BOX

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FOLDER

137

Courts: Special Sessions

1913

HOWARD J. FORKER
JUSTICE

COURT OF SPECIAL SESSIONS
OF THE CITY OF NEW YORK
CHAMBERS

ANSWERED
JAN 3 1913
MAYOR'S OFFICE

NEW YORK June 2nd 1913

My dear Judge, I cannot refrain from writing to you all your many acts, are more than thankful that your undoubted intelligence, never courage is & and with you, may they never become less, keep me right if you see me, you are on the stream and cannot turn back, right to the top no die stopping, when you win out as our will be better satisfied than ever Sincerely, Howard J. Forker

COURT OF SPECIAL SESSIONS
OF THE CITY OF NEW YORK

ISAAC FRANKLIN RUSSELL
CHIEF JUSTICE

CHAMBERS OF THE CHIEF JUSTICE
32 FRANKLIN STREET

NEW YORK February 6, 1913.

"City Mag. 1st Div. 2/7/13

To
His Honor, The M a y o r,
City Hall, New York.

My dear Mayor Gaynor:-

I received your favor of the fifth instant with the enclosed letter from Chief Magistrate McAdoo, which I return as requested.

I note what you say about the Hotel Roy and I can assure you that I have already given the matter attention and will follow it up closely.

With kind regards,

Yours sincerely,

Isaac Franklin Russell

Chief Justice.

COURT OF SPECIAL SESSIONS
CHAMBERS

JOSEPH M. DEUEL
JUSTICE

ANSWERED
APR 8 1913
MAYOR'S OFFICE

125 west 80 th St
N.Y. April 7th 1913

Hon William J. Gaynor

Dear Mr Mayor:

Because of what you so kindly said of my Cabaret opinion after the Republican Club luncheon last Saturday, I think I may be pardoned for enclosing a made later decision, one printed in the Law Journal on Saturday as to Slot machines. I like this one better than the other. Each presented a cold blooded law problem but the latter one could be solved on the side of public morality.

Very respectfully
Joseph M. Deuel

New York Law Journal

VOLUME XLIX—NO. 5 NEW YORK SATURDAY, APRIL 5, 1913.—TWENTY-EIGHT PAGES. PRICE FIVE CENTS.

CONDEMNATION PROCEEDINGS UNDER RAPID TRANSIT ACT.

Costs Awardable Only as Provided For in Section 3240 Code of Civil Procedure.

COURT OF APPEALS.

Decided March 25, 1913.

In the matter of two several applications of SETH LOW and others, constituting the Board of Rapid Transit Railroad Commissioners of the City of New York, for the appointment of commissioners of appraisal relative to acquiring a perpetual underground right of way, &c., under Joralemon street and other streets and avenues.

CITY OF NEW YORK and others, appellants; HANNAH G. MYNDERSE, as executrix, &c., and various other property owners and representatives of property owners, respondents.

Costs, disbursements and counsel fees can only be allowed to property owners in condemnation proceedings when authorized by the statute. No authority is found in the Rapid Transit Act or in the Greater New York charter for such allowances in proceedings under the former act, but costs therein may be allowed by the court as in a special proceeding. (Code of Civ. Pro., sec. 3240.)

This is an appeal by the City of New York and the Public Service Commission of the First District in each of the above entitled matters from an order of the Appellate Division affirming an order of the Special Term allowing to respondents certain "costs as taxed by the court," and also additional amounts by way of special or extra allowances for counsel fees and disbursements.

Archibald R. Watson, corporation counsel (Clarence L. Barber of counsel), for appellants; Frederick B. Campbell for respondents Mynderse and others; I. N. Sievwright for respondents Packer and others.

HISCOCK, J.—In 1903 proceedings in each of the above entitled matters were instituted by the petitioners under the so-called Rapid Transit Act (Laws of 1891, chap. 4), as amended from time to time, to acquire certain property, easements and rights in and through Joralemon street and other streets and avenues for the purpose of constructing underground tunnels. The proceedings were directed in part against the property owners, who now are respondents, or, having died, are represented by respondents on these appeals, and on the conclusion of said proceedings in the Supreme Court an order was made allowing said property owners costs "as taxed," and also various amounts by way of additional allowance for counsel fees and disbursements. The only question presented on these appeals concerns the power of the court to award and allow such costs and disbursements; if it possessed the power, no complaint is made concerning the manner and extent in and to which it exercised it.

By amendment to the original Rapid Transit Act, especially as made by chapter 752 of the Laws of 1894, provision was made for the acquisition by the City of New York, acting through its board of rapid transit commissioners, by condemnation proceedings of such property, easements and rights as might be necessary for the construction of additional railway facilities as outlined by said legislation. The provisions added to and incorporated in said act upon this subject prescribed a complete plan and course of procedure for such condemnation proceedings from the commencement to the end, and while in some respects they were similar to the provisions of the Code covering this subject, in many others they were substantially, if not radically, different therefrom.

It is or must be conceded that costs cannot be allowed by the court in condemnation proceedings unless some statutory authority is found therefor, and however much we may sympathize with counsel for the respondents in their claim that their clients are equitably entitled to such costs in these very important proceedings, we have been unable to find any such statutory authority although following with diligence the attempts of counsel to point out the same.

Naturally we should expect that if the Legislature intended to allow costs and disbursements to property owners in condemnation proceedings it would make some direct provision therefor in the statute under which the proceedings were being prosecuted. It has, however, been decided by this court in these proceedings that no such authority is found in the Rapid Transit Act and, therefore, we need spend no time in searching the statute therefor (Matter of Rapid Transit RR. Comm'rs, 197 N. Y., 81).

It is urged, however, that the Greater New York Charter contains provisions permitting the award of costs in condemnation proceedings instituted in behalf of the city which are broad enough to cover the ones before us and the attempt is made to support this claim by special reference to chapter 736 of the Laws of 1904, whereby is amended section 998 of said charter. We are, however, utterly unable to make that section either as then or thereafter amended answer any such purpose. In the first place it is found in a title relating to the acquisition of property for purposes other than those involved here by proceedings provided for in the statute of which the section is a part and cannot be applied to these proceedings. In the second place, said section when read in the light of the preceding sections, even if applicable to these proceedings, would not by any reasonable construction justify an allowance of costs to these respondents.

In the next place it is urged that said Rapid Transit Act, by reference to provisions of the Code of Civil Procedure concerning condemnation proceedings, authorizes the inference that said two statutes are to be treated as related enactments, and that therefore the provisions of the Code with reference to costs may be applied to proceedings instituted under the Rapid Transit Act.

Only two citations of references in the Rapid Transit Act to the provisions of the Code are made in support of this contention which require any comment whatever.

It is pointed out that under section 23 of said act it is provided that the private corporations by whom it was originally contemplated that the subways would be built might acquire necessary property and easements by means of condemnation proceedings prosecuted in accordance with the provisions of the Code. It is obvious that this provision is not of the slightest help to the respondents in this matter, for, as has already been pointed out, the proceedings in question were prosecuted in behalf of the city under sections adopted some time after the original act was passed and which provide a complete plan independent of the Code for condemnation proceedings instituted by the city.

The second citation is of section 44 of the Rapid Transit Act, which provides that in proceedings instituted in behalf of the city, notice of intention to make application for the appointment of commissioners may be given either by notice published in the newspapers or, in the discretion of the corporation counsel, by service of a petition and notice to be made in the manner prescribed by section 3362 of the Code relating to service of similar papers in condemnation proceedings. It would be fanciful to hold that by such regulation of a single step in proceedings under the Rapid Transit Act by reference to a Code provision regulating a similar step in general condemnation proceedings the latter law was so incorporated into the Rapid Transit Act as to govern the subject of costs.

Thus it comes to this, that if we apply the Code provisions with reference to costs to the present proceeding instituted under the Rapid Transit Act we shall be obliged, without any statutory authority therefor, to say that the provisions of a general statute providing for condemnation proceedings are applicable to proceedings instituted under a subsequent statute providing a complete scheme for the prosecution of condemnation proceedings for a special purpose and containing sections covering this very subject of costs. Such a decision, in my opinion, would be opposed both to reason and authority (Matter of City of Brooklyn, 148 N. Y., 107; Fulton v. Krull, 200 N. Y., 105, 109).

It is urged by way of argument that if the Rapid Transit Act does not provide directly or indirectly for the allowance of such costs and disbursements as have been awarded in these matters, it does not provide for due compensation to the property owners who have been compelled to yield their property in condemnation proceedings, and is therefore unconstitutional. While, as I have indicated, it may very forcibly be argued that the Legislature justly should make provision for such allowances, I do not think we can hold that its failure so to do involved a violation of the constitution, especially in view of the application of section 3240 of the Code next to be considered. The contrary has of necessity been held in Matter of City of Brooklyn (supra) and Matter of Low (103 App. Div. 530).

This leaves us to consider simply whether the court had the power to award to the respondents taxable costs under section 3240 of the Code. This section contains a general provision that "costs in a special proceeding, instituted in a court of record, * * * where the costs thereof are not specially regulated in this act, may be awarded to any party, in the discretion of the court, at the rates allowed for similar services, in an action brought in the same court, * * * and in like manner."

Beyond any question these proceedings were special proceedings, and in the absence of some other controlling provision, I see no reason why the section in question does not apply. This view was entertained by the court in Matter of City of Brooklyn (supra), and commends itself to our approval in the present proceedings. I am not able to ascertain with any certainty, either from the briefs or from the orders appealed from, whether the court did allow such costs, but am led to infer that it did.

In accordance with these views, the orders appealed from should be modified by striking out all allowances for counsel fees and disbursements other than those which have been allowed by the court under and in accordance with the provisions of the Code just referred to, and as so modified affirmed, without costs to any party as against the other.

CULLIN, Ch.J., WERNER, CHASE, COLLIN and HOGAN, JJ., concur; WILLARD BARTLETT, J., concurs in result.

Ordered accordingly.

GAMBLING DEVICE—SLOT MACHINE IN CANDY SHOP.

Defendant Convicted Under Sections 483 and 973 of the Penal Law.

COURT OF SPECIAL SESSIONS OF THE CITY OF NEW YORK.

COUNTY OF NEW YORK.

April, 1913

THE PEOPLE OF THE STATE OF NEW YORK v. BENJAMIN STEIN.

Present: Hons. JOSEPH M. DEUEL, ARTHUR C. SALMON, MOSES HERRMAN.

Charles S. Whitman, district attorney, with Floyd H. Wilmot, assistant, for the People; Nathan Folk for defendant.

DEUEL, J.—The defendant was tried on an information containing two counts, one for permitting a boy under 16 years of age to be placed in a situation likely to impair his morals (sec. 483, Penal Law), and the other for keeping a room to be used for gambling (sec. 973, Penal Law).

As a retail vendor of candy, stationery and cigars he permitted the installation, in his business premises, of a contrivance for dispensing gum by chance. It can scarcely be called a slot machine because there is no machinery to be set in motion. A penny inserted in a convenient slot or opening falls by gravity and is guided by channels marked off by metal pegs into one of several receiving places designated respectively G, 5, 10, 15; if it falls into "G" the player gets one package of gum, into "5" five, into "10" ten, into "15" fifteen cents worth of gum.

Assuming each package of gum to be worth one cent the device held out as an inducement to everyone, child or adult, the possibility of getting five, ten or fifteen cents worth of gum for each cent dropped through the slot.

Another case (People v. Nahmias) came up for trial almost coincidently with this case. Nahmias was similarly charged in two counts with impairing morals and keeping a room for gambling by maintaining in his store an actual slot machine which, being set in motion by dropping a cent in the slot, delivered a package of gum to the player, but it was represented that some of the packages contained a coupon which, depending on its number, entitled the player, in addition to the gum, to from one to ten cents worth of chocolate candy.

In all legal essentials the facts are the same and a determination in either case must be controlling in the other.

Slot machine devices like those in quessing come into competition with the ordinary automatic vending machines, which are a great convenience to many people, and differ from them in that into the latter mechanical genius has inserted various complicated devices which promise the purchasing operator not only a definite return for the coin needed to set the machinery in operation, but an alluring opportunity to get some multiple thereof, five, ten and fifteen in the Stein case, and not exceeding ten in the Nahmias case. And these multiple recurrences, sometimes, if not always, are within the control of the party interested in the profits, as was shown in the Yale Wonder Clock, to which reference will later be made.

Even if the present contrivances were not subject to like manipulation, ordinary intelligence should convince any player that the ingenuity of the inventor was equal to the problem of insuring a profit to the machine during a given series of plays. This, however, would have slight weight with boys and girls, for whose patronage the devices now in question were specially constructed, for the tempting character of the bait with which each was set, the possibility of getting ten or fifteen times the amount hazarded, would entrap every penny an average boy possessed. The inducing cause to operate either device is not to get a penny's worth of gum for present enjoyment, but the chance of getting ten or fifteen times as much as the price of the play.

This seemingly stamps the operation as gambling under the reasoning of the Court of Appeals in Lyman v. Kurtz (166 N. Y., 274), and would do so fully but for differences in the respective slot machines. In that case the player stood to lose the amount hazarded if he did not win one of the money prizes offered. Here he gets a package of gum with every play. The court said (p. 279):

"The evidence shows the machine to be a contrivance, or apparatus, by which it is determined who, as between the player and the proprietor, is the winner or loser of the money hazarded. The player stakes or hazards his money on a chance and that is sufficient to make out the gambling. Within the general understanding such a machine is a gambling device."

This reasoning, however, did not suffice in Cullinan v. Hosmer (100 App. Div., 148) to forfeit a liquor tax certificate for having a slot machine on licensed premises which, being operated by the deposit of a nickel, gave out one five-cent cigar and possibly three, because the operator "could not lose anything and might gain two cigars. There was absent any element of chance and resulting loss so far as he was concerned." This was in 1905, and one justice dissented.

The following year that court, in the case of Cullinan v. Peck (114 App. Div., 654), reversed itself, largely on the ruling of the Court of Appeals in People v. Lavin (179 N. Y., 164). Besides the dissenting justice there were two others who had participated in the Hosmer decision. The Peck case was another application to revoke a liquor tax certificate for having a slot machine on licensed premises, the Yale Wonder Clock, to which reference previously has been made, and was described by the court as follows:

"This machine * * * contained * * * four tubes in which tickets were placed to be rung up upon putting a nickel in the slot on the side of the machine. The tickets were placed in the tubes by the proprietor and every time the machine was operated a metal disc or ticket was discharged. On the face of the machine, arranged horizontally, were four glass discs colored white, blue, green and red respectively, and whenever the metal ticket or disc was ejected from the machine one of the glass discs was illuminated. The white entitled the player to five cents in trade, the blue ten cents, the green fifteen cents and the red twenty-five cents. The discs were inscribed correspondingly 'Good for five cents in trade,' and so on."

In all essentials this machine corresponds to the one now in question and in like respects differs from the one involved in the case of Lyman v. Kurtz.

In reversing its former position and in determining that the presence of this machine on licensed premises was sufficient justification for a forfeiture of the liquor tax certificate, the court was unanimous. As reasons for its decision and as a judicial guide for ascertaining the obnoxious character of all similar devices, Mr. Justice Spring said:

"The chief element of gambling is the chance or uncertainty of the hazard. The chance may be in winning at all or in the amount to be won or lost. In using the present machine we may assume the player cannot lose. By far the greater majority of the checks called, in trade, for the precise sum deposited in the slot. If every ticket represented five cents the machine would not be patronized. The bait or inducement is that the player may get one of the checks for a sum in excess of the nickel he ventures, and that is the vice of the scheme. If he wins more than he pays the proprietor must lose on that discharge of the ticket. To constitute gambling it is not important who may be the loser."

The most recently reported decision on the subject is the People ex rel. v. Jenkins (153 App. Div., 512).

This slot machine was located in a cigar store. For the first nickel the machine indicated the precise results that would follow: a package of gum and a specified number of trade checks to be liquidated in the store. These were delivered to the player, and then the machine indicated that the next play would produce a package of gum with or without trade checks, which presented an uncertain option and "has in it such an element of chance as constitutes gambling * * *. In fact this element of chance gives the machine its only value, and that its use is within the direct prohibition of the Penal Law (973) seems clear."

In the light of the foregoing decisions, which are controlling, all doubt, if such at any time existed in the mind of the court as to the legal character of the vending device which the defendant permitted to be installed in his store for the indiscriminate use of adults and children, must disappear, and the contrivance itself must be declared to be a gambling device.

The questions presented have been argued ably and instructively by respective counsel in the briefs submitted.

Aside from being a menace to the morals of childhood the presence in the city of slot machines possessing similar characteristics endanger large capital invested in legitimate business and are stimulative of both civil and criminal prosecutions.

The justices of this court, by the prosecutions instituted, are in a position to know that such devices are on the increase. Some are specially adapted to childhood, and the favorite location for them is in a candy store near a public school. Others are constructed so as to appeal to adults and chiefly are to be found in cigar and liquor stores. Some are cheaply made and of simple construction like the exhibit in this case, and others are of elaborate outside encasement and intricate internal construction. To the ordinary, unthinking business man they appear as an innocent or harmless novelty that may amuse customers and stimulate trade; hence they can be easily placed by owners who share in the profits.

Section 970 of the Penal Law makes ownership, agency or superintendency of "a place or of any device or apparatus for gambling" a felony; section 973 declares that "any corporation * * * or individual who keeps a room * * * or any part thereof" for gambling is guilty of a misdemeanor. In addition to the criminal penalty the Liquor Tax Law declares a forfeiture of the tax certificate, *ipso facto*, upon conviction for having such a gambling device on licensed premises, and independent thereof permits a forfeiture of the certificate through a civil proceeding. These facts and circumstances seemingly present a condition that may be dealt with more advantageously to the public by a formal discussion than by a perfunctory decision.

All the motions of counsel should be denied, and the defendant should be found guilty.

All concur.

COURT NOTE.

The attention of the Bar is called to the list of causes published in this issue of the LAW JOURNAL, being the causes remaining on the ready calendars (Tort and Contract) for April. They will be transferred in their regular order to the Day Calendars on each successive Monday after April 7, as needed, during the term. The attention of the Bar is also called to a change made in the Trial Term Day Calendars for Monday, April 7. The causes heretofore published to be called in Part XII have been transferred to the Day Calendar of Part VIII for Monday, April 7, before Mr. Justice Hendrick.

REFEREES AND RECEIVERS APPOINTED YESTERDAY.

Referees.

SUPREME COURT.

By Mr. Justice PLATZEK.

Channing v. Blanchard—Paul M. Herzog.
Westcott v. Tager—Frederick L. Keating.
Morris v. Michael Brigante Co.—Harold H. Herts.
Jay v. Legal Realty & Mort. Co.—Bernard H. Sandler.
Foster v. Rich—James W. Hyde.
Crossin v. Hughes (2)—Phoenix Ingraham.
Wisch v. Hogan—Charles D. Donohue.

By Mr. Justice GUY.

Reese v. Trionfo—Charles A. Hickey.
Thomas v. Starling Realty Co.—Phoenix Ingraham.
Lowenfeld v. Trinity Const. Co.—Alfred D. Lind.
Man. Life Ins. Co. v. Emblen Const. Co.—R. Harold Bagnell.
Harrison v. Nagle—Joseph Kaufman

By Mr. Justice BIJUR.

Buecheler v. Buecheler—Max Altmeyer.

Receivers.

SUPREME COURT.

By Mr. Justice GUY.

Jacob Katz v. Emil Reibstein (2)—Wm. H. Quinn.
Emma Dabour v. Esther A. Wheaton—John F. Calhoun.

CITY COURT.

By Justice FINELITE.

Enyard & Godley v. The Velvitol Co.—H. Stephenson Whalen.

By Justice MCAVOY.

James Daly v. T. J. Mitchell Co.—Thomas L. Hurley.

BANKRUPTCY PETITIONS.

Petitions in involuntary bankruptcy were filed yesterday as follows:

Prince Lauten Co. et al. against the K. G. Manufacturing Co., children's dresses at No. 42 West Fifteenth street. The claims aggregate nearly $800.

Joseph Ellias et al. against the Ellison Construction Co., of N. 10 West Sixtieth street. The claims aggregate nearly $600.

The following voluntary petitions were filed:

Rose L. Schoenberg of No. 1227 Madison avenue; liabilities $2,979, assets $4,450 debts due.

Patrick H. Mullin, of No. 49 Bradhurst avenue; liabilities $1,299, no assets.

Julia Tannenbaum, of No. 1195 Third avenue; liabilities $4,520, no assets.

The following bankrupts filed schedules:

Louis L. Kraus; liabilities $6,641, assets $1,747.

Knitted Ladies' Underwear Co.; liabilities $4,530, assets $3,300.

Ardsley Dress Co.; liabilities $15,867, assets $6,547.

Falick & Lonsheim; liabilities $6,249, no available assets.

K. Marks & Co.; liabilities $351,375, assets $2,500.

ATTACHMENT.

Walker, Samuel O., and New York and Pennsylvania Smokeless Coal Co.—K. Marks & Co.; liabilities $351,375, Oppenheimer.

YESTERDAY IN THE COURTS.

Appeals Argued.

APPELLATE DIVISION—SUPREME COURT.

Present: Hons. GEORGE L. INGRAHAM, P.J.; CHESTER B. MCLAUGHLIN, FRANK C. LAUGHLIN, JOHN PROCTOR CLARKE and FRANCIS M. SCOTT, JJ.

613. LOUIS KORN, respondent, v. JOSEPH H. FREEDLANDER, appellant.

Appeal from judgment for $16,856.74 on verdict for plaintiff. The claim and recovery were for half of the alleged compensation received by the defendant for services rendered by the latter as architect in connection with the preparation of plans and designs for the construction of the bank buildings of the Importers & Traders National Bank.

Appellant contends that error was committed in not permitting the witness, Townsend, to contradict the testimony of the plaintiff as to declarations by the plaintiff concerning his grievance and claim against the defendant. Error was committed in allowing plaintiff to testify concerning an alleged general partnership agreement not involved in this action. Error was committed in excluding testimony as to the amount of time the defendant had devoted to the construction of the building.

Respondent contends that the error claimed in the exclusion of the evidence sought to be adduced by the witness, Townsend, was fully cured and is at best so slight, that it should be entirely disregarded upon this appeal, even if error there was. No error was committed by the trial court in the admission of testimony as to conversations in the presence of the defendant leading up to the formation of the agreement of March, 1905. The trial court rightfully excluded all evidence appertaining to the amount of time the defendant had devoted to the construction of the building.

David Leventritt for appellant; Max D. Steuer and Julian Arthur Leve for respondent.

2. In re application of FRANK YANZ for the appointment of a new trustee under the will of Franz Amrhein; HATTIE AMRHEIN, appellant; CHAS. BRANDT, JR., respondent.

Appeal from order denying motion for the removal of a trustee.

Appellant contends that notice must be given to the beneficiaries of a trust estate upon the application for the appointment of a trustee in place of a deceased trustee. The rule that where the only gift is found in a direction to divide at a future time, the gift is future and not immediate; contingent and not vested, and can have no application in the case at bar to the gift to Mary Yanz and her children, Florentine and Frank.

Respondent contends that the interest of the appellant is at most a contingent and not a vested interest, that being the interest acquired by Edward Amrhein and Florentine Yanz under the terms of the will of Franz Amrhein, and accordingly she was not a person entitled to notice of the application for the appointment of a substituted trustee. The will of Franz Amrhein did not make any direct gift to his children; it merely provided that the trust fund should be divided and paid over at a future time, and therefore no title to any part of his real estate vested either in Edward Amrhein or Florentine Yanz, both deceased.

Melville J. France for appellant; Eli S. Schreier for respondent.

3. MARY L. CRAGIN, appellant, v. LANCELOT M. BERKELEY, respondent.

Appeal from order dismissing case for lack of prosecution.

Appellant contends that the case was placed on the calendar and was on the calendar for a long time and could have been answered ready by the defendant on at least three occasions. This fact of placing the case on the calendar differentiates it from the case of Ferber v. Newgold (133 App. Div., 739). In this case, and in the cases of Zafarano v. Baird (80 App. Div., 144), Anderson v. Hedden 116 App. Div., 23) the order dismissing each of these was on the ground that the cases were never on the calendar.

Respondent contends that it is well settled that the delay of a plaintiff in bringing his case to trial until younger issues have been tried is prima facie negligence such as entitles the defendant to a dismissal of the complaint, unless the plaintiff shows a satisfactory excuse for the delay (Ferber v. Newgold, 133 App. Div., 740; Holtzoff v. Dodge, 134 App. Div., 355).

Warren S. Burt for appellant; Daniel F. Kiely and L. M. Berkeley for respondent.

8. WILBUR S. LEMMON, appellant, v. WALLACE REID, respondent.

Appeal from so much of an order as limits the discovery and inspection of defendant's books and records and excludes participation in the examination by plaintiff's accountants. This action is to recover $11,800 balance due upon an agreement by which the defendant employed the plaintiff in the former's insurance business, for a fixed salary of $3,600 per annum and, in addition thereto, 10 per cent. of the annual net profits of the said business, excluding "contingent."

Appellant contends that the order erroneously forbids plaintiff a discovery or inspection of the portions of the defendant's books, documents or records containing items of "contingent."

Respondent contends that the plaintiff is not entitled to a discovery, inspection and to copies of the "contingent" account where the "contingent" is excluded in the contract.

Martin Conboy for appellant; Herman A. Heydt for respondent.

10. SAM JUKOFSKY and ano., respondents, v. JOSEPH KOTLER and ano., appellants.

Appeal from order denying application to transfer action from the City Court to the Supreme Court, Sullivan County. The plaintiffs bring this action to recover $2,000 as damages for an alleged breach of a contract of employment between plaintiffs and defendants. The agreement or contract itself recites the fact that it was made in duplicate at Mountaindale, Sullivan County, New York, November 16, 1911. The alleged breach of said contract occurred at Mountaindale, Sullivan County, New York.

Appellants contend that in an action for a breach of contract, such as the one at bar, where it appears that the defendant will call as many witnesses as the plaintiff, the place of trial should be changed to the county where the cause of action arose and where the alleged breach occurred. The failure of the defendants to demand a change of venue or make their application therefor on or before service of the answer does not deprive the court of its power to change the place of trial under section 987 of the Code of Civil Procedure.

Respondent contends that the ends of justice will not be promoted by the change, but justice will be defeated if the motion is granted. The court's attention is directed to the fact that all the witnesses for the defendants are relatives and employees, and that the plaintiff is a poor man, and that it will be a great injustice and will mean the defeat of his claim if the case is transferred.

Raphael Link for appellants; Isidore Solomon for respondent.

12. CHARLES C. CARHART, appellant, v. WILLIAM R. KEENE, respondent.

Appeal from order requiring plaintiff to furnish security for costs in an action for alienation of his wife's affections.

Appellant contends that the order appealed from should be reversed on the authority of Fabrik &c., v. Nease (117 App. Div., 379), inasmuch as no excuse is shown for failing to move therefor before the joinder of issue.

Respondent contends that the right of a defendant to security for costs from a non-resident plaintiff, under sections 3268 and 3272 of the Code of Civil Procedure, is absolute and unqualified. The court had and properly exercised the power to require plaintiff to furnish security for costs as the "terms" upon which plaintiff's motion for a commission to take the testimony of witnesses without the State would be issued.

John H. Jackson for appellant; Charles J. Campbell for respondent.

13. JANE DUFFY, respondent, v. PETER DUFFY, appellant.

Appeal from order granting plaintiff $50 per week alimony pendente lite and $150 counsel fees, with leave to apply for an increase in the alimony unless the defendant continues paying the rent of the premises occupied by the plaintiff and defendant. The action is for a separation.

Appellant contends that the award of alimony must be based upon the necessities of the wife and the earning ability of the husband. The alimony awarded was vastly excessive. The defendant's earning ability, from the viewpoint most favorable to the plaintiff, is $2,400 a year. The parties do not occupy an exalted rank. They, with their three children, lived in an apartment costing $35 a month, and have no servant. One of the children is of such an age that he should be nearly, if not wholly, self-supporting. The defendant has always paid and still is paying the rent of the apartment.

Respondent contends that in an action for separation brought by a wife against her husband the court may, in its discretion, during the pendency thereof, make an order or orders requiring the husband to pay any sum of money necessary to enable her to carry on the action and to provide suitably for her support and for the maintenance and education of the children of the said marriage, having regard to the circumstances of the respective parties. Defendant's realty holdings are worth at a very conservative figure $25,000 and his saloon is probably worth another $25,000, making a total of $50,000, and his income from such a principal must be sufficient to warrant the court in granting a larger sum as alimony than it really did.

David May for appellant; Arthur Werther and Arthur Gutman for respondent.

14. LEON KAUFFMAN and ano., respondents, v. ADA L. SIMIS, appellant.

Appeal from order granting plaintiffs' motion for a commission with a stay of the trial.

Appellant contends that it was error to grant a stay without an affidavit of merits or a verified complaint. From time immemorial an affidavit of merits has always been deemed a necessary prerequisite in order to stay the trial of an action on an application for a commission (Brisban v. Hoyt, 1 Wend., 27; Warner v. Harvey, 9 Wend., 444). The moving papers were defective in failing to state that the witness was not within the State at the time the application was made.

Respondents contend that in the absence of bad faith the provision of section 889 of the Code is mandatory. The granting of a stay pending the return of the commission was necessary and proper under the circumstances.

Jas. S. Darcy for appellant; Maurice Cohn for respondents.

15. HERMAN VAN SLOCHEM, appellant, v. HAROLD G. VILLARD et al., respondents.

Appeal from order directing that a commission issue to take testimony of defendant Villard.

Appellant contends that defendant, having deliberately left his place of residence in the jurisdiction of this court and disposed of all property here and absented himself to escape liability herein, is not entitled to the commission to take his testimony. If this court should nevertheless deem it proper that a commission issue herein to take Villard's testimony, then the order should provide that the oral cross-examination be at defendant's expense, and this burden be not imposed upon plaintiff.

Respondents contend that the proper facts being shown, and there being no evidence of bad faith, the issuance of a commission upon interrogatories in the usual form was not discretionary with the court but was mandatory (Fisher v. South Shore Co., 70 Misc., 529); Oakee v. Riter, 118 A. D., 772). When an application is made to examine a non-resident party to an action in his own behalf, without the consent of the other party, the examination can only be upon interrogatories, and an examination upon an open commission or an examination wholly or partly upon oral questions is unauthorized (Code Civ. Pro., sec. 895; Ordway v. Radigan, 114 A. D., 538).

Morris J. Hirsch and Henry L. Scheuerman for appellant; Wm. M. Wherry, Jr., and C. Ames Brooks for respondents.

20. ALEXANDER SLABEYKO, respondent, v. AMERICAN MANUFACTURING COMPANY, appellant.

Appeal from order denying motion for change of venue.

Appellant contends that the moving papers are entirely sufficient, although not made within the ten days limited for removal to the proper county by section 986 of the Code of Civil Procedure. The courthouse in Kings County is as accessible as the courthouse in New York County.

Respondent contends that New York County is the proper place for the trial. The witnesses would go to court on the defendant's time and not on their own time. The New York County courthouse is as near, if not nearer, to Greenpoint, where defendant's factory is, than is the Kings County courthouse, both in point of distance and by reason of better transportation facilities.

Thomas F. Magner for appellant; John M. Nolan and Joseph P. Nolan for respondent.

Cases Tried—How Disposed Of.

SUPREME COURT—TRIAL TERM, PART IV.

Before Mr. Justice PAGE.

Aurieme v. Anirone Manufacturing Co. R. Maggio for plaintiff; H. C. Allen for defendant. Case unfinished.

REMOVAL NOTICE.

MUNICIPIAL COURT OF THE CITY OF NEW YORK.

SIXTH DISTRICT.

On and after April 14, 1913, the Municipal Court of the City of New York, Sixth District, Borough of Manhattan, now located at Third avenue and Eighty-third street, will be held at the new court house, Nos. 155-157 East Eighty-eighth street.

THE JUDGMENT RECORD.

Entered April 4, 1913.

The following is a list of the judgments filed in the County Clerk's office this day. The first name is that of the judgment debtor; the second the judgment creditor, the amount of the judgment and the last name that of the creditor's attorney:

Anhut, John Nichols; Wright, Kay & Co.; $47.31; L. B. Cohen.
Alexander, Henri Plunes; Grolier Soc'y of London; $69.37; F. H. Gewodetti.
Arcy Express Co.; A. Hirsch; $70.62; B. H. Sandler.
Alexander, James J.; B. I. Schnur; $111.91; S. J. Rosenblum.
Bradley, Charlotte Thyne; Union Bank of B'klyn; $65.29; L. Goldstein.
Berger, Peter; M. Hasbrouck et al.; $260.47; Gettner, S. & A.
Beck, Solomon; F. E. Bauer; $64.56; Brown, B. & B.
Bartelstone, Frank; J. Johnson, comm'r; $64.72; A. R. Watson.
Bass, Lena; I. J. Silverstein; $219.29; S. Kahan.
Blake, Mary L.; W. Lipshutz et al.; $20.67; N. Kaufman.
Brettner, Rudolf; D. Silberman; $988.78; Schleider & S.
Borrelli, Raffaele; Cipolla Cont. Co.; $84.72; R. S. Burlando.
Collier, Louis; N. Y. Edison Co.; $12.25; Beardsley, H. & T.
Conovich, Theo.; City of N. Y.; $48.72; A. R. Watson.
Chapman, Elverton R., Wm. C. Van Antwerp and Robert P. Bramley; J. Morrison; costs, $336.31; Rushmore, B. & S.
Cahn, Abraham; A. Gottlieb & Son Co.; $37.89; Schlesinger & S.
Concrete Interlocking Steel Corp'n; McGraw Pub. Co.; $315.67; Burke & F.
Dally, Wm.; G. Venuti; $303.29; H. Jones.
Daly, Cornelius J.; E. Wiener et al.; $70.01; P. A. Lauria.
Ellicott, Chas. R.; N. Y. Edison Co.; $31.85; Beardsley, H. & T.
Empire Cornice Works; Amsterdam Bldg. Co.; costs, $22.65; Wayland & B.
Eisenberg, Monte L.; H. Kramer et al.; $77.88; J. C. Kadane.
Fiore, Joseph; N. Y. Edison Co.; $15.80; Beardsley, H. & T.
Finney, Thomas J.; same; $17.38; same.
Fistel, Walter; same; $17.82; same.
Fay, Benj.; S. Cohen; $49.01; J. K. Ellenbogen.
Frey, Emma M.; A. G. Furthman; $43.16; C. A. Furthman.
Ferlazzo, Giuseppe; Wilbert Garrison Co.; $97.73; C. Garrison.
Fusco, Eugene; L. Cohn; $91.31; W. A. Goodhart.
Fanton, Joe; E. Wigand; $64.69; E. I. S. Hart.
Flig, Lizie; F. E. Rosen et al.; $191.45; G. Wolf.
Friedman, Gottlieb Co.; C. W. Sweet; $423.37; S. S. Leff.
Granite Spring Water Co.; R. Attilio; $80.11; L. McGee.
Greenblatt, Ely, and 227 W. 17th St. Co.; Jefferson Bank; $3,053.33; Strasbourger, E. & S.
Gerleit, August; Wheeler Varnish Works; $209.75; Lawther, S. & R.
Greenpoint Taxicab Co.; Chicago Pneumatic Tool Co.; $66.90; L. H. Porter.
Giangrasso, Leonardo; A. Yannaco; $193.90.
Hess, Edward; N. Y. Edison Co.; $17.23; Beardsley, H. & T.
Harlem Garage Co.; same; $73.22; same.
Hicks-Johnson Const. Co.; L. I. RR.; $36.47; J. F. Keany.
Haberman, Morris; H. Gohen; $29.31.
Hendee, Charlotte Louise; M. A. Bodee; $249.65; P. A. Lauria.
Hedges, Frank; B. Cooper; $107.41; Fischer & S.
Hobbs, John; City of N. Y.; $59.72; A. R. Watson.
H. Kuth Ice Co.; E. Giffhorn; $392.22; W. Brunner.
Hall, Chas. M.; Ordell Stock Farms; $81.41; Milne, B. & M.
Healey, Ella, or Ella Hurley; S. Eckman; costs, $73.68; T. A. Keppler.
John Gass Sons, Inc.; Aetna Life Ins. Co., $79.91; J. B. Henney.
James R. Seal Co., Inc.; Cork & Zicha Marble Co.; $274.31; Phillips & A.
Kiely, Michael J.; A. Tischer; $42.37; L. Frost.
Keitel Mfg. Co.; Frank V. Strauss & Co.; $89.37; H. A. Mendelson.
Kierman, Hugo; A. Schonewald; costs, $110.80; R. F. Thompson.
Levy, Jacob, and Jacob Richard; I. Obsatz; costs, $27.41; I. Apfel.
Lopiano, Gilda; N. Y. Edison Co.; $19.09; Beardsley, H. & T.
Leibovitz, Abraham L.; Baron Printing Co.; $123.63; L. Rayvid.
Lewis, Harry F.; Herald & Record Co.; $66.11; M. Cohen.
Levene, Joseph; S. Keil; $14.41; S. Feinstein.
Leichter, Abraham; J. Meyers; $28.77; H. Corenthal.
Levinson, Solomon, and David Deutsch; S. Bunin et al.; $332.71; H. Corenthal.
Levin, Isaac; J. Goldfarb; $98.50; B. Koenigsburg.
Lindinger, Fritz; Mail & Express Co.; $33.53; McCrystal, S. & W.
Same; S. Rodriguez, Inc.; $61.30; Douglass & M.
McCarrier, John T.; E. Wiener et al.; $39.41; P. A. Lauria.
Morris, John F.; F. de Montebello et al.; $82.17; A. Falk.
McGirr, Joseph J., and Standard Realty Co.; J. R. Costen; $325.91; J. L. Lyttle.
Marshall, James L.; Electricity Saving Co.; $143.17; Rosenthal & S.
Monaton Realty Investing Corp'n; L. Quinn; $53.22; G. Lange, Jr.
McIntyre, Kenneth A.; Central Electrical Supply Co.; $721.07; S. Rasch.
Mertz, Wm.; N. Y. Edison Co.; $15.97; Beardsley, H. & T.
Mills, George C.; Sauer Realty Co.; $179.01; J. P. Everett.
Menkes, Chas.; O. J. Gude Co. of N. Y.; $19.31; A. S. Gilbert.
Monaton Realty Investing Corp'n; Sterling Bldg. & Operating Co.; $137.54; Frayer & A.
Marmorstein, Sam; A. Grunbaum; $300.60; E. Goodman.
Manheimer, Samuel; Jefferson Bank; $320.51; Strasbourger, E. & S.
Same; same; $1,211.94; same.
Melchionna, Vincenzo; J. Natale; $122.70; P. A. Lauria.
Marasco, Chas. J.; W. Ranzwiller; $26.40; P. A. Lauria.
McLaren, Archibald and James R.; Guardian Trust Co. of N. Y.; costs, $126; Barber, M. & E.
Nathan, George; G. Venuti; $303.12; H. Jones.
Neal Farnham, Inc.; Hildreth & Segelken; $113.02; B. I. Kamen.
N. Y. Mutual Ben. Soc'y; J. Foley; costs, $111.78; A. L. Pincoffs.
Omaha Water Co.; F. Carlesen; costs, $146.39; F. Beltz, Jr.
Oppenheim, Max; United Electric Light & Power Co.; $92.47; Beardsley, H. & T.
Peretzman, Leon; J. Rosenberg et al.; $170.76; N. Kopf.
Precious Metals Corp'n; W. S. Gordon et al.; $532.26; Gordon & R.
Price, Augustus M., ex'r; O. J. Gude Co. of N. Y.; $25.56; A. S. Gilbert.
Peiser, Isaac; R. Peiser; $909.85; Moos, P. & N.
Pundt, Henry; Hannis Distilling Co.; $235.68; G. F. Orr.
Pollatsek, Adolph; Corning & Co.; $242.59; C. D. Brower.
Parks, Frank J.; R. W. Reid et al.; $236.43; J. C. Levi.
Rosenhaus, Isaac; N. Y. Edison Co.; $14.01; Beardsley, H. & T.
Robinson, Walter W.; Amer. Medical Ass'n; $16.94; I. B. Cohen.
Ruggiero, Frank; S. B. Blood, pres't; $29.52; M. Cohen.
Richard E. Thibaut, Inc.; Frankfort Realty Co.; costs, $77.78; L. A. Jaffer.
Sayman, Joseph, and Harry Cohen; J. Rosenberg et al.; $337.73.
Schlossman, Jacob and Sam; A. Packer; $40.15; H. G. Rabinowitz.
Schwoerer, Anthony, Jr.; J. Stokar; $25.36; Gettner, S. & A.
Spera, Mamie; M. Pepe et al.; costs, $22.90; Simmons, H. & R.
Schwenker, Wm.; Twenty-third Ward Bank of City of N. Y.; $433.11; F. P. Woglom.
S. Fox & Son, Inc.; J. Hecht; $269.61; L. J. Gold.
Segelbohn, Louis; N. Y. Edison Co.; $21.52; Beardsley, H. & T.
Selleck, Herbert L.; R. Guyer; $659.36; Warner, W. & K.
Simon, Julius; Sonn Bros. Co.; $318.41; L. B. Cohen.
Schaefer, Rudolph L.; P. Polatchek; $31.46; G. Eichhorn.
Stein, Abraham; P. Stein; costs, $39.50; Morrison & S.
Stallman, Max; F. Ludewig et al.; $253.41; M. Berg.
Stein, Simon; G. W. Griffithses; $29.39.
Turnbull, John W.; C. Rosenthal et al.; $85.31; L. B. Ginsberg.
Tarnofsky, Israel; Lonshein & Falick Furniture Co.; $62.65; M. D. Reiss.
Van Brunt, Wm. T.; M. E. Northam; $2,383.61; Douglass & M.
Virgilio, Salvatore; A. Kuflik et al.; $125.90; P. Goldfarb.
Von Unruh, Victor; V. Fortunato; $37.61; Fraser & H.
Wineburgh, Max; A. E. Marling et al., trus.; $97.91; J. C. Lewis.
Whitebone, Maurice; N. Y. Edison Co.; $17.11; Beardsley, H. & T.
Weeks, Nelson; same; $13.35; same.
Williams, George, and Albert Erkins; People, &c.; $500; C. S. Whitman.
Wilson, Henry F., Jr.; S. H. Emanuel et al.; costs, $164.80; Koenig, G. & S.
Ward, Fannie; Julia Bacon Co.; $213.21; M. H. Ellison.
West Michigan Furniture Co.; L. Gordon; costs, $12.41; H. Corenthal.
Winstian, Samuel C.; D. Weill; $39.21; Hirschman & D.
Watson, Thomas B., Jr.; Wotherspoon Plaster Mills, Inc.; $64.81; W. C. Relyea.
Zoller, George, Kathe, or Katherine Zoller and Kasriel Simon; L. Rabinowicz; $26.35; B. Koenigsberg.

SATISFIED JUDGMENTS.

The first name is that of the judgment debtor; the second that of the judgment creditor, and the date when the judgment was filed:

Ely, Cheever N., George B. Vanderpoel and Ambrose E. Vanderpoel, ex'rs.; A. C. M. Azoy, trust.; costs, $55.36; March 6, 1913.
Faerker, Karl, and Ernst Horner; F. Reiner; $521.81; August 28, 1912.
Froeber, George J.; A. T. Schwarz; $389.57; March 31, 1913.
Green, Samuel; R. S. Minturn, $138.10; July 13, 1911.
Same; Same; $556.44; May 25, 1910.
Same; same; $134.57; March 3, 1913.
Genealogical Pub. Co.; J. W. Lilly; $137.37; January 20, 1913.
Indian Refining Co.; R. J. Randolph, Jr.; $4,793.75; March 4, 1913.
Illinois Surety Co.; C. Russo; $308.43; April 30, 1910.
Kane, Marshall C., and J. Frederick Behrens; L. C. Finlay; $95.10; July 5, 1912.
Same; L. C. Finlay, ex'r.; $86.10; July 5, 1912.
Same; L. C. Finlay; $86.10; July 5, 1912.
Korn, Henry H.; S. Friedenberg; $453.19; December 16, 1912.
Kimball, Samuel E.; John A. Roebling's Sons Co. of N. Y.; $688.72; January 30, 1913.
Loew, Leopold; C. P. Blaney; $1,196.53; January 28, 1913.
Malaga Realty & Development Co.; R. Gorenson, $83.89; January 3, 1913.
Parker, Jacob; H. B. Harris; $69.99; March 18, 1913.
Steurer, Charles D.; G. Kershaw, by gdn.; $1,199.35; March 30, 1912.
Schiffman, Sam, and Joe Rosenblatt; R. Fine et al.; costs, $198.10; July 6, 1908.
Wechsler, Bertha, Benjamin Wechsler, Harry Wexler and Samuel Weingarten; M. Rochmer; $36; March 11, 1913.
Faub, Meyer; T. Meiretzsky; $447.78; December 18, 1912.
Warren M. Lincoln Co.; W. F. Baker, $828.02; April 3, 1913.
Weissberg, Meyer; M. Watkin; $40.65; February 5, 1913.

JUDGMENTS CANCELED.

Boltan, Jacob; S. Santora; $215.81; May 31, 1907.
Same; F. Perisi; $322.11; August 21, 1907.
Same; State Bank; $370.25; August 14, 1907.
Same; Union Stone Works; $519.41; July 12, 1907.
Same; J. Goodstein; $116.15; October 16, 1907.
Same; A. Billow; $155.41; February 24, 1910.
Same; N. Y. Telephone Co.; $225.40; April 7, 1909.
Same; H. Bayman; $207.05; May 19, 1908.
Same; J. G. Mongo; $322.11; August 21, 1907.
Same; S. Schavin; $114.22; June 4, 1907.
Illinois Surety Co.; A. Sciolara; $677.08; May 3, 1910.
Same; N. Delisi et al.; $1,020.68; May 3, 1910.
Same; G. Caryiolosi; $601.18; May 3, 1910.
Same; A. Barone; $1,293.18; May 3, 1910.
Same; S. Sclafini; $889.18; May 3, 1910.
Same; C. Discelafani; $889.18; May 3, 1910.
Same; A. Cuti; $927.01; June 28, 1910.

JUDGMENTS VACATED.

Cohen, Elias A.; City of N. Y.; $264.41; December 4, 1912.
Stup, David, as gdn.; Illustrated Postal Card & Novelty Co.; costs, 108.52; January 23, 1913.

COURT OF SPECIAL SESSIONS
CHAMBERS

JOSEPH M. DEUEL
JUSTICE

ANSWERED
MAY 27 1913
MAYOR'S OFFICE

Enroute to New York
On train May 26 1913

Hon Wm J. Gaynor.

Dear Mr Mayor:

I am homeward
bound after a delightful
outing on Lake George.
I am bringing with me,
and shall send by messenger
from Grand Central
Station, a specimen of the
trout which are caught
on the surface of the Lake
for two or three weeks in
May only. Then they go to
the bottom until the next

Dear.

This is not my largest, but my best Capture. I wanted to send You an right founder but am not so my luck during the last two days of Cooking. The one sent however will give You a fair sample of the best bush lobe boast in the world.

They are specially delicious when boiled and served with egg Sauce.

I hope You will enjoy it

Faithfully Yours

Joseph A. Beal

COURT OF SPECIAL SESSIONS,
FIRST DIVISION.

COR. FRANKLIN & CENTRE STREETS,
NEW YORK.

JUSTICES' CHAMBERS.

May 28th, 1913.

Honorable William J. Gaynor,

Mayor,

City Hall, New York, N. Y.

Dear Mr. Mayor:

At a meeting of the Board of Justices of the Court of Special Sessions held May 21, 1913, the Board of Parole of the New York City Reformatory, through Mr. Justice Wilkin, reported that the Reformatory was overcrowded and requested that no further commitments be made to it, until such time as the situation might be relieved.

In order to comply with such a request it would be necessary to commit misdemeanants whom the Court was satisfied needed reformatory treatment, and whose future would in all likelihood be greatly benefited thereby, to the penitentiary or release them by fine, probation, or suspended sentence, an alternative deplorable in the extreme and seriously detrimental to the administration of justice in this city.

A committee of justices was appointed to investigate the matter with a view of making some recommendation calculated to meet the emergency.

The normal capacity of the institution is 250, and at present there are 360 inmates. To accommodate

this number it was necessary to place an additional row of cots in each dormitory, an expedient operating detrimentally to the best interests of the inmates, and straining almost to the fullest extent the present means of accommodation.

The Committee called Commissioner of Correction Whitney into conference, and the situation was generally discussed and plans suggested to meet the difficulty.

We understand from the Commissioner that there is an appropriation for the purchase of a permanent site for a reformatory outside the limits of the city, for which an enabling act was passed at the last session of the legislature. We are also informed that a site has been recommended by the Commissioner, with reasonable prospect of being satisfactory to the Finance Department.

Therefore our recommendations for the present are simply temporary, to overcome objections that have existed for some time, and not only to preserve but to increase the usefulness of the Reformatory meanwhile. We are assured that this may be done without the expenditure of any large sum.

The Reformatory has proved highly satisfactory; and while it is now crippled, it is an institution that the city should well sustain and promote, as the amount of practical good accomplished to the delinquents committed thereto is ines-

timable.

We are advised that in the present emergency there is some disposition to take away from the Commissioner a portion at least of the amount of the appropriation already made for the purchase of a permanent site and the erection of suitable buildings thereon. This we wish to protest against with great earnestness.

To meet the present crisis and make temporary provision until the city is able to open the institution on its permanent site, the Commissioner has planned the erection of an additional dormitory on the present site, which could be used later for penitentiary purposes. With the facilities at the Commissioner's command this can be done at a small cost and within his regular appropriation. With this, together with other temporary arrangements, we are satisfied and believe that it will relieve the situation until the problem is solved by the opening of the new institution, if that may be accomplished within a reasonably short time.

The Committee would be glad to discuss this general subject with you, or to submit the proposed plans in detail, if you desire.

Very respectfully,

Cornelius F. Collins

Chairman of Committee.

CHIEF CLERK'S OFFICE,
COURT OF SPECIAL SESSIONS,
OF THE CITY OF NEW YORK

COR. FRANKLIN & CENTRE STREETS.
NEW YORK.

FRANK W. SMITH
CHIEF CLERK

June 25th, 1913.

Mr. James Matthews,
Executive Secretary,
City Hall, New York.

Dear Mr. Matthews:

With reference to your letter of June 20th, regarding the attached communication from Mrs. A. Noble, Briarcliff Manor, relative to her boy, William, I beg to advise as follows:

William Noble, together with his two little sisters, was committed to St. Agnes' Convent at Sparkhill, New York, by the Children's Bureau of the Department of Charities, the commitment being made on application of his mother. The commitments were made on March 5th last. On May 15th last Mrs. Noble made application to the Department of Charities to have the children transferred to the Mission of the Immaculate Virgin at Mt. Loretto, Staten Island. Her request was granted and on June 6th last William Noble, together with his two sisters, was sent down to Mt. Loretto.

I am informed that the children are enjoying excellent health, and there is no cause for worry on the mother's part inasmuch as the Mission at Mt. Loretto is considered as one of the best homes in the United States. For Mrs. Noble's information I also enclose a visiting card showing the time and route to be taken in visiting the children.

Respectfully,
Frank W. Smith
CHIEF CLERK.

Court of Special Sessions
of the City of New York
Justices' Chambers
BROOKLYN, N.Y.

July 2nd 1913

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Dear Judge,

I simply regret that you do not see your way clear to re-appoint Daniel J., he is, in my judgment, the most desirable asset for the interests of the Court, under every condition he is intelligent, most industrious, fair and reliable, he would be a position to all His specially. I am not entirely selfish in the premises. All I hope is that whatever you may do will be granted to you,

Yours Sincerely as ever, Howard T. Forster

CHIEF CLERK'S OFFICE,
COURT OF SPECIAL SESSIONS,
OF THE CITY OF NEW YORK

COR. FRANKLIN & CENTRE STREETS.
NEW YORK.

FRANK W. SMITH
CHIEF CLERK

September 18th, 1913.

Mr. Robert Adamson,
City Hall, New York.

Dear Mr. Adamson:

Yesterday I sent to you a list of the Justices of this Court, but failed to insert thereon their addresses which I now do.

Chief	Justice	Isaac Franklin Russell,	422 Greene ave, Brooklyn
Assoc.	"	Frederic Kernochan	829 Park avenue, New York
"	"	Lorenz Zeller	2013 Madison avenue, New York
"	"	John B. Mayo	216 West 100th st. " "
"	"	Franklin Chase Hoyt	66 Third avenue, " "
"	"	Joseph F. Moss	317 ~~E. 17th street~~ " "
"	"	Howard J. Forker	298 St. James Pl. Brooklyn
"	"	John Fleming	Jamaica, Long Island
"	"	Robert J. Wilkin	211 Clinton st. Brooklyn
"	"	George J. O'Keefe	32 Franklin st. (Court of Spec. Sess.)
"	"	Morgan M. L. Ryan	New Brighton, Staten Island
"	"	James J. McInerney	32 Franklin st. (Court of Spec. Sess.)
"	"	Arthur C. Salmon	Avon, New Jersey
"	"	Cornelius F. Collins	32 Franklin street, (Court of Spec. Sess.)
"	"	Moses Herrman	135 E. 60th street, New York.

Frank W. Smith, Chief Clerk

Respectfully,

F. W. Smith

CHIEF CLERK.

Per

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