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NEW-YORK CITY.

. LECTURES.

Sketch of Geo. Rogers Clarke, "the Washington of the West?-The Pioneers in the Mississippi Valley-Mr. Milburn's Fourth Lecture.

This lecture was in continuation of the series of skotches commonced in the previous one, illustrative of the character of the pioneer settlers of the West, and of the perils in which those early settlements were established.

The lecturer dwelt at length upon the character and services of the heroic GEORGE ROOPERS CLAB'SE, who has been justly denotatinated the "Washir gton of the West," and of whom, strange to say, no biography has yet been written.

. CLARKE was by birth a Virginian, and, like many other young men of his State, had been a laud surveyor, a profession in those times which opened the surest road to fortune. He had sorved on the staff' of Lord DUSMORE during LOGAN'S War, and at the conclusion, then being about 23 years of age, he turned his way toward Kentucky. Pleased with the country, he adopted it as his residence. He visited the scattered sottlements, became acquainted with all the settlers, their wives and children, and grow to be a favorite of all. A convention is held, and he, with another, is appointed a delegate to proceed to the Capital of Virginia to solicit the aid of the Lagislature. That body is not in session; and PATRICK HENEY, the Governor of the State, is confined to a bed of sickness. He gives CLARKE a letter of recommendation to the Legi-lative Council. That body receive him, but coldly. They will not even furnish him with 500 pounds of powder unless he will become personally responsible for the payment of it. CLARKE refuses; for the powder is domanded for public not private service. The Legislative Council persist. "Very well," says CLARKE, "a country that is not worth defending, is not worth claiming. We in Kentucky will take care of ourselvos.'

The influence of JEFFERSON and WYTHE at length procures a grant of the powder; and CLAEKE, receiving it at Pitteburg, starts with it in a canoe down the river. He is pursued by the Indians; but with the loss of some men, he succeeds in depositing the pewder in one of the posts, at the present City of May sville.

The war is now raging hotly. The British officers in the West insite the Indians to attack and overwhen the infant settlements, preparatory to an attack upon the rear of the revolted colonists. As was stated in the last lecture, in 1777 there were in the Western settlements scarcely 100 men capable of bearing arms. Large rewards, payable in good silver coin, were offered by the British for scalps. Among the foremost of those engaged in this traffic was Gol. HAMILTON, the Commandant of Detroit, acting under the authority of his Government. He offered a round price for the "hair" of men, women and children. Therefore, so long as his name is mentioned in history, let it go down with the title given to him by CLABRE-" HAMILTON, the Hair-Buyer." CLARKE determines to strike a bold blow at the

strong points of British influence. These are Kas-kaskia, Vincennes and Detroit. Heraises, chiefly in Virginia and Pennsylvania, a company of 150 men. Kentucky can furnish but few :-- it takes all her power to defend her own scattered posts from the prowling savages. Kaskaskia is reached, Fort Gage, which commands the to vn, is entered in the morning before the Commandant has risen. The wife of the CommanJer berates thom roundly for their want of politeness in entering the sleeping apartments of a lady who is not prepared for their reception. She seizes the papers of her husband, and sources them about her person. The modest backwoodsnien actually have too m . ch gallantry to force them from her, and she retains possession of them.

The town of Kaskaskia has been sotiled by French Creoles, who have heard terrible tales of the forceity of the Americans. They anticipate the fate of Aca-dia, and send to CLARKE requesting the privilege of celebrating Divino service for the last time in their little back chapel, before they are finally driven from their pleasant homes. CLARKE assures them that no cvil is meditated to them, and that they shall be abundantly protected on condition of owning allegiance to the United Status-a constition which they gladly accept. The grateful priost even sends intelligence of the conduct of ULASKE to Vincennes. The commander of the fort there, not suspecting any meditated attack, has botaken him-self to Detroit. The people, moved by the repre-sentations of the good Padre at Kaskaskia, embrace the American side without a blow. CLABER, in the meanwhile, at Kaskaskia, has been deal.ng with the neighboring Indians. Band after band submits, and peace with them in this quarter is stained. Among all our statesmen who have undertaken the management of Iudian affairs, not one has equaled GEORGE ROGEES CLARKE in skill, doxtority and success It is now Autumn. News of the loss of Kaskas. kia and Vincennes has reached HAMILTON, the Hair-Luger, at Detroit. He musters a force of 80 regu-lars and 400 Indians for the recovery of those posts. Fort Sackville, near Vincennes, has been put under the ccn.mand of Captain HELM, who has under his command a force of one man. When the Hair-Buyer approaches the gate of the fort, he finds a cannon, leaded to the muzzle, confronting him, and HELM or date h m to held or he still blow him for the to the ders h.m to halt, or he will blow his force to pluces. A parley ensues, and the commander agrees to surreader, upon condition that he and his troops shall march out with the honors of war. HAMILTON accepts the condition, imagining that the post is hold by a strong force; but, when the two men march out, he violates his word and detains them prisoners. It is too late to attack Kaskaskia this season And HAMILTON takes up his Winter quarters in the fort, and ravages the country. CLARKE decides that it is better to attack HAMILTON than be attacked by him. It is now February, 1799. CLARKE, with 170 men, marches through the Winter rains. It is even now no easy matter to traverse the the Western plains at this season, and the difficulties of this wintry march may be easily conceived. All the streams are swollen, and the "bottoms" are over-flowed. For miles in succession the troops march through water, often up to their arm-pits, holding their rifles and knapsacks over their heads. At length, after a weary march they reach the banks of the Wabash. Here they find a canoe and ferry the muselves over. Between them and the fort lies a distance of nine miles, all overflowed. The men hesitate to take to the water; but CLARKE, fortile in expedients, blackens his face with gunpowder, and calls upon a Hibernian soldier to raise a jovial Irish song. The rough humor inspires the rude woodsmen, and they plunge cheerily in; cross the water and drag themselves up the opposite bank, almost exhausted. By night ho sends a party of rifemen to dig a trench near the fort. In the morn ng a furious cannonade is opened upon, or rather above them, for the guus cannot be brought to bear upon a spot so near. In the meanwhile the riftemen pick off every gunner who shows himself at the embrasures. HAMILTON is alarmed. His prisoner, Captain HELM, assures him that before night the riflemen will have picked off every man. The commander asks for time to consider. CLAEKE will terms. The "Hair-Buyer" must surrouder at discretion, which he concludes to do. Taken with all its eircumstances this expedition is one of the most notable episodes belonging to our Revolutionary

can commander, has joined the cave of and his "white blocd teing washed out." by a solemn rire, be tecomes the chief of his, we aslociates. With great difficulty Gran evaluations is aving the life of SIMON, who is so at prisoner to Dotroit, whence he escapes by the assistance of a kind-hearted woman. Ho r autors the American posts, after a journey of the address the American posts, wilderness, and ag at engages in the war.

after a journey of safty-three a type chrough the wilderness, and an sta engages in the war. Fifteen years set a clapsed since Simon left Vir-ginia, during v, sich time he has not heard a word from hone. Ko how learns that VANOE was not killed. The brand of Cam is taken from his forcbead. head. As returns, finds his parents alive, and billy a them back to Kentucky. Ho soos his old ar as, soid, grown wiser, he is glad that she is not b'za witte,

SIMON KENTEN-for he now roumes his true name-died in 1836, at the age of 81 years. His later life allords a and illustration of the fate of many of the pioneers who, by their toil and suffering and blood, wen the dominion of the Western prairies for the whites He "entered" large tracts of land under the old land laws, ignorant that new ones have been passed. His titles are all pronounced have teen passed. His titles are all pronounded invelid. He has given title deeds to certain lands, and, in consequence, is thrown into prison, where he remains a twelvementh. No man believes him to have erred, except through ignorance. He has, meanwhile, i ccome like many other of these early pioneers—a fervent Methodist. No murmur escapes bis lips. He suffers, he says, no more than he de-serves, and at length dies in old age, landless and per niless, on the soil where he had fought and suf-fered.

Still more tragical was the fate of CLARRE. He 18 in like mannor deprived of his title to the lands he had "critered." In despair he betakes himself to drink, and dies a poor ruined paralytic. The lecture closed with several thrilling anec-

dotes, showing the spirit and courage of the wives and children of the Western pioneers. In one in-stance a man is shot dead at his own door by a party of three Indians. His son, a lad of 12 years, seizes his father's rifle, and shoots the foremost he will be the second with the temple savag ; he kills the second with the tom hawk, and stats the third to the heart with the knife and state De third to the heart with the knile snatched from the body of his dead inther. In an-other case, seven savages attack a lonely hut. The husband is shot. The wife drags the body within and secures the stout door. There is no annuni-tion in the hut. The Indians make an opening with their termahawks; the wile takes her stund by it armed with an axe. The first Indian who tries to enter is cloven by a blow-so a second and a third. The remaining four climb the roof, and attempt to class down the chimney. The wife seless the feather bed, or which her infant has been sleeping, and flings it on the fire, which is smouldering on the hearth. Three savages who are descending are smothered, and falling are successively disputched by the axe. The last one descends and tries to en-ter through the opening first made. The woman perceives the movement, and is there before him with her axe. No sconer is dis head thrust in than it is cloven through. The women, alone and unsided, has slain all the seven savages

These are but a sample of the thrilling incidents norrated of the dosporato scenes that markod the early history of the settlement and conquest of the "dark and bloody ground." as the natives with good reason named the region which we now know by its Indian appellation of Kentucky, "the Land Caves.

The next locture of this interesting course will be devoted to incidents illustrative of the loves and labors of the "Pioneer Preachers of the West."

THE CENTRAL PARK CASE.

The Matter Ended-Confirmation by Judge Harris of the Commissioners' Report. BUPREME COURT-SPECIAL TEEM-Fob. 5.

Before Hon. Justice Harris.

Yesterday Mr. Justice HARRIS rendered his decision in the Central Park matter. The room was crowded, and much interest was evinced as to the nature of the decision. We give below the opinion of the Court in full.

In the matter of the application of the Mayor, &c., of the City of New York, relative to the opening and laying out of a Public Place between Fifty ninth and One Hundred and sixth streets, and the Fifth and Eighth avenues, in the City of New York.—BY THE COURT, HARRIS, J.—Every citizen holds his property subject to the wants of the Government. This is an invariable condition of society. If money is required, it is taken by taxation—if property, by the right of eminent domain. Such power is a necessary incident of soveroignty. Its exercise, especially in a country like ours, whose growth and expansion is a constant surprise, even to ourselves, is often indis-neusable pensable

The public interests could not be sufficiently advanced without it. Individuals are not to be permitted to interpose their will or caprice, or even their own self-interest, to thwart useful improvement, or prevent the development of great public advantages.

conjectural, rather than present and real. It is in respect to such property more than any other that respect to such propercy more than any other that the opinions, even of discreet men, will be found to take the widest range. It is no matter of surprise, therefore, that, of so many owners, here and there one should be found who honestly and sincerely feels that he has suffered injustice at the hards of the Commissioners. I am myself not with-cut some apprehension that, in a few instances, an

inadequate price has in fact been allowed. Among the most earnest of those who oppose the confirmation of the report, are some, who, in Deorn her, 1652, purchased at a public sale by the Gor-poration of New -York, a portion of the same lots-none taken entirely for this improvement. I am en-tirely satisfied that the prices bid upon that sale were generally far above any reasonable appraisal of the lots. The sale supported to nearly half a mill the lots. The sale amounted to nearly half a milthe lots. The sale amounted to nearly half a mu-lion dollars. Of the purchasers, hearly half aban-doned their bids before paying anything: others paid their ten per c.nt. upon the sale, but never consummated their purchese, preferring rather to forfait what they had paid them to pay the balance of the purchase-money for the land. It was also extend upon the hearing that a large amount of stated upon the hearing, that a large amount of the purchase money had been remitted to the pur-chasers by the Corporation.

The appraisal of these lots by the commissioners is, I think, about fifty per cent. below the prices bid at the corporation sale. In some instances the award is less than the amount now due to the corporation upon the Londs and mortgages executed to secure a part only of the purchase money. To such pur-chasers the decision of the coumi-shours may woll seem severe and unjust. It was with some degree of plausibility that they insisted that having paid these prices to the corporation now, when the corporation, against their consent, is about to retake the pro-perty, it should not be heard to deny that it is worth what it received upon its sale.

But it is obvious that the Commissioners could adopt no such rule of discrimination. It was their single dury to fix what they believed to be the present real value of each lot taken without regard to the amount it might have cost its owner, or the source from which he derived his title-what may be the equitable relations between these purchasors

and the Corporation, when the lots shall be taken, I need not now consider. It may well be, that, in some instances, the Com-missioners may have erred in their judgment as to the value of property taken for this great im-provement. It wou'd, indeed, be surprising if the y-had not. But I am not at liberty to deny the moad not. But I am not at liberty to deny the motion to confirm their report, upon the more appro-hension that they have thus erred. They have had an opportunity of viewing the premises. They may not have obtained the opinions of judicious and well informed men on the subject, and during the two years they have had the subjects before them, may have collected information from many sources which has enlightened their judg-ment, and enabled them at least to make a just astimate of the value of each of the numerous loss embraced in their report. To allow their judgment thus deliberately and intelligently formed to be overcome by the opinions of the interest-ed parties, or even the opinious of disinterested with uses, the value of whose opinions the Court has no means of testing, would be a manifest per-version of the object of the Legislature in providing for this review of the proceedings of the Commissioners. If, in the discharge of their duty, the Com-missioners have proceeded in the manner prescribed y law. and have violated no legal principle in making their awards, the Court must be satisfied almost to a demonstration, that they have materially erred upon questions of value, before it will be justified in cending the report back for reconsideration. I am not convinced that any such error has been committed.

It remains for me now to consider the objections which have been urged against the roport by those whose property has been assessed for bene-iir. By the act relative to publi: squares and places in the City of New-York, passed April 11, 1815, which have which, by the act of 1853, was made applicable to this proceeding, the Commissioners were required, after having node their award of dumages to the owners of property to be taken, to proceed to make a just and equitable assessment of the value of the benefit and advantage of the contemplated improvement i pon the owners of other lands lying without the limits of the improvement, to the extent of such tenefit. It was objected upon the hearing, that in tenent. It was objected upon the nearing, that in making there assessments, the Commissioners could go beyond the lands fronting upon the proposed public square or place, and these lying within half the distance of the next streat or avenue, but in the fourth section of the act of 1845, it expressly de-clared that upon the opening of a public square or place, the Commissioners shall not be conficted in their estimate and assessment of benefits to any limit or limits whatever.

By the 7th section of an act in relation to the collection of assessments, &c., passed May 14, 1840, it is declared that Commissioners for making estimates and assessments for any improvement au-thorized by law, shall in no case assess any thorized by law, shall in no case assess any house, lot, improved or unimproved land, more than one-half the value thereof, as valued by the As-sersors of the Ward in which the same shall be sit-uated. The Commissioners proceeded under this restriction in making their assessments for benefits. It is alleged, and no could with truth, that the lands in the immediate neighborhood of the proposed square, and which are contessedly to be most benefitted by the improvement, being vacant and unproductive, had been valued by the different Ward Assessors at prices far below their value, and in some Wards at prices relatively below the prices in other Wards. The consequence of this restric-tion upon the power of the Commissioners has been. in many instances, to relieve the owners of lots most benefitted by the improvement from the payment of an assesment equal to the extent of such of an assessment equal to the extent of such benefit, and thus reduce the aggregate amount of the assessments. The whole amount as-sessed upon the owners of property for benefit is about \$1,650,000. I believe that but for the restriction imposed upon the Commissioners by the act of 1840, a much larger amount of assess-ment might have been imposed without the least injustice. Of this however, we are but the Compainjustice. Of this, however, no one but the Corpo-ration of New-York, which is required to make up the deficiency, has the right to complain. Many of this class of persons who appeared to object to the confirmation of the report, insisted, not so much that their own assessments were excessive, as that, when compared with others, they were relatively too high. But that, obviously, does not furnish a good ground of objection. If the objector page no more than the amount of benefit he receives, it does not lie with him to insist that another page less. By the act of 1853, the Corporation of New-York is authorized, after applying the amount of the as-sessments for benefits to the payment of the damases of the proceeding to raise the doilcioney by cre-ating a public stock, to be called the "Central Park Fund," icdeemable in 45 years offer the ges awarded by the Commissioners, and the expen-Fund," icdeemable in 45 years after the passage of the act, and bearing an interest of five per cont. It is also declared that for the payment of the stock thus to be issued, the land to be taken shall be irthus to be issued, the land to be taken shart be in-revocably pledged. It was insisted that the pledge of the land, involving the right to withdraw it from the the public use for which it is taken, is inconsist-ent with its perpetual dedication to the purposes of a public square, for the beuefit of which alone the owners of adjacent lands have been assessed. This, though, not much pressed upon the argument, has though not much pressed upon the argument, has seemed to me by far the most grave objection which has been presented against the validity of the pro-ceeding. It is, perhaps, unnecessary to consider it here. The only power vested in the courts is to confirm the roport or send it back to revise. If there be this radical defect in the proceeding, no possible advantage could result from a re-near to confirm the report But I do not fusal to confirm the report. But I do not think the objection can be sustained. The land has been taken from its owners for public use. It is to be devoted to the object for which it is taken. The faith of the City, perhaps, of the State, is plodged that the loan shall be paid. of the State, is pledged that the loan shall be paid. It is only upon the violation of this faith that the parties assessed can be deprived of the bonofits con-templated. Practically, they do receive such bene-fits. The value of their lands is increased by the improvement, and thus they receive an equivalent for the assessment they are required to pay. It may be that, in the language of the counsel who pre-sented this objection, "the assessment of land for benefit implies a covenant for the continuance of that benefit." But if so, the possibility that the benefit may be discontinued does not render the as-sessment invalid. At the most, it could only fur-nish the basis of a claim for compensation if the con-tingency should happen. A few objections of a more general character deserve to be briefly noticed. Damages are awarded to the Corporation itself for lots included within the Inits of the square to the amount of about \$650,000. It is said that by an ordinance of the Common Council passed in 1814, all the property of the Cor-poration, including these lots, was sacredly plodged for the payment of the funded dolt of the City, and that the Corporation have no right now to divert the lots from this object and devote them to the nurnos proposed. It may well be that the tradition purpose proposed. It may well be that the credi-tors of the Corporation have a right to have the amount awarded as the price of these lots in some way secured for their benefit, but whether they have or not, it is a sufficient answer to this objec-tion to say that it is a question which in no way concerns those who oppose the confirmation of this report. The same answer applies, too, to the objection that the public property, such as the Arsenal, the Croton Reservoir, and Hamilton-square, have not been assessed. It is probable that these lands were not assessed, for the reason that, on account of the purposes to which they were devoted, they would not be henefitted by the contemplated im-provement. But whether this be so or not, it does not lie with others, who have been assossed, to ob-ject that for any reason these have been omitted. It is also objected that the Commissioners had no right, in making their award, to declare that the smount due the Corporation for unpaid taxes and assessments should be deducted from the amount of the award for the same lots. This may be so; but the award for the same lots. This may be so; but this declaration in the report is ontirely harmless. The amount of the awards by the Commissioners, by the terms of the act of 1853, will become a dobt against the Corporation, due and payable imme-diately upon the confirmation of the report. If those entitled to receive these awards are themselves indebted to the Corporation for taxes or assess-ments, it did not require the authority of the Com-missioners to set off one debt against another. An objection is now taken, for the first time, to the validity of the appointment of the Commission-ers. The order for the appointment was made by Mr. Justice Mitchell, and it is now said that he is a relative to one of the parties assessed for benefit,

The objection is untenable. Judge Mitchell might not now sit to hear this motion for confirmation. The parties assessed for benefit are now parties to tl e proceeding. But when he entertained the mo-tion far the appointment of Commissioners, they were rot, and, of course, he was not legally dis-qualified. The fact that the relative has been brought within the range of assessment, is alone sufficient to show that the objection is altogether technical.

Again, it is objected that Mr. Brady, one of the Conmissioners, is a brother to two of the owners of lots taken for the improvement, to whom damages have been awarded. This might have furnished a proper ground of objection to be addressed to the discretionary rower of the Court, upon the appoint-ment of the Commissioners, but it is no way affects the validity of the roport. The law declares that no Judge of any Court shall sit in any cause in which a Judge of any court snall sit in any cause in which a relative within the ninth degree is a party. This prohibition relates entirely to Courts of Justice, and not to a special statutory proceeding like this. These who made this objection frankly admitted that it derived no support from the amount of the award.

I have thus noticed the principal grounds which have been urged against the confirmation of this re-port; I have also, since the argument, carefully ex-mined all the objections and affidavits filed with the conditioners by those who now resist the conditination. There are a few cases of individual hard-bip which have my sympathy, and for which I would glady provide some relief. But my examination has resulted in the full conviction that no legal errors have been committed in the proceeding, and that the report is, in the whole, pre-minently judi-cious and equitable. I have no hesitation, therefore, in directing that an order be entered for its confirmation.

When his Honor had finished reading the above opinion, Mr. Mott, on the part of some of the parties whose property is to be taken. began to read a list of what, we believe, were termed "constitutional of jections." He was interrupted by The Judge, who asked what he proposed to attain by reading them.

by reading them. Mr. Mat.—I propose to bring an appeal in this case, and I wish to onter my objections now. The Judge—I suppose you are aware there is no ap-peal from an order of this kind. Mr. Mot.—There is I know, no appeal from an or-der of this kind to the Court of Appeals, but there is a right of appeal to the General Term. Mr. Dillon. for the Corporation, denied there was sup such right, and objected to Mr. Mott being al-lowed to read his objections. A brief conversation ensued, which resulted in Mr.

A brief conversation ensued, which resulted in Mr. Mott being permitted to read the rest of his exceptions, by courtsey, but his Honor refused to make an order to have them filed.

Ex-Judge Edmonds suggested to the Court the propriety of empowering the United Etates Truct Company to receive the compensation awarded by the City to unknown owners.

Mr. Dillon asked to have this matter set apart, to give time for a fuller consideration than could now be given to it.

It was postponed accordingly until to-merrow morning.

Before Hon. Justice Clerke. Coultas ve. Coultas.—Judgment of divorce granted. Richardson ve. Richardson.—Divorce granted. Reference as to counsel fee ordered.

Before Hon. Justice Whiting. Tatham vs. Pinto - The matter of compensation

must to referred to Charles Stuart. Howy vs. Kenny.—Plaintiff's counsel must submit dcereo.

Young vs. Carroll.-Assignment void. Juagment accordingly.

The Murdered Printer.

To the Editor of the New-York Daily Times:

The TIMES of Monday, Jan. 28, contained an account of the death of Mr. DANIEL MOLEAN, while confined in the " Tombs" (well-chosen name) of this City. Your report was that this individual had been arrested for intoxication on Sunday night previous, and was placed in a cell with four others, alike drunk. During the night, while lying upon the same mattress, MoLEAN was crowded by his companion, and kicking him with his foot, told ! im to "lie over," whereupon a conflict ensued between the parties, the result of which was that, when the cell was opened on Monday morning, MoLEAN was found to be dead. A Coroner's Jury determined that he died of serous apoplery," hastoned by the blows which he had received from the hands of appears, revealed the cause of his death, according to the physician's testimony, "servus apoplexy;" MIGHAEL COLLINS. I have thus repeated the circumstances by which the life of a young man has been sacrificed while in the keeping of authorities." The motive I have in so doing is to elicit the aid of some able pen to prepare suitable strictures on the manner of counting intoxicated men in our City Prison, namely, four in one coll | Is it not admitted that a man, when drunk, is incano? Did you, Mr. Editor, ever hear that four insane men were left unguarded, locked up in one room, to sleep together? The man who gave McLEAN his deathblow (according to the verdici) repudiates all knowledge of the facts; he don't know of any such occurrence. Who is responsible for his blocd? Mr. MoL. was a printer, and a volunteer in the war with Mexice. Having returned, he has been omployed for about two years past in this City. His good, kind disposition, gentioness of manner, and social qualities, made him estecmed by his employer and office companions. He had a warm heart, and would freely give his last shilling to the destitute, or lend his last dollar to a friend. Bad company, however, irequently led him astray, and the resolutions to reform, which he often made, in regard to his drinking propensities, were as often broken. MOLEAN was an industrious, quiet, sober man, during the six working days of the week, never losing a day on account of sickness; often be hee suid to the writer he did not love, but rather hated, the taste of liquor; he wished never again to put the poison to his lips; he hoped the Prohibitory Law would be carried fully into effect, and that every dram shop would be closed. Yet this int-lit-gent young man. full of kindly impulses, the joint heir of a valuable estate in his native towc, (To-ronto.) was arrested for drunkenness, and has died at a drunkard's hunds. Who, again I ack, is respon-sible for his blood ?--the man who sold him the liquor ? the ann COLLINS who gave him the fatal blow ? or the authorities who placed four frenzied, insare, brain-fevered men in one prison-cell ? Shades of HOWARD and HOPPER1 must such things be tolerated in the City of New-York in 1866? tions to reform, which he often made, in regard to be tolerated in the City of New-York in 1866? On Thursday last, his remains were taken from the dead-house, placed in a handsome coffin, and conveyed to Union Cemetery, Bushwick, followed by five of his fellow apprentices, who worked by his side some sixteen years ago, and who loved by his side some sixteen years ago, and who loved him for his unselfish and aniable qualities of heart. They unite in the expression : "He was his only enemy." His coffin was opened at the grave; and such a mangled, mutilated head and face the bystanders exclaimed they had never witnessed before. The right temple was indented as by the heel of a boot, a tooth broken out, the upper lip severed, and the nose flattened. A spread eagle, pricked in India ink, upon the left arm, with his initials, told "this is DANIEL MOLIFAN !" NEW-YORK, Fob. 2, 1856. JUSTUS.

---mey fairly be suggested, were void, for uncertainty .

msy fairly be suggested, were void, for uncertainty and illegality. At all events, applying the principles established by the Court of Appeals to the actual facts as they are now shown to exist, we conceive it our duty, without finally deciding the question involved, to recognize in the interim, until a regular decision case can be had, the claims of Mr. Peabody to be treated as one of the colleagues_and we have actreated as one of the colleagues and we have ac-cordingly directed that a copy of this statement shall be communicated by the Clerk to both contestants to enable them to take such action upon it as they may respectively be advised. (Signed) J. J

J. J. ROOSEVELT, T. W. CLERKE. J. R. Whiting concurs.

His Honor then read the legally published certificate of the State canvassers, to show the number and designation of the ballots in question, and the official certificate of the County Clerk, both of which we annex.

The entire judicial vote in this district exceeded 5,000, of which Mr. Cowles had 26,613, with the des-ignation of "long term, eight years;" Mr. Davies, 17,996, with the designation of "short term, to fill a vscancy;" and Mr. Peabody, 5,782, with the desig-nation of "unexpired term of Robert H. Morris," Vacuuty, and Mr. Feabody, 0,102, with the designation of "unfxpired term of Robert H. Morris," &c. So that Mr. Davies, with nearly ten thousand less votes, defeats Mr. Cowles by the more force of the law of designation; Mr. Poabody, by the same law, with a still greater numerical difference against him, defeats Mr. Davies. Both Mr. Davies and Mr. Peabody, it will also be seen, are minority candi-dates, and neither, therefore, can claim an election, except by the mere force of law—and that law, if in the altered state of the case it gives any effect to the votes of Mr. Davies, would, as between him and Mr. Peabody, apply them to the unexpired term of Judge Edwards—the only one which, as between the two, was capically the "short term," according to the designation which excludes Mr. Davies applies with equal force to Messrs. Leonard

Davies applies with equal force to Messrs. Leonard and Hilton.

CERTIFICATE FROM THE COUNTY CLERK.

I, Richard B. Connolly, Clerk of the County CLERK'S OFFICE, NEW-YORK, Feb. 1, 1856. J I, Richard B. Connolly, Clerk of the County of New-York, do hereby certify that by the return of the several election districts and the ballot thereto attached, for the election held Nov. 6, 1855, it appears Charles A Peabody received five thousand seven hundred and eighty-two votes for Justice of the Supreme Court—ballot headed "For Justice of the Supreme Court, to fill the vacancy for the resi-due of the unexpired term of Robert Morris, late Justice, deceased."

That William H. Leonard received nine thousand nine hundred and thirty-three votes for Justice of the Supreme Court—ballot headed "For Justice of the Supreme Court, William II. Leonard, to fill a vacancy.

That Henry E. Davies received seventeen thousand nine hundred and ninety-six votes for Justice of the Supreme Court-ballot headed, "For Justice of the Supreme Court, Henry E. Davies, to fill a vacanev.'

That Henry Hilton received fifteen thousand five hundred and twenty-six votes, for Justice of the Supreme Court-ballot headed, "For Justice of the Supreme Court, Henry Hilton, for short term, to fill a vacancy."

Given under my hand and official scal the 1st day of February, 1856. RICHARD B. CONNOLLY, Clerk.

The regular business of the General Torm was then resumed, though nothing of interest transpired.

In the subsequent fearful Indian war, CLARKE bears a prominent part. It is a war of extermination on both sides. But through all, CLAEKE, by his valor and skill, wins the unbounded love and gratitude of the white settlers. What was his reward, we shall see in the sequel.

centest.

We must pass hastily over the career of another man, who is strikingly typical of another phase of border life. SIMON KENTON, was born of Irish parents in Virginia. He grew up to the age of 16 years, ig-norant of even his lotters, and never having had a shoe upon his fect. As young gentlemen are prone to do, he fell in love. The lady of his affections, to do, he fell in love. The lady of his affections, after having at first smiled upon him, discarded him for his friend, WILLIAM VANCE. KENTON invites himself to the wedding; attempts to force himself between the newly married pair, who are scated af-fectionately upon the edge of the bed-for the benches in the hat will not give seats for all the party. The groom and his two brothers fall upon the luckless swain, and give him what is called in country phrase "what he wants," in other words a sound drubbing. Not long after, Sixon meets VANCE alone in the woods, and asks for more of the same Bort. A fight ensues. The groom is terribly beaton. alone in the woods, and asks for more of the same sort. A fight ensues. The groom is terribly beaten, and left apparently dead. KENTON, horror stricken, takes to flight. Going westward, he assumes the name of BUTLEE. He masters the craft of the woods, and engages as hunter and scout to the garrison at Pitsburg. Then goes further west with others and builds a cabin and plants corn in Kontucky. When the Indian war breaks out, he engages again in scouting. One day when lying out near a "lick" scouting. One day when lying out near a "lick," he sees and is seen by a stranger. Noither can tell whother the other is a white or an Indian. Both "take to the tree," and for 48 hours they dodge each other, neither being able to get a shot at the other. At length the discovery is made that both are whites, and they come to a parley, and grow to be bodn companions.

Sinon new engages under CLARKE, and accompa-nies him in the attack upon Kaskaskia. He is at length taken prisonerin an attempt to "lift" horses from the Indians, and is kept captive for eight months, during which time he is forced to run the gauntlat nine times; is bound to the stake three

Whether or not the public exigancy requires that money shall be raised by a tax, or property shall be taken for public use, is a question referred to the sovereign will of the State, as expressed by logislative authority. It is enough that the *public good* de-mands it. Of this question the Legislature are the exclusive judges. It is no more the province of the judicial power to determine whether private property is required for public use, than it is to inquire whether the public exigency requires that money should be raised by a tax. Nor can I concur in the position, maintained upon

the argument of this case, that this power can only be rightfully exercised in cases of absolute necessi-A strict application of such a principle would completely annihilate the power. It would not be easy to state a case in which it would be absolutely necessary to take private property for public use. But the term, when applied to this subject, has no such restricted meaning. If, in the judgment of the Legislature, the public convenience requires that the property of individuals should be taken from them and devoted to the public use, this constitutes a sufficient legal necessity to authorize the exorcise of this nower.

The mode in which this power is to be exercised is ufficiently guarded to protect the citizen against injustice. He is protected in the enjoyment of his property, unless the public need it. For this protection he pays an equivalent in taxes. If the pub-lic need his property he must surrender it, but then only upon being paid a fair equivalent in money. By his taxes he pays no more than his just share for the beneuits of government. When he gives up his property, he contributes so much more, and is entitled to adequate componsation. He sells his property to the public, involuntarily, it is true, but for a price fixed by fair appraisal.

It is in this way that, from the very boginning of our government, property has been obtained for public improvements, such as turnpike reads, canals, railroads, and other kindred objects. In many cases the application has had its origin in private enterprise, and for private gain; but it has always been deemed enough to justify the exercise of the power, that the enterprise would result in public utility.

By an act of the Legislature relating to this subject, passed in July, 1853, it was declared that the tract of land mentioned in the title of this proceeding should be "a public place," in the same mannor as if the same had been laid out by the Commis-sioners appointed in 1807 for the purpose of laying out streets, &c., in the City of New-York, and the Corneration of New-York, and the orporation of New-York were authorized to take The act provided for the appointment of five Com-missioners of Estimate and Assessment, and made the existing laws relative to the laying out and taking public squares and places in the City of New-York spulic squares and places in the City of New-York applicable to the proceeding. Of the wisdom or expediency of the measure it is

not my province on this occasion to speak. It is enough that the Legislature have declared that it was required by the public interest and for the pub-lic convenience. But I may, perhaps, allow myself here to say, that if the approhensions of the most distrustful should be realized, the onterprise cannot prove very disastrous or even unprofitable. The most incredulous will not doubt, that should the generation who, half a century hence, will possess this Amorican Metropolis-then, perhaps, the Me-tropolis of the world-think it expedient to with-draw this tract of land from the uses to which it is now to be devoted, it might then be made to pro-duce a revenue exceeding by many times the amount

of the present expenditure. Commissioners were appointed pursuant to the act, in November, 1853. Of the eminent fitness of this commission, and the fidelity with which it has discharged its important trusts, all the parties who have appeared upon this hearing have borne their unqualified and emphatic testimony. Nearly two years were occupied by the Commissioners in pre-paring their appraisal and assessments. On the 4th of October last, the result was submitted to the public, and opportunity was given to present ob-jections. Parties dissatified with the decisions of the Commissioners were heard before them and, so far as objections were prosented, the decisions of the Commissioners were reviewed, and, upon such review, such corrections made as wore deemed just by the Commissioners.

The result is now presented to this Court in the report of the Commissioners. The only question now to be determined is, whether the report shall be confirmed, or whether it contains such errors as require that it should be reforred back to the same other Commissionors for reconsideration. This is the extent of the power vested in the Court upon this preceeding. I am to consider, therefore, the reasons urged against the confirmation of the re-These grounds of objection may generally be divided into classes: First, those presented by the owners of property taken for the improve-ment; and, secondly, those presented by the own-ers of property assessed for the benefit to be derived from the improvement. Each will require a separate consideration.

consideration. The number of City lets taken for the improve-ment is about 7,500, for which the Commissioners have awarded upwards of \$5,000,000. Of the owners of these lets, but about one in forty have appeared to ebject to the award. The very fact that thirty-nine out of every forty owners of the large tract of land embraced in this proceeding have not deemed gauntlat nine times; is bound to the stake three several times for sacrifice. The last time the fag-gots are already lighted, when a new band of successful in a marauding expedition, and are in ill humor. They wish to take a share in the tor-turing of Sixos. The Chief questions him, and not with his club. Upon questioning him further, the for the Indian chief is really one Sixos Gharr, a white man, who, having been wronged by hie Ameri. * WEBSTER defines it "a sudden loss of sense and veloniary mo-tion," which is true in this case.

The Disputed Judgeship-Hon, Charles A. Peabody declared Justice, in piace of the late Justice Morris.

SUPREME COURT-GENERAL TERM.

Before Hon. Justices Roosevelt, Clorke, and Peabedy At the opening of the General Term of the Suprema Court, on Monday morning, those persons present were somewhat astouished at seeing CHARLES A. PEADODY, Esq., ascend the Bench, and take a sent, with his usual dignity, by the side of the other two presiding Justices. Many were the inquiring glances cast around for information which would solve the mystery. This was soon given by Justice Roess-VELT, who read the following communication:

The undersigned, two of the three Judges of the Supreme Court, assigned, the three budges of the Supreme Court, assigned to hold the present gene-ral term, find themselves again placed in the ombar-rassing position of having (at least for the present emergency) to docide between the gentlemen, each claiming to have been duly elected to ill the vacan-er granted by the docth of Mu Justice Marie cy created by the death of Mr. Justice Morris, and each taking the required eath; but neither of them producing, or able to produce, the regular cortificate of the Secretary of State, "under the scal of his office," as provided by law in such cases.

We are compelled, in recognizing, as we must do immediately, the one or the other, as a colleague on the Bonch, to pass provisionally, at least, upon their respective claims. The pleadings lately sub-mitted to the Court of Appeals were made up, by agreement, between Mr. Davies and Mr. Cowles, and wore binding, therefore, only on them. And the conditional form of the judgment rendered upon those pleadings was a decisive intimation that a state of facts might exist, which, if duly presented, would show that Mr. Davies, the relator, was not entitled to the seat claimed by him. Su h a state offacts we have now before us.

According to the construction put upon the Constitution by the Court of Appeals, and by which this Court is bound, all vacancies existing on the day of the late election were then to be filled. There were, in fact, two such vacancies; one for the unexpired term of the deceased Mr. Justice Edwards, and one for the unexpired term of the deceased Mr. Justice for the unexpired term of the deceased Mr. Justice Morris-terms materially different in their duration. And, in addition, there was a Justice to be elected for the full constitutional period. In such cases the law-and, we may add, the naturo of things-re-quires that the "term for which the person voted for is intended, shall be designated on the ballot." for is intended, shall be designated on the ballot." On the ballots for Mr. Peabedy, the designation was express, "to fill the vacancy for the residue of the unexpired term of Robt. H. Morris, late Justice, deceased." On those for Mr. Davies there is no designation, except the words "short term to fill a" vacancy"-not specifying which of the two unex-pired terms, or which of the two vacancies was intended. These ballots, therefore, for Mr. Davies, it

