and November, 1858, and in January, 1861, writs of *Scire Facias* were issued on some fifteen hundred of these cases, to compel payment. Issues were formed in several cases, and counsel were employed by different property holders to contest the legality of the proceedings, and their liability to pay. Three cases were tried, in the fall of 1861, in the District Court of the county, in which most, if not all, the legal questions involved, were raised, and by general consent all other cases were continued until those three should be finally disposed of. But a final decision has not yet been obtained in those cases. Since then many have paid their assessments. The whole of the amount—the five annual instalments—is now due. About 900 cases are still unsettled, and perhaps one-third of these have paid nothing, and the amounts must be collected by legal process. A great many of these cases, perhaps 200 altogether, are at issue and for trial in the District Court. Judgments were entered, in default of appearance, in some of the other cases, and in others no proper service of the writs was made. In many instances the properties have changed hands by death and sales, and the uncertainty and difficulty of getting the proper parties to the record increases the labor and risk of collection. It is believed that in some cases the amount has been lost in consequence of prior liens and judicial sales. The total amount of this assessment, remaining unpaid, is, perhaps, fifty thousand dollars.

Since the general assessment of 1857, above referred to, several others in 1859, 1860 and 1861, have been regraded and paved, and several sewers have been constructed by the city, and the cost thereof assessed upon the properties benefited, in pursuance of Act of Assembly. About one hundred cases of this class remain undisposed of in the District Court. In many of them, liens have been formed for jury trials. In one of them—the *City vs. Woods*—for the construction of the sewer in Cherry alley, was tried in the summer of 1858, before the District Court, and judgment was rendered against the city. It was taken up and argued in the supreme Court last November, but no decision has yet been given. If that should be decided against the City on the points raised, it will be fatal to a recovery in nearly all the cases. If decided in favor of the city, it will settle the main point in controversy, but on some other questions jury trials may be necessary.

When the sewer was being constructed in St. Clair street, the contractor left the excavation during the night without sufficient barriers to protect the public, and a stranger fell in and was killed. His widow brought suit in the District Court, which was tried in the October Court last spring, and she recovered a verdict of $3,000. The Court set aside the verdict on the question of law reserved. It was taken to the Supreme Court by the plaintiff, and will be argued at Philadelphia during the second week of January. This case, which is the first of the kind, involves a point of great importance to the city, namely, whether the city is liable for the damage resulting from the faulty manner or negligence of her contractors; and it is now presented, for the first time, to the Supreme Court of our State. A case of a similar character—*McCulloch vs. the City*—was also tried in the District Court, in which plaintiff claimed damages for injuries sustained by falling into the excavation on the Allegheny street. Verdict was rendered for the defendant.

In the grading of Washington street, Mrs. Mary Rice allege that property was seriously damaged, and she applied to the City Solicitor for the appointment of appraisers, in pursuance of Section 26 of the Consolidation Act of the City Council. Messrs. M. Tindle, John H. Ralston and John Wilson were chosen as praisers, who reported her damages at the sum of $1200, and assessed the benefits upon the property benefited by said improvement. The assessments embraced 126 persons. Eleven of these have paid their appropriate proportion, to the amount of $75 12. The others refuse to pay, and have employed counsel to resist the collection. Suits have not yet been instituted in these cases. Suits in the first case shall be brought after the decision of the Supreme Court in the case of the *City vs. Woods*, as that might have some bearing