

think I have received any since election; I may be mistaken on that subject.

Q. Didn't he request of you an opportunity to inspect the records of the patrolmen against whom these charges were made of fraud, intimidation and personal violence having occurred on election day? A. I think he sent me a letter asking that certain records of every police officer should be submitted to him.

Q. Oh! A. Yes, sir.

Q. Was that before election? A. No; since election.

Q. Exactly; did it occur to you if there was any reason why he wanted that? A. He gave no reasons, no specific reason.

Q. No specific reason? A. No, sir; and no name.

Q. For all you know about it, it was a matter of idle curiosity on his part? A. It might be; yes, sir.

Q. Did you understand it was anything else? A. I didn't know what he wanted them for.

Q. You didn't know what he wanted them for? A. No, sir.

Q. Did you preserve his letters? A. I think his letters were presented to the board of police, and acted upon there.

Q. Did you preserve it? A. It is preserved on the files of the department.

Q. Can you produce it? A. Yes, sir; I think so.

Q. Does it run in these words, "President James J. Martin: In the investigation of election frauds, our committee of lawyers may prosecute several men on the police force; will you kindly direct the clerk to give me the records of such patrolmen, the particular men to be charged? I would like to have at once the record of 2494 of the Charles street precinct; I think his name is Martin; I make a general request, so as to avoid a long correspondence?" A. I think that letter was received.

Q. It now occurs to you that there was a name specified in this letter -- a man named Martin? A. Yes.

Q. A man to whom he referred? A. He made no charges to us about it.

Q. Didn't this letter state they desired to prosecute members of the police force on account of election frauds? A. They did not prosecute them, and presented nothing to us about Martin or anybody else.

Q. Didn't this letter state he intended to prosecute them in the criminal courts? A. Yes, sir.

Q. He desired the records? A. Yes, sir; and which we did not give them.

Q. You did not? A. No, sir.

Q. You declined to assist in prosecuting policemen? A. We declined to give records of the force, as he requested; I do

not know whether he received the record of that one or not; I am not clear on that subject; I want to say under that, that the board of police did not see what the record of police officers had to do with any action that committee on election did.

Q. And when you learned that Mr. Conklin desired to prosecute policemen before the criminal courts of this city, you did not think it best to give them the record of the policemen?

A. No, sir; I did not; not for the reason that he was going to prosecute them.

Q. For what reason then? A. Because I say it was an improper thing to do it, and the board took that view of it.

Q. You was the first one to speak of that? A. The communication was presented to the board.

Q. And you immediately said it should be refused? A. Yes, sir.

Q. And not only the general request, but the specific request was refused? A. Very likely it was.

Q. Is it true? A. I think it is.

Q. What was your reason for declining to furnish that record? A. I think it was improper to furnish the records of police officers in connection with any complaint made against them outside the police department; the record of the police officers are for inspection in the police department, not for public inspection.

Q. But if a policeman was charged with the commission of a crime, did it occur to you that it was a wise thing to keep from the court and jury a knowledge of his record? A. No, sir; his record would be furnished on a trial.

By Senator Bradley:

Q. That is, if demanded by the court? A. Yes.

By Mr. Sutherland:

Q. But, if requested for the purpose of indictment, it would not be furnished?

Mr. Nicoll.—You indict a man on account of his record?

Mr. Sutherland.—It might assist his indictment.

The Witness.—It would not be furnished, so far as I am concerned.

Q. Did you think the dignity of the board was invaded by the request? A. I thought it was an unusual request.

Q. Did you think the dignity of the board was invaded by the request? A. No; not specially.

Q. Did you immediately after the meeting closed say that you had no other motive for refusing the request, except to pre-

serve the dignity of the board? A. I do not remember making any such remark.

Q. Did you know the account of this transaction was published on the 18th day of December, 1893, in the New York World? A. No, sir; I did not.

Q. And that it quoted you as stating, "I had no other motive other than to preserve the dignity of the board?" A. It may have been so published.

Q. But it was not called to your attention? A. No, sir; it was not.

By Senator Bradley:

Q. And you never remember making the remark, do you? A. I do not.

By Mr. Sutherland:

Q. Now, in answer to the chairman of the committee, you said your attention was not called subsequent to the election until the sittings of this committee to the charge that policemen had committed any acts in violation of the Election Law? A. I did so state to the chairman.

Q. You were in error in regard to Mr. Conklin? A. I was; I overlooked the letter of Mr. Conklin.

Q. Now, that letter stated there was a lawyers' committee prosecuting these frauds, did it not? A. I understood there was a committee prosecuting election frauds; yes, sir.

Q. This letter stated it was on behalf of the committee, who desired the records of policemen? A. Yes, sir.

Q. Didn't you understand from that that there were charges pending before that committee, or under investigation before that committee, against policemen? A. I suppose so; yes, sir.

Q. What did you ever do about inquiring as to these charges? A. Charges of the lawyers' committee?

Q. Against the policemen? A. I have not done anything.

Q. Did you take any steps, or request anybody to take steps to ascertain the character of those charges? A. I said I had talked with the superintendent about it in connection with the evidence before this committee.

Q. Before this committee at its sessions? A. No, sir; I did not.

Q. You took no steps to ascertain the character of the charges against the police? A. No, sir; there was not any complaint made against the police force.

Q. Here was a letter from Alfred R. Conklin informing you that the lawyers' committee was engaged in prosecuting policemen? A. Yes, sir.

Q. And in connection with that, they desired the record of the policemen? A. Yes.

Q. Did you take any steps to ascertain the charges against those policemen? A. I did not.

Q. Or with reference to the identity of the policemen charged? A. No, sir.

Q. Why not? A. I supposed it would come to us in due course of time.

Q. You pursued the same policy of waiting that you had in regard to those charges? A. Yes, sir; I waited.

Q. And simply sat still? A. Yes; I had been waiting

Q. And laid down evidence in your lap? A. Yes; I was waiting for evidence.

James J. Martin, recalled:

Direct examination (continued) by Mr. Sutherland:

Q. You told us this morning that in consequence of the publication in the New York Herald, of Thursday, March 8th, Captain Westervelt was put upon trial, convicted, and fined five days' pay? A. Yes, sir.

Q. In what precinct was Captain Westervelt? A. Twenty-eighth precinct.

Q. Which one of these houses mentioned in the Herald article was included in that precinct? A. A number of them.

Q. All of them? A. Quite a number; I should think that the complaint against Captain Westervelt covered eight or ten places, as near as I can recollect now.

Q. Where is the twenty-eighth precinct? A. It is located between Seventy-ninth — is located between Ninety-sixth street and One Hundred and Sixteenth street.

Q. That is, north and south? A. That is north and south.

Q. From east to west? A. Running between Fifth avenue and the East river.

Q. Well, that don't take in Third avenue, then? A. Yes, sir; Third avenue is east, toward the river.

Q. Then that takes in Second and Third and Fourth and Fifth avenues? A. Yes, sir; Fifth avenue is the westerly boundary.

Q. Is One Hundred and Seventh street in that precinct? A. Yes, sir.

Q. Is West Houston street in that precinct? A. No, sir.

Q. Did this article make a complaint against a house on West Houston street? A. No, sir; that article — I don't know as to the article; I said that I saw the article generally.

Q. You have already testified as to your recollection as to 298 Elizabeth street, and 138 Crosby street? A. Yes, sir.

Q. Are those places located within Westervelt's precinct?
A. No, sir.

Q. In whose precinct are those located? A. Two hundred and ninety-eight Elizabeth street is in the tenth precinct.

Q. Who is the captain of that? A. Captain Stevenson

Q. And in whose precinct is the Crosby street place? A. The same.

Q. Any complaint made against him? A. No, sir.

Q. On Saturday, December 23, 1893, the World published the statement that you and Commissioner Sheehan were overruling Superintendent Byrnes in his efforts to enforce the law; was your attention called to that article? A. No, sir.

Q. The article states that the World knows that Superintendent Byrnes was defied by the commissioners and that the people know that the character of the police department is determined by its head; Mr. Martin and Mr. Sheehan, with Mr. McClave, are practically that head; the World charges them, and not the captains, with the attempt to oust Superintendent Byrnes; was that article called to your attention? A. I think I heard of that article; yes.

Q. About the time it was published? A. Yes, sir.

Q. Now, you stated that these other matters which came to your attention were not investigated by you because it was expected Superintendent Byrnes would investigate it? A. Yes, sir.

Q. Did you turn this matter over to him for his investigation?
A. No; I did not.

Q. Who did you ask to investigate it? A. Nobody; there wasn't any truth in it.

Q. Did you pay any attention to the charge? A. No, sir.

Q. Not even to contradict it? A. No, sir.

Q. And was the charge renewed in the World of December 27th, in an editorial? A. It may have been.

Q. And you paid no attention to that? A. No, sir.

Q. Did the same editorial charge that George F. Roesch had virtually command of the police in the fourteenth precinct, and that policemen who would not do his bidding were transferred to other precincts? A. What is that?

Q. Do you remember a charge in the World of December 27th, that George F. Roesch had virtually command of the police of the fourteenth precinct, and that policemen who would not do his bidding were transferred to other precincts? A. I think I saw something of that; yes, sir.

Q. What did you do about that? A. Nothing; I did not believe that was true.

Q. You knew about the transfer of policemen, didn't you, so far as you were concerned? A. Some transfers; yes, sir.

Q. Did you inquire of the other police commissioners in regard to the transfers they had made? A. No, sir; I did not.

Q. You remember that the same article charges that the police had been employed to blackmail saloon keepers and others with the threat that the law would be enforced against them if they did not comply with the wishes of the district leader? A. No, sir; I did not; I may have seen it in the article.

Q. Was not the very next sentence, the one from which I have just read, that the police in that district were employed to blackmail saloon keepers if they did not comply with the directions of the district leaders? A. I do not recollect noticing it, and would not believe it.

Q. Did any such statement come to your ears? A. No, sir; not in any shape; I should take notice of it.

Q. Did anybody say to you that it was being talked about? A. No, sir; I did not take any notice of that.

Q. In what shape did it come to your attention? A. In no way.

Q. You never heard of it? A. No, sir.

Q. You never heard that the police were being used to blackmail the saloon keeper? A. I never did, except as I stated on the stand.

Q. You mean the time this citizens' committee came to see you? A. Yes, sir.

Q. Well, we will find out about that a little later; do you remember that the World, on December 27th, in a very long article covering three columns made the same charge that the commissioners were allowing the police to be manipulated in the interest of the district leaders? A. I don't remember the special article; I remember the World had a number of articles of that character.

Q. Do you remember a meeting that was held which was reported on December 27th; that is, on Wednesday, the meeting had been held the day before? A. Very likely the meeting was on that day.

Q. In which you are reported as saying, "There has been a great deal of talk of late about the duties of the commissioners and I would like to find out just what those duties are;" was any such expression as that used by you? A. I don't recollect it.

Q. You don't remember it; do you mean to say it did not occur? A. I do not say it did not; if I read the article I might be able to say something more about it.

Q. I will show it to you; see if it refreshes your recollection? A. No, sir; I do not recollect having used that expression.

Q. Did the World send a reporter to interview you about that matter? A. They may have.

Q. Don't you know? A. Well, the reporters are continually asking me to be interviewed.

Q. Didn't they come to you with regard to these various charges made in the columns of the World? A. They may have.

Q. Don't you know they did? A. Yes; probably they did.

Q. Don't you remember the young man that came to see you? A. No; I do not.

Q. Do you remember he came, stating that the World desired to publish anything you desired to answer to that? A. Yes, sir.

Q. What did you say to him? A. I refused to say anything.

Q. Do you remember that the next day — A. I was defending myself in the newspaper — in the World.

Q. No; didn't it occur to you that your continued silence on these subjects might be construed as a confession of guilt? A. No, sir.

Q. Do you remember the World reminded you in an article of the 28th of December, in these words, "Meanwhile, Mr. Martin and Mr. Sheehan, you should not think that silence means safety; the World has presented specific charges against you; to you, Mr. Martin, has been given a chance to vindicate yourself, and you have declined it; the World agreed to print all that you said; the World sent a reporter to see if you would speak; you refused to do so; do you think you are safe in believing that the people are entitled to no explanation;" do you remember they prodded you with these words? A. Yes, sir.

Q. With this suggestion sharply brought to your notice, did you still decline? A. I still declined, and I still decline.

Q. You would not decline to answer my question? A. No, not at all; I am talking about this newspaper warfare.

Q. Do you remember that the Wine and Spirit Gazette published certain charges in regard to your relations with the Liquor Dealers' Association? A. Yes, there was a marked copy of that paper sent to me at the time.

Q. At the time? A. Yes, sir.

Q. Then you certainly have a distinct recollection of that article? A. I do; I read the article.

Q. You read the article charging you with that? A. Yes.

Q. You remember the article of December 28, 1893, stated there was a time, and it continued up to about two years ago, when Tammany, through its police agents, regularly levied blackmail on the liquor dealers of this city under pretense of affording them protection from punishment by the restriction put on their business by the law? A. I remember that.

Q. Do you remember the article stated the revenue from this

source amounted to more than half a million dollars a year? A. Yes; I remember it so stated.

Q. You remember that the article stated that it could be readily understood that so rapacious an organization as Tammany Hall would be exceedingly loath to forego so large a revenue; and that under no circumstances would it do so without an effort to secure a quid pro quo? A. I think that was in the article.

Q. Do you remember the article then charged that thereupon Mr. Croker and Police Commissioner Martin called up the president, and some of the officers of the Central Association of Liquor Dealers, and after procuring from them a full roster of all the liquor dealers' associations in the city, entered into a compact with them by which political blackmail was substituted for pecuniary blackmail? A. Yes; that is in the article.

Q. Did you ever get a roster of the liquor dealers of the city of New York? A. Never.

Q. Did you ever call up the officers of the Central Association? A. Never.

Q. In connection with Mr. Croker or anybody else? A. Never.

Q. Do you remember that the article stated that under the terms of this contract forced from the liquor dealers under penalty of having their business interfered with, they were made vassals of Tammany which no longer wanted their money, and heretofore permitted them to continue their traffic, only on the one condition, that they must continue their support to Tammany Hall? Do you remember the article contained that clause? A. Yes, sir; I do.

Q. Do you remember the article also referred to an interview with your colleague, Commissioner Sheehan having been published in the Sun in these words: "The big shakeup among the captains 18 months ago originated with the commissioners, It had been said that some of the captains were receiving money from saloon keepers, and the commissioners decided it would be a good plan to change them all around. This was done after conferring with the superintendent. After the big shakeup liquor dealers all over the city were notified through the various local dealers associations, that they must not try to pay money to any police official. No liquor dealer pays any money to the police at this time?" A. I remember the article had that quotation.

Q. Do you remember the interview which it quotes which was published in the Sun? A. No; I can not say I do.

Q. Was your attention attracted to the second expression in this interview that the liquor dealers were notified through the

Liquor Dealers' Association not to pay any money to police officials? A. I saw that.

Q. Is it true they were so notified? A. I don't know.

Q. Did you ever ask Commissioner Sheehan whether that information was ever sent out? A. No, sir; I never did.

Q. Did you ever call his attention to this charge that in that interview he had said so and so? A. I do not remember speaking to him about it.

Q. Was the matter ever brought up in the board of police commissioners? A. No, sir; never.

Q. Did you ever call his attention to the fact that in this interview he referred to the present time as one during which money was not paid: "Not a single liquor dealer pays the police at the present time?" A. No, sir; I did not call his attention to it.

Q. Did those words attract your attention to it? A. No, sir.

Q. Didn't it strike you from reading that interview that it was a plain intimation that previous to that time money had been paid to the police? A. It did not so strike me.

Q. Why did you think there was any necessity of sending out an order to the liquor dealers not to pay to the police?

Senator Cantor.—He has not said there was any such order.

Mr. Nicoll.—He has not said any such thing.

Chairman Lexow.—You can ask him if he has.

Mr. Sutherland.—I am referring to an interview in which Commissioner Sheehan stated that there was such an order sent out.

Q. Did you ever receive word of that article? A. No, sir; never, except in that article.

Q. And did the statement in this article that such an order had been sent attract your attention in the slightest degree? A. Yes, sir; I read the article.

Q. And your eye lit on that statement? A. I read the article generally; yes, sir.

Q. Did you inquire of anybody whether such an order had been sent? A. I did not.

Q. Did it occur to you whether it was a matter worthy of inquiry? A. No; it did not.

Q. You assume the statement was true? A. I assume the statement was not true.

Q. It was reported to be an interview with your colleague? A. Yes.

Q. In which he was reported as having said so and so? A. Yes.

Q. Did you believe he had said it? A. I don't know whether he did or not.

Q. Well, assuming that he said it, didn't it strike you that it clearly indicated that previous to that time money had been paid to liquor dealers?

Mr. Nicoll.—I object to it. Is it fair to take an article in a newspaper and assume a conversation between a reporter and a board of commissioners, and then adopt that as if that was a fact, proved or established, and cross-examine on it?

Chairman Lexow.—It seems to me it is competent for the counsel to ask the witness if he has testified that he had knowledge of that character, of the statement made, as to whether or not he thought it was not within his province to investigate the matter.

Mr. Sutherland.—I was coming to that.

Mr. Nicoll.—He has stated as to the statements in that article that they were all untrue. Of course, he can not state, unless he was present at the time, as to the conversation reported there with Mr. Sheehan, but as to the rest of the article he stated it contained a pack of lies.

Chairman Lexow.—As I understand it, the counsel desires to ascertain whether or not, although it had been brought home to the mind of this witness, that an associate of his own upon the police board, had made certain statements—whether or not it was his duty to have investigated those statements.

Senator Cantor.—He said he assumed that they were untrue.

Chairman Lexow.—No, not these statements that Commissioner Sheehan made. He does not assume them as untrue; I don't so understand the witness.

Mr. Nicoll.—He assumed that was not true, that he had no knowledge of it, as he was not present.

Q. I will ask the witness over again, so there will be no misunderstanding; did you state that you assumed that the alleged interview with Mr. Sheehan was a fabrication? A. I had no knowledge on the subject.

Q. I ask you whether you assumed that was untrue? A. Well, I can not say I assumed it was untrue; if Commissioner Sheehan knew anything about it, I did not; that is all.

Q. So far as you know, it might have been quite true that he had made these statements? A. He may have had some information on that subject, and made these statements.

Q. And the possibility was in your mind that he might have made the statement? A. Exactly.

Q. Did you go and inquire of him? A. I did not; I did not think the article amounted to anything.

Q. Did you think the statements which were reported to have

been made by him were of no consequence? A. Well, I did not pay much attention to his statements in the article; I thought the article as a whole amounted to nothing; there wasn't any truth in it.

Q. There your colleague was quoted as stating that a notice was sent to the Wholesale Liquor Dealers' Association to notify the retail liquor dealers that they should not any longer pay any money to the police; that was of so little consequence you did not call it up? A. I did not follow it up.

Q. And your colleague is quoted as stating no money was paid to the police? A. He is so quoted.

Q. And you did not think that was worth following up? A. No, sir.

Q. Was your attention prodded by other papers besides the Wine and Spirit Gazette? A. I don't know whether they did or not.

Q. Did not the Sun quote from that article? A. I don't remember.

Q. Didn't it say that the Wine and Spirit Gazette of this city, which represents the big distilleries, adds its testimony to that of Mr. Croker's, while, at the same time, attacking Tammany Hall; it avers that until three years ago over \$500,000 a year was levied as blackmail; that the burden became so great, that the complaints reached the grand jury room; the latter, in a presentment, substantiated the charge, and by some mysterious means the testimony given before the grand jury found its way into Mr. Croker's hands; do you remember that appeared in the Sun? A. No, sir.

Q. Do you remember it appeared in any paper? A. No, sir.

Q. Nobody called your attention to such charge? A. They never did; that is the first time I ever remember hearing that article.

Q. Do you remember the same thing was substantially said in the Mail and Express? A. I do not see the Mail and Express very often.

Q. You did see the World? A. Occasionally.

Q. Do you remember, on the 30th day of December, the World, referring to this article in the Wine and Spirit Gazette, used these expressions, "An item of interest to Tammany as well as to the public appears in the Wine and Spirit Gazette, an organ of the liquor dealers, under the heading of 'Political Blackmail;' the story says, in part, that until two years ago over \$500,000 a year was levied as blackmail by Tammany on saloon keepers, and the burden became so great that complaints reached the grand jury room; the latter, in a presentment, substantiated the charge; now, by some mysterious means,

the evidence given to the grand jury found its way into Croker's hands; thereupon Mr. Croker called up the president, and some of the officers of the Central Association of Liquor Dealers, and after procuring from them a full roster of all the local liquor dealers in the city entered into an arrangement by which political blackmail was substituted for pecuniary blackmail;" was that published in the Sun? A. That was the substance of a reprint of the Wine and Spirit Gazette; I do not remember seeing it.

Q. And that the article closed with these words, "How is this, Mr. Martin; speak out, regardless of whether you used to ring up fares or whether you forgot to do so;" do you remember that? A. I do not; I do not think there is much truth in the main part of the article any more than there is at the close; I never "rang up a fare" in my life; I never "rang up a fare in a railroad car in my life."

Q. I did not say you did? A. The World said so.

Q. I did not read it that way; I read this, that Mr. Martin was asked to speak up in answer to those charges, and you never spoke? A. No, sir; not to the World.

Q. Did you to anybody? A. I am speaking here now.

Q. Did you ever, before this? A. No, sir.

Q. Speak in response to these charges? A. No, sir.

Q. Mr. Martin, you have a force of upwards of 3,000 men scattered all over the city? A. Yes, sir; nearly 4,000.

Q. All reading men? A. Yes, sir.

Q. You knew these articles were likely to find their way into the hands of policemen? A. Very likely.

Q. Didn't you think you owed it to the police, to the dignity of the police commissioners, to the patrolmen and roundsmen, that some steps should be taken to stop this talk, either by showing its falsity, or else by getting out of the way? A. You could not stop a newspaper.

Q. Couldn't you show the falsity of those charges? A. To a newspaper?

Q. To the people? A. Not to a newspaper.

Q. Can you in any manner? A. Not — there may be some means of showing it to the public; yes, sir.

Q. Couldn't you have called upon somebody to investigate these charges? A. No; I did not see that there was any opportunity to investigate it at that time.

Q. Here was the direct charge that political blackmail was exchanged for pecuniary blackmail? A. Yes; and it was a lie from beginning to end.

Q. Was there any way to get shut of it? A. Yes; and that is being shown up now to the committee.

Q. Was there no way you could have shown it up before this committee was appointed? A. No, sir; I don't think there was.

Q. Did it ever occur to you that at least a general denial by you would be serviceable to the force under your command?

A. In the World?

Q. A general denial by you, put forth in some form or other?

A. No, sir; I did not think it necessary; I think the members of the force knew I had no part in any such arrangement.

Q. But you say the members of the force, if permitted to go about in citizen's clothes, might so forget their duty as to receive money themselves? A. Yes, sir.

Q. For which reason you desired they should go only in uniform? A. Yes, sir, as a rule; as a general rule, yes, sir; in special cases they might go in citizen's clothes.

Q. And yet, believing that the men in your command were so liable to fall in the presence of temptation, if dressed in citizen's clothes, you believed these stories about their collecting political blackmail were unfounded, that there was no need of any denial on your part, no need of any investigation or demonstration of the falsity of the charges? A. Yes, sir.

Q. Upon whose recommendation was Captain Devery promoted from being a sergeant to the position of captain? A. Well, he was, after examination.

Q. Well, upon whose recommendation?

Mr. Nicoll.—One moment.

Mr. Sutherland.—I am waiting one moment.

Mr. Nicoll.—The witness is about stating "after examination"—

The Witness.—I was going to state "After he was qualified for promotion."

Mr. Sutherland.—There is no charge that he did not go through the formality of qualifying.

Mr. Nicoll.—It is only fair that he should have that fact before the committee.

Chairman Lexow.—I think the question is open to the objection that it assumes that somebody recommended Captain Devery for promotion. I think that the proper question will be to ask the direct question whether anybody did.

Q. How is that; did anybody recommend Captain Devery's promotion? A. Yes, sir.

Q. Who was it? A. He was recommended by many political friends as being a party for promotion.

Q. There came a time when he was made a captain? A. Yes, sir.

Q. Did anybody recommend that he be made a captain at that time? A. Yes, sir.

Q. Who? A. You mean names now; individuals?

Q. What association of individuals recommended him? A. Well, he was recommended by a number of people.

Q. Wasn't he recommended practically by Tammany Hall? A. No, sir.

Q. He was not? A. No, sir; he was recommended by a great many people in Tammany Hall.

Q. I don't doubt that. A. But as a formal recommendation from the organization, no; there never was such a recommendation.

Q. Wasn't his appointment charged up to Tammany Hall? A. Yes; in my mind; it was a Tammany Hall appointment; on Tammany Hall recommendation.

Q. Charged up in your mind? A. Yes, sir.

Senator Cantor.—You do not have that up in Rochester.

Mr. Sutherland.—We have had something up in Rochester, of a different sort.

Q. When was that appointment made? A. Well, I can not recollect the exact date.

Q. Was it the 30th day of December, 1891? A. I should think it was about that time; yes, sir.

Q. Upon whose recommendation was Michael Doherty made a captain? A. On practically the same recommendation.

Q. Was it not identically the same recommendation? A. Not as to individuals.

Q. Oh, as to Tammany Hall? A. Yes, sir; as to being recommended by Tammany Hall people; yes, sir; they were not the same people, but they were men in Tammany Hall.

Q. Isn't there something more than that about it, Mr. Martin? A. No, sir; that is the truth.

Q. I don't doubt that it is part of the truth?

Senator Cantor.—Part of the truth.

Q. In fact, I am well aware of it; but is it all the truth? A. Yes, sir; absolutely.

Q. Do you keep books? A. I have some memoranda; yes, sir.

Q. On that memoranda this appointment of Captain Doherty, Captain Devery—each of those appointments are charged up to Tammany Hall by name, are they not? A. Yes, sir; I think they are.

Q. And no other name? A. And no other name.

Q. Is that also true of the appointment of Captain Gallagher? A. Yes, sir; I think it is.

Q. And that was made the 6th day of May, 1892? A. About that time yes, sir.

Q. Is it also true of the appointment of Thomas F. McAvoy as inspector? A. Yes, sir; I think it is.

Q. And that was made April 29, 1892? A. Yes, sir.

Q. Naturally these gentlemen would feel obligated to Tammany Hall about election time, would they not? A. They might.

Q. Well, is it not your judgment that they did? A. Yes; to a certain extent, I think so; yes.

Senator Bradley.— You would not think much of these men if they did not; ingratitude is a terrible crime?

Mr. Sutherland.— I think it would be well if they did not.

Q. You were elected president when? A. I think it was on the 3d of March, 1892.

Q. Then you were president of the board of police commissioners at the time of the general election in 1892? A. Yes, sir; for the first time.

Q. That was the first election day under your presidency of the board of police commissioners? A. Yes, sir.

Q. And that was an election at which United States marshals were by law provided? A. Yes, sir.

Q. And expected to be present? A. Yes, sir; that was the congressional year.

Q. It was the presidential year? A. And congressional year, particularly.

Q. And the laws of the United States provided that the United States marshals should be at each polling place, and the United States supervisors of election? A. Yes, sir.

Q. You were familiar with those statutes? A. Yes, sir.

Q. It became your duty as police commissioner to understand the power and prerogatives of all who should be charged with preserving the public peace? A. Yes, sir; I tried to understand them.

Q. Mr. Martin, was there a great deal of public excitement just prior to that election, with reference to the possible breaches of peace on election day? A. Well, there was some excitement about it; yes, sir.

Q. And who was the United States marshal for the southern district of New York? A. I suppose John W. Jacobus.

Q. Was he written to and did he write letters in reply in reference to the conduct of the marshals on election day? A. I don't remember that, sir.

Q. Were not the newspapers full of that sort of thing for a week before election? A. There was talk in the newspapers about breaches of the peace on election day.

Q. And did not the general committee, or the State committee

or the national committee write letters and public letters addressed to Mr. Jacobus upon the subject of the power of the United States marshals—the limitations upon their power; the power of the police, etc.? A. I think there was some letters at that time.

Q. I remember it very distinctly; I was here at the time and had some hand in the matter.

Q. And wasn't there some apprehension expressed lest there should be some conflict between the police and United States marshals? A. Yes, sir.

Q. And wasn't there apprehension very general that such conflict would result in bloodshed? A. That might be the result.

Q. Was it not generally thought that there was danger of that result? A. That might be the result.

Q. Wasn't it generally talked that there was danger of that result? A. There was some talk about it.

Q. Didn't that talk come to your attention? A. Yes, sir.

Q. Did you go to police quarters on Sunday previous to election day? A. Yes, sir; I did.

Q. Is it your practice to go there every Sunday? A. No, sir.

Q. Did you go there in your capacity as a member of the executive committee of Tammany Hall, or in your capacity as member of the board of police commissioners? A. I went there as president of the board of police.

Q. What for? A. Well, a few days before that the superintendent—Superintendent Byrnes—came to me with his order that he was sending out to the police in reference to their conduct at the election polls on election day; he submitted them to me, and I read it, and told him I thought it was all right; he said he was going to have a meeting of the captains on Sunday, before election—Sunday afternoon; I think it was 3 o'clock, or thereabouts; and I said I would like to be present; he said, he would be glad to have me there; that is the reason I went.

Q. I did not catch that last answer; excuse me? A. I said I would like to be present, and he said he would be glad to have me come there.

Q. Present when this order was promulgated? A. Yes, sir; to the meetings of the captains.

Q. Then you knew there was to be a meeting of the captains on that Sunday? A. The superintendent told me that.

Q. Is it not the practice of the superintendent to give orders on the Sunday before election? A. I can not say as to that; I suppose that is his practice.

Q. Had you ever attended any conversation—or have you since attended any meetings on Sunday? A. No, sir; I have not.

Q. This is the only instance at which you were present? A. Yes, sir.

Q. You say Mr. Byrnes invited you there? A. Not invited me there; I said I would be glad to be present, and he said he would be glad to have me there.

Q. Who else was present? A. I do not think anybody but the captains, superintendent of police, and myself.

Q. No other members of the board of police commissioners were there? A. No, sir.

Q. Did any other member of the board know you were going to be there? A. I did not tell them about it.

Q. You were not delegated by them in any respect? A. No, sir, I was not; I was president of the board.

Q. But your presence, so far as the rest of the board was concerned, was without any special authority? A. That is true.

Q. Or any special commission from them? A. No, sir; no special commission or authority.

Q. What did Mr. Byrnes do after you got there? A. Mr. Byrnes, awaiting my arrival, read his orders and explained his orders to the captains and inspectors.

Q. What explanation did he give to them? A. Oh, some general explanation, as each matter in order was taken up.

Q. Can't you tell the committee anything? A. I can't recollect anything in relation to the order; it is a printed order and shows for itself.

Q. Can you recollect anything he said? A. No, I can not recollect anything special he said; I thought it was full and complete as to the duties of the captains and police officers, as to their conduct, the conduct of the policemen at the polls, to protect voters, to preserve the peace, to allow watchers in the polling place, and a variety of things of that kind; that was covered; the keys of the election boxes, and all that sort of thing was covered by this order, and he spoke of each matter as it came up.

Q. How long did his remarks take? A. I should think 15 or 20 minutes.

Q. Then what happened? A. Then he came to me and asked if I had anything to say.

Q. What did you say? A. I said, as near as I can recollect, there was very little to be added to what the superintendent has said; that he had covered the ground fully; and I thought that all I could say in addition to what he had said, was that we were going to have a very important election on Tuesday next; that there was a great deal of excitement in connection with that election; a very large vote to be polled; something like 275,000 votes to be cast; that it was vital that we should have peace and quietness on election day; and I hope they would

do all they could to keep the city quiet on election day; I said, "If any persons committed any disorder, no matter who they might be, whether they were citizens or marshals, that they should be treated alike, and arrested for it."

Q. Anything else? A. That is all.

Q. That is all you said? A. Substantially, as near as I can remember.

Q. Did you say anything else about United States marshals, except if they committed disorder, they should be arrested? A. No, sir; I did not.

Q. Did you say anything about the character of these marshals? A. No, sir; I did not.

Q. What sort of men were they? A. No, sir; I did not, as I recollect; I don't think I described them.

Q. Didn't you say these marshals were, in substance, the dregs of the city? A. No, sir; I did not.

Q. Didn't you say they were the lowest class of people that could be picked up? A. I did not; I don't think I named any of them in that way.

Q. Didn't you say the officers of the general government had purposely selected the scum of the town as marshals? A. I am sure I did not.

Q. Have you any recollection of anything of that sort being said? A. I have a recollection I didn't say anything of the kind.

Q. Will you swear positively you did not? A. Yes, sir; I will.

Q. Did you say to the police that the prerogatives of the police were superior to the prerogatives of the marshals? A. No, sir; I did not, except with an intent to preserve the peace.

Q. Tell the committee what words you used? A. I said that if any disorder was committed or any breach of the peace at the polls by any person, whether citizens or United States marshals, that I thought they should be arrested for it.

Q. Did you say anything about the powers of the police being superior to the powers of the marshals? A. No, sir; I did not.

Q. And that in case there was any trouble the police were to understand they were to be obeyed, and not the marshals? A. No, sir; I did not.

Q. Nothing like that in substance? A. No, sir.

Q. Did you say to the police that if they saw fit to arrest the marshal they must bring him in, if it took the whole squad? A. No, sir; I did not.

Q. Or anything like that? A. No, sir; I did not.

Q. Did you say the United States marshals were selected from a class of men who would be likely to interfere with the prerogatives of voters, or anything of that sort? A. I did not.

Q. That they would be likely to create trouble and disturbance? A. I did not.

Q. And if any move was made by the United States marshals to interfere with the Tammany voters the United States marshals shall be immediately arrested and brought in? A. No, sir.

Q. Nothing of the kind in substance? A. No, sir; nothing of the kind.

Q. You say all you did was to say to the police captains in regard to the marshals was that if they committed any disorder that they should be arrested as any other citizen? A. That is what I said.

Q. Did you define to them what disorder on the part of the marshals would be? A. No sir; I generalized it, as I say.

Q. Did any of these captains or inspectors ask you any questions about that? A. No, sir.

Q. Did you say to them that the marshals must not be allowed to interfere with the policemen? A. I did not.

Q. And that if any marshal attempted to interfere with the policemen the marshal should be arrested? A. I did not.

Q. Or anything like that? A. No, sir.

Q. Did that close the interview when you got through? A. No, sir: the superintendent spoke then.

Q. What did he say? A. The superintendent said he disagreed with me.

Q. About what? A. As to the interference by marshals and the arrest by police officers of the marshals.

Q. Did he explain the point? A. He made some explanation about it; he said he thought the United States marshals on the day of election had great authority.

Q. Yes; what else? A. And the police should be very careful about interfering with them in any way, and advised them not to do it; that was the substance of what he said.

Q. What did you say to that? A. Nothing; not a word.

Q. Did he, in substance, instruct the policemen to obey the law as he gave it to them, rather than as you gave it to them? A. He advised them not to interfere with the marshals after I had spoken.

Q. Did he use your name in his remarks to the policemen? A. He may have said he disagreed with the president of the board; I do not recollect whether he did or not.

Q. Didn't he positively instruct the policemen to follow the law as he gave it to them rather than as you gave it to them? A. To that extent; yes, sir.

Q. Didn't he remind them that he was the superintendent of police until at least after election day? A. No, sir; I don't think he did; I am sure he did not.

Q. Will you swear he did not say to those men, "You must

obey my orders in this matter in preference to the president?"

A. No, sir; he did not.

Q. Nothing like that? A. No, sir; he advised them as I told you.

Q. How many captains did you send for between that Sunday interview and the following election day? A. Not one.

Q. Not one? A. No, sir.

Q. How many captains did you interview between those dates? A. Not one.

Q. Do you mean to say that you did not talk with any of the captains between Sunday and election day? A. I don't think I did; I don't recollect particularly; I don't think I did; there was only one day in between, Monday; my recollection is that I did not see a captain; I saw some captains at that meeting, of course.

Q. Did you talk with them after the formal meeting was closed?

A. No, sir; I went away within a few moments.

Q. Immediately after Mr. Byrnes got through talking? A. Not immediately; I staid around for a while probably, a short time.

Q. You made no answer to his remarks? A. No, sir; I did not; he was superintendent, and he was giving the orders.

Q. What business did you have to interfere with the orders he had given? A. I did not attempt to interfere.

Q. You gave a construction of the law different to his? A. Yes; and I think my construction was right now.

Q. Is he your superior officer? A. No, sir; he is not; he is the superintendent of police.

Q. Why didn't you remind the man that you were superior to the superintendent? A. I had no desire to have any conflict whatever; I gave my opinion in good faith, and he disagreed with me, as I believe, in good faith, and I let it stand there.

Q. How many men have you promoted to be captains? A. I think three.

Q. Those three I have named? A. Yes, sir.

Q. Did it ever come to your ears that it was charged those men paid for their promotions? A. These particular men?

Q. Yes? A. No, sir, I never heard of it

Q. What men have been charged with paying for it? A. There have been statements occasionally in newspapers in some of the articles; I think you have been referring to, in the World, that some payments had been made by captains and other people for appointments; I never heard anybody charge that any of my appointments were paid for.

Q. These statements have been confined to the World? A. Pretty generally, I think; yes, sir.

Q. They have been made in the Evening Post, in the Herald, and the Mail and Express and in other papers, haven't they?

A. Well, they may have been.

Q. Hasn't it come to your notice that they have been? A. No, sir; it has not.

Q. You say you never heard it charged that any of your appointments were paid for? A. No, sir; I never did.

Q. Well, as matter of fact, did you ever receive any pay for them? A. I want to say to the committee that I have never received a penny directly or indirectly for any appointment that I have ever voted for in the board of police.

Q. Or any promotion or transfer? A. Or any promotion, or any recommendation that I have ever made; I want to say that in the most positive manner possible.

Q. You have the opportunity and cheerfully; can you say the same thing for your brother, Barney Martin? A. Yes, sir.

Q. He is also a district leader? A. I believe that I can say that for him; yes, sir.

Q. He is a Tammany Hall district leader? A. Yes, sir.

Q. And has to do with appointments and promotions, and transfers? A. Yes, sir; he recommends them occasionally.

Q. He recommends a great many, don't he? A. Occasionally; yes, sir; not a great many, I don't say.

Q. Doesn't his name figure rather more so than anybody else? A. I don't think so; no, sir.

Q. Wont you look that over to-night and see? A. I admit he has recommended a great many to me for appointment.

Q. I would like you to tell the committee whether it is not true that the recommendations made by your brother are more frequent? A. I shall tell the exact number of recommendations he made on which appointments were made.

Q. Can you do that now? A. No, sir; I can not, but will tell you.

Q. Will you tell whether his recommendations are more frequent than that of any other single individual? A. Well, the investigation will show that.

Q. Exactly; you can tell that to-morrow; did you ever hear it charged that your brother received any money for these appointments? A. No, sir.

Q. Do you know Sergeant Foody? A. Yes, sir.

Q. Where is he stationed? A. Sergeant Foody is, I think, in the fifteenth precinct.

Q. Is that the Jefferson Market court? A. No; he used to be in the fifteenth precinct, and has been transferred to take charge of the Jefferson Market court.

Q. Was that done at your brother's request? A. Yes, sir.

Q. He is a resident of your brother's political precinct? A. He was, at that time; I don't know whether he resides there or not; he was doing duty in the fifteenth precinct, which formed part of that district.

Q. He was a shining light in your brother's club? A. I don't know that.

Q. Do you know anybody that belongs to your brother's club? A. Yes, sir.

Q. Do you know any policeman that belongs to it? A. No, sir; I do not.

Q. You can not say whether Sergeant Foody was one of his prominent men there? A. I can not say.

Q. Did you ever hear it charged that Sergeant Foody is a go-between for your brother? A. No, sir; I never heard of it.

Q. Do you know, as a fact, that while Sergeant Foody was in the fifteenth precinct, no complaint was sustained or permitted against any member of the police force, who is also a member of your brother's club? A. No, sir; I don't know the first thing about that.

Q. You remember the fact that Mr. Walter W. Bahan filed some papers for independent nomination for the Assembly last fall? A. Yes, sir.

Q. You familiarized yourself with the statutes on the subject of nomination? A. Yes, sir; I thought I did.

Q. And you learned from the statutes that unless objections were filed within three days after the original papers were filed, it was the duty of the commissioners to print the ticket? A. Yes, sir.

Q. And Mr. Bahan's certificates were filed on the 21st day of October? A. They were; yes, sir.

Q. And you received some objections on the 26th of October? A. We received some objections on the 24th of October.

Q. Were they sworn to? A. No, sir; they were not, as I recollect it.

Q. They were sworn to on the 25th and 26th, were they not? A. There were additional objections filed on the 26th.

Q. They consisted of affidavits, didn't they? A. They consisted, as I recollect it, of a statement of the objections, and affidavits accompanying them.

Q. And the affidavits were sworn to on the 25th and 26th of October, were they not? A. I think they were; yes, sir.

Q. And all there was that was filed was contained in those affidavits? A. There was a statement accompanied them in writing, as I recollect it.

Q. You know we had the clerk to produce those papers, and

he produced nothing but affidavits? A. I recollect reading testimony on that subject, and my recollection is at the meeting of the board of police on the 24th—just previous to the meeting of the board of police on the 24th—that was three days after the filing of certificates—that objections were brought there by Assistant District Attorney McIntyre, and I think Mr. Boyle was with him; Mr. Boyle, of that Assembly district; and that they said they had those objections, and that they would present further affidavits and objections a few days later, if they were given an opportunity.

Q. Did they file any with you on the 24th? A. They left a paper with me on the 24th.

Q. Didn't they come there and state they wanted time in order to prepare papers for filing? A. They said if they had time, they could prepare many affidavits and objections.

Q. You say they actually did file something on the 24th? A. They left something with me on the 24th.

Q. Will you produce that paper to-morrow? A. Those records have been taken from our office; the matter was in court here immediately after this; the certificate required, and I can not say what has become of it; I have not seen it since that time.

Q. You know your clerk was subpoenaed to bring the papers here? A. Yes, sir.

Q. And he brought nothing but the affidavits? A. Yes, sir; and he told me those papers were not at the police department, and he hadn't seen them from the time they were taken to the court.

Q. And there was no file mark on the affidavits? A. The probability is the file marks were on the outside of these papers; they may have got detached in some way.

By Mr. Nicoll:

Q. The balance must be in the county clerk's office? A. I suppose what was there must be filed with the county clerk; there was no reason for anything of that kind—for a police board to throw out a certificate unjustly, or illegally, of a person.

By Mr. Sutherland:

Q. Was there any reason for receiving those protests after the statutory time had elapsed? A. No, sir.

Q. Why did they receive them? A. I think they had a right to take what they left there.

Q. You mean to tell the committee there was something filed there within the three days? A. I think there was a statement

left with me on the 24th, the certificate was laid over on the 24th to the 26th, and these people came on the 26th, and came there and made objections.

Q. Did the clerk of the board know anything about the filing of this paper? A. I don't know that he did.

Q. Do you know the statute says that objections must be filed with the clerk? A. I don't think it does; I think the statute says that objections in writing must be filed within three days; I don't think it says with the clerk.

Q. It says with the officers where the other papers were filed, don't it? A. I don't think so; maybe so.

Q. Do you remember reading the testimony of Mr. Bahan, that in company with another gentleman he went to the clerk's office on the third and fourth days after his certificate was filed to see if any objections were filed? A. Yes.

Q. And, on each occasion, he was informed none had been filed? A. Yes, sir; I saw that.

Q. And you know the statute said that unless a written objection thereto should be filed in the office in which the certificate —

By Mr. Nicoll:

Q. What page and section are you reading? A. Section 49, page 36.

Q. You knew the statute read that unless written objections thereto shall be filed in the office in which the certificate is filed within three days after the filing of the certificate, then the nomination should go on the printed ticket? A. That was not my understanding of it.

Q. Look at it and see if I read it correctly? A. I understand you read it correctly.

Mr. Nicoll.—Now turn to section 44.

Mr. Sutherland.—I beg your pardon; I am examining the witness.

Mr. Nicoll.—I know, but you can not—

Mr. Sutherland.—Yes, I can.

Mr. Nicoll.—You can not put him in a position without calling his attention to section 44, where it says, the certificate shall be filed in the office of the board of police commissioners.

Mr. Sutherland.—Exactly.

Mr. Nicoll.—It does not say it shall be filed in the office of the clerk. "It shall be filed in the office of the board of police commissioners."

Q. You have read this section 49? A. Yes, sir.

Q. Who is the clerk of the board of police commissioners? A. William H. Kipp.

Q. Who indorsed the nomination? A. William H. Kipp, I think, or some of his employes.

Q. Now, was there any clerk specially detailed to take charge of these election papers? A. I don't know that, sir.

Q. Do you know that William Delamater had personal charge of them? A. I think he had a great deal to do with them.

Q. Didn't he have personal charge of the papers? A. My recollection is, the clerk said he had charge of them himself.

Q. It was either Mr. Kipp or Mr. Delamater had charge of them? A. Either one of the two.

Q. And if any papers were filed with either of these gentlemen there were no papers on file in the office? A. I think they had a right to file them with me.

Q. Did you carry them around in your office? A. No, sir; I left them in the president's room, or sent them to the clerk's office; I don't know which.

Q. You mean to say you don't know what was done with a paper of that sort that was given you? A. I can not recollect it now; no, sir.

Q. What was your duty in regard to that paper? A. To present it to the board of police.

Q. Was the board of police in session when the paper was given to you? A. No; I don't think the board was in session.

Q. What was your duty in regard to the disposition of the papers? A. I think it should find its way to the board and to the clerk's office; I think it ought to go to the clerk's office.

Q. Did the paper go to the clerk's office? A. I don't know; I can not answer that.

Q. You don't think the clerk would lie to Mr. Bahan? A. No, sir; I do not.

Q. And if the clerk informed him that there were no papers on file, he was telling the truth, wasn't he? A. I think so.

Q. That was the truth, wasn't it? A. I don't know that.

Q. What instruction did you give Captain Doherty in regard to Mr. Kempner's contest? A. I gave him no instructions.

Q. Did you know the policemen were going around through the precinct taking down Kempner's pictures? A. I did not know, until Superintendent Byrnes told me there was some complaints on that subject.

Q. And you never gave him any authority on that subject? A. I never did.

Q. After Mr. Maynard's defeat, was there a large increase in the number of arrests under the Excise Laws?

Mr. Nicoll.—After what?

Mr. Sutherland.—After the defeat of Maynard. Do you know Maynard?

Mr. Nicoll.—I know he was defeated.

The Witness.—I suppose he had a good deal to do with the Excise Law.

Q. Answer that question. A. I can not answer that question; I think the arrests for violation of Excise Law had increased in the last few months.

Q. Was it not increased—up to election time the arrests were about 50 each Sunday, for violation of the Excise Law? A. I can not answer that.

Q. It is not true, after Maynard was defeated, and it was found that the liquor dealers did not vote for him as generally as was expected, that the arrests increased to about 150 each Sunday? A. I can not answer that, sir.

Q. Can you tell whether there was an increase after that election? A. I think there was an increase; yes, sir; I can not tell just when it commenced.

Q. Mr. Martin, how many gambling-houses are there in the city of New York? A. I can not answer that, sir.

Q. Well, your office has a record of them? A. If it has; yes.

Q. The rules require that the records be kept? A. Yes, sir.

Q. Can you give us any idea of the number? A. No, sir; I can not.

Q. Can you tell us anybody that can? A. The superintendent of police.

Q. Anybody else? A. I suppose I can obtain the record for you, and will be glad to do it.

Q. Have you ever examined it? A. No, sir; I never have.

Q. Never had any curiosity on that subject? A. No, sir.

Q. How many houses of prostitution are there in the city? A. I can not answer that, either.

Q. And the record of their number is in the office of the superintendent? A. I suppose it is.

Q. The rules require such a record to be kept? A. Yes, sir.

Q. And, as you understand it, the police captains make reports on that subject, don't they? A. I understand that they do; yes, sir.

Q. And the inspectors: how often are those reports made? A. I think they have monthly and weekly reports.

Q. Both captains and inspectors? A. I think so; yes, sir.

Q. Are you equally unable to tell how many policy shops there are? A. I am equally unable to tell.

Q. In regard to the various disorderly houses, then? A. Yes, sir; I can not tell.

Q. And during all the years you have been police commissioner, you never have examined the record to see how many there are, or where they are located? A. No, sir; I have not.

Q. There were constant complaints about those places? A. Yes, sir; I have heard some complaints.

Q. And your attention has been turned to them very especially by Parkhurst and his society? A. Yes, sir.

Q. And hasn't that led you to go to these records to see what houses were put down as disorderly in this category? A. No, sir; I have not.

Q. Have you ever asked the superintendent to bring this record before the board? A. No, sir.

Q. Have you ever suggested any measure to the board of police commissioners for the suppression of these houses? A. No, sir; I have not.

Q. Has any member of the present board of police commissioners suggested any new regulation or measure for the suppression of these houses? A. No, sir; I don't think any member of the board has brought any suggestion before the board on that subject.

Q. Has the subject of the suppression or diminution of these disorderly houses been a matter of discussion before the board of police? A. No, sir.

Q. What do you meet for? A. For the transaction of official business connected with the board.

Q. What official business? A. Matters affecting the government of the force as charged in the statute; and also matters connected with the discipline of the force, as charged in the statute.

Q. The statutes make the board of police commissioners in supreme command of the police force in the city of New York, do they not? A. We are in command; yes, sir.

Q. Supreme command; there is nobody who has power to overrule you, is there? A. No; I suppose not.

Q. Neither the superintendent or the mayor or anybody else? A. No, sir.

Q. And you are required to adopt regulations covering the conduct of these police officials, are you not? A. Yes, sir.

Q. And from time to time you have adopted such regulations? A. Yes, sir.

Q. And you amend them from time to time? A. Yes, sir.

Q. So much so, that when I applied for a copy of the present regulations, it was difficult for me to get it, because the new one is now in the hands of the printer? A. Yes, sir; we are having a number of them printed now.

Q. And those amendments come from time to time, according as the necessities of the force demonstrate to the commissioners? A. Yes, sir.

Q. The need of somethings in the regulations? A. Yes, sir.

Q. When was this last edition of regulations printed? A. I don't know; it would show there on the title page.

Q. In 1891, is it? A. In 1891; yes, sir.

Q. And there are any number of amendments to those regulations pasted in on slips, are there not? A. Yes, sir.

Q. A large number of them? A. Not a very great number.

Q. Fifty or 75? A. I hardly think that many; I should not think there were that many.

Q. Somewhere from 30 to 50? A. Well, yes; I will say a couple of dozen, I suppose.

Q. Now, what amendments, if any, have been introduced in the regulations of the department looking to the greater efficiency of the force in suppressing these disorderly houses? A. I don't think there have been any amendments introduced; I think the rules are pretty complete on that subject.

Q. Do you mean to say it is impossible to increase the efficiency of the force in that direction? A. Well, it might be increased.

Q. How? A. I think the action of the board recently in making some convictions of captains will have that effect.

Q. Well, I understand you, that some of these captains are innocent men? A. I said, in one case, there was some doubt about it.

Q. How else can the efficiency of the force be increased than by occasionally convicting a captain on insufficient evidence? A. I don't know that I can answer that.

Q. Commissioner, can you advise this committee with regard to any manner, any method, by which the efficiency of the police force of the city of New York can be increased?

Mr. Nicoll.—I object. When I undertook to examine Mr. Otto Kempner on that subject, at the very outset of the investigation, the counsel objected, and the chairman sustained his objection with a statement that they did not propose to take opinions of witnesses, as to the different methods of increasing the efficiency of the police force or improving its administration; and that I understood to have been the rule laid down by the committee at that time. I was about cross-examining Mr. Kempner upon the question as to whether he thought a single-handed commission or a bi-partisan commission, or a commission composed of all one political complexion, was the most efficient method of governing the police force; and you recollect, Mr. Chairman, that you sustained Mr. Sutherland's objection, and

forbid that line of investigation. Now, he asks the same question of Mr. Martin; he asks him, I suppose, whether he thinks a bi-partisan police or a single-headed commission, or a commission consisting as it now is, of two Democrats of the regular organization, one independent, and one Republican, as the most efficient means.

Senator Bradley.—He has not got there yet.

Mr. Sutherland.—Not at all.

Mr. Nicoll.—He is on that line. I am opening up to illustrate my objection, and, on that ground, I think the committee ought to sustain it.

Chairman Lexow.—There are two reasons why this evidence, now, is competent. First, for the purpose of ascertaining whether the president of the board of police is attending to his duties sufficiently to come to a conclusion as to whether or not there are sore spots here or there in the police department in the city that in his judgment might be prevented by other additional legislation or by some other method, and it is for us to ascertain what legislation is necessary for that purpose. In the second place, while a question in reference to disease would be absolutely improper to a layman, a question in reference to that disease would be proper with a physician; we have the president of the board of police on the stand now, who ought to be, or should be considered an expert on matters of this kind; Mr. Kempner was an ordinary layman, who, I do not suppose, had any more knowledge about this matter than any other layman would have; on those two grounds his testimony is entirely different from that that could be adduced from Mr. Kempner, and would be competent in this witness, and would not with him.

Mr. Nicoll.—On the last ground on which the chairman has allowed the question, has the chairman forgot I questioned Mr. Kempner as an expert and proved from his own lips that he was a profound student of all matters relating to municipal administration, and had devoted years of his life to the study of these questions; Mr. Kempner very readily admitted it, and qualified himself as an expert within all the rules.

Chairman Lexow.—No, it did not so appear to the committee at the time; and in addition to that, he would be a theoretical one, and this witness would be a practical one; the question is this: the question has been put to this witness whether, under certain circumstances which appear in evidence here, he did not think it his duty to look into the subject, to consider methods to get rid of obvious imperfections and obvious inefficiency in the police force; it seems proper under the circumstances to continue that line of examination for the purpose of letting this com-

mittee ascertain the competency of the head of the department, and any suggestion he could make for the purpose of bettering the force?

Mr. Sutherland.—This question leads up to another one, which I regard as one of importance.

Mr. Nicoll.—I want to call your honor's attention to the language in which you ruled upon my question in regard to Mr. Kempner; I said, "As I understand the purpose of this committee is to collect information for the purpose of framing some law in relation to the government of the department, we have before us a gentleman, very active in New York politics, who has been himself a legislator, and, being a candidate, on several occasions, has written on municipal administration, and given a great deal of time and attention to the subject, and has had personal experience; would it not enlighten the committee greatly to have his view?"

Senator O'Connor.—It has not been ruled out.

The Chairman (after some consideration with the other member of the committee.)—"The judgment of the majority of this committee is, that we want facts; we do not want the opinion of witnesses."

Chairman Lexow.—Of a witness of that kind who has no intimate knowledge on the subject under discussion, except it be possibly a vague one.

Senator Bradley.—You did not qualify that; there is no qualification in that.

Chairman Lexow.—There was no reason for that qualification there.

Senator Bradley.—I think your point is right.

Senator Cantor.—The chairman is overruled.

Mr. Nicoll.—It is only fair to the chairman that I should go on and state something; I then made some remarks which I wont read again, upon which Senator Cantor contributed some light on the subject, and then the chairman said: "At this time the testimony will be excluded; if afterward, on consultation of the committee, they desire to admit it, we will admit it;" that was about all.

Chairman Lexow.—That contains a qualification; and in addition to that, the testimony is entirely different. The witness here has already testified that in his judgment the membership of policemen in political clubs tended to impair the efficiency of the force. Now, the question is, whether, in the judgment of this witness, there was anything else that tended to impair the efficiency or increase the efficiency of the force.

Senator Cantor.—That is your opinion, and the majority of the committee is against you, Mr. Chairman.

Mr. Sutherland.—Does the committee desire to hear any suggestions of those who are in command of the police of the city of New York?

Chairman Lexow.—Not until after the committee have decided this matter. The chairman insists on his ruling, subject to a reversal by a balance of the committee. If the rest overrule the chair, it is excluded.

Senator Bradley.—Of course, you can ask him if he can make any suggestions.

Chairman Lexow.—I suggest to Senator Bradley not to lay down the rules of evidence. That should be done by the chairman.

Mr. Nicoll.—May I be permitted to ask the counsel whether or not his question relates to legislation on the administering of affairs by a different commission than now?

Mr. Sutherland.—It has no relation to the bi-partisan bill in the slightest degree.

Senator Cantor.—I supposed it was in relation to that bill.

Mr. Nicoll.—I thought that was the line of examination.

Chairman Lexow.—If counsel insists on his objection—

Senator Cantor.—If that is the question, the committee is with the chairman.

Mr. Nicoll.—If that is a fact, I will withdraw my objection.

By Mr. Sutherland:

Q. I want to know if you can tell how the efficiency of the New York police force can be increased? A. No, sir; I can not.

Q. I want you to advise the committee whether there is any sort of regulation or statute, or common law, which could be put into effect which would increase the efficiency of the police force in New York city? A. No, sir; I can not.

Q. Can not you advise the committee of some way in which you can get better detectives? A. No, I—

Q. The Legislature is anxious to give you relief on that subject? A. I think there is power enough in the police department to get better detectives.

Q. Where? A. With the captains and superintendent.

Q. How shall they be put in motion?

Mr. Nicoll.—What you want to do is to increase the salaries, and then more expert men will be obtained.

Mr. Sutherland.—We will put you on the stand by and by, Mr. Nicoll.

The Witness.—That probably would have a good effect.

By Senator Bradley:

Q. Mr. President, do you believe there is another detective force superior in the world, or equal in the world, to the New York detective force? A. I don't think there is another in the world superior to it, or superior to it as a force, as it is at present.

By Mr. Sutherland:

Q. You do not think it is possible to increase the efficiency of the force? A. Yes, sir.

Q. Or your ward detectives? A. There might be found some better men here and there, I think, for that purpose; generally, I think, they are good men.

Q. Your opinion is that the average of the ward detective police is of a high character? A. So far as I know; I have not met them personally; they seem to be all right; we have had no complaints except in a few instances.

Q. And you can not suggest any means of increasing the efficiency of that force? A. No, sir; I suppose more scrutiny on the part of the captains, and superintendent, and board of police.

Q. Can you suggest how that scrutiny can be increased? A. By giving it more scrutiny, I suppose.

Q. Do you think that the powers of the police captains ought to be increased? A. No, sir; I do not.

Q. Do you think their duties should be enlarged in any direction? A. No; if anything, their duties might be lessened; that is, I mean to say, their districts ought to be lessened.

Q. Make a greater number of districts? A. A greater number of districts, and a greater number of captains.

Q. Do you think the powers of the inspectors should be enlarged or increased or varied in any way? A. I think the inspectors should—I think it would be a good thing if the inspectors should try the breaches of discipline in place of the police board.

Q. Act as a trial court? A. Yes, sir; on the trial of the lesser violations of the rules.

Q. Do you think another change should be made in their powers? A. I do not remember any other change that I could recommend at this time.

Q. Do you think there should be any change in the powers, or limitations of the powers of the superintendent? A. I think the superintendent has full power under the rules of the board.

Q. Full power to do what? A. Over the entire force.

Q. You do not think there should be any change, then, in regard to the office of superintendent?

Mr. Nicoll.—I thought you were not going to inquire into the pending legislation?

Mr. Sutherland.—I am not talking about the bi-partisan bill.

Mr. Nicoll.—It is a compromise bill, by which you give additional powers to the superintendent, and appoint two commissioners for each political party; now, is not that the legislation that is pending, or am I misinformed about that?

Chairman Lexow.—Yes; that is pending.

Mr. Nicoll.—I do not know exactly the details of it.

Senator Cantor.—That is in the bill.

Mr. Sutherland.—Isn't it proper to give the judgment of this man?

Senator Cantor.—Not exactly, because the bill provides for legislating this man out of office; it legislates this present board out of office.

Chairman Lexow.—I do not think it would be fair to put to this witness any questions on pending legislation matter, in which he is not intimately connected.

Mr. Sutherland.—I was not aware it would legislate him out of office.

Chairman Lexow.—Yes; certainly.

Mr. Sutherland.—I won't press the question if that is the situation.

By Chairman Lexow:

Q. I would like to ask a question; Mr. Commissioner, in your answers, you have laid the blame to some extent, at least, if not entirely, upon the neglect of police captains and others to familiarize themselves with circumstances affecting the police system under their charge; do you consider that the police commissioners have no duty devolving upon them, to look after matters of that kind themselves? A. No; the law devolves a duty of suppressing and preventing violations of law on the uniformed force of the department.

Q. But isn't it your opinion, that you, as police commissioners, have the duty of looking after and seeing to the suppression of vice and crime by your subordinates? A. Yes; I believe it is our duty.

Q. When you then have spoken of neglect of duty on the part of the captains, was it not also your neglect of duty in not seeing that the captains performed their duty? A. No, sir; I do not think the law impresses upon the board of police com-

missioners the necessity of personally making examination of those matters.

Q. Then your opinion is that your duty is confined to receiving complaints and charges and disposing of them after being made?

A. Yes; I think so.

Q. And not to take any initiative on your part to ascertain whether there were reasons for charges? A. Well, if we think that the captains, or the inspectors, or the superintendents, are not doing their duty we have a right to prefer charges against them ourselves.

Q. Do you? A. No, sir; we have not.

Q. You never have? A. We have in one case recently; yes; in one case recently.

TENTH MEETING.

New York, April 7, 1894.

Present.—Senators Lexow, Saxton, Bradley and Cantor.

Herman H. Hansen, being called as a witness, duly sworn and examined by Mr. Sutherland, testified as follows:

Q. Where do you reside? A. No. 160 East Fifty-ninth street.

Q. What is your business? A. Stenographer.

Q. Were you a Republican watcher at the last election? A. Yes, sir.

Q. Where stationed? A. No. 38 Division street.

Q. What election district is that? A. Third election district and First Assembly, I think.

Q. In your capacity as watcher, tell us what you saw of the conduct of the police? A. Well, from what I saw, there were a good many irregularities, and the police made no arrests during the day, to my knowledge.

Q. Were the police requested to make any arrests? A. Yes, sir, I believe in one instance, when one of the poll clerks challenged a man who had been sworn in.

Q. Challenged him on what ground? A. On the ground that he voted before; he was very positive that he had, and I believe he called for his arrest, but no arrest was made, and he was allowed to go.

Q. Was there any reason given for allowing him to go? A. I believe not.

Q. What other irregularities did you observe? A. Well, there were people who voted before, and who came in the second and third time to vote, and they were told to go out.

Q. What did you do about it? A. They were challenged, of course, and told to go out.

Q. By whom? A. By myself, and sometimes by the Republican inspector.

Q. Then what? A. Then he went out, and in some instances he returned, and, of course, was expelled.

Q. Expelled by whom? A. By the inspector.

Q. Did the police take any part in this? A. None whatever, that I could see.

Q. And even the man he was directed to arrest was not arrested. A. No, sir.

Q. Do you know the name of that policeman? A. No, sir, I do not.

Q. Or his number? A. I am not certain, I think I made a report to the Republican Club, and I may have written the number in that report.

Q. But you do not recall it now? A. I have forgotten it now.

Q. Were you permitted to occupy the station within the rail? A. No, sir; I was not, in the morning.

Q. Who prevented it? A. Well, the inspector, that is, the chairman, and on appealing to the police, I did not seem to receive any assistance whatever.

Q. Did you appeal to the policeman? A. I did.

Q. What did you say to him or them? A. Simply said that I insisted on my rights to go inside this railing.

Q. Did you show your certificate? A. Yes, sir.

Q. Certificate signed by the chairman and secretary of the county committee? A. I believe the certificate was signed in the regular way; it was given me by the Republican Club.

Q. The ordinary printed certificate? A. Yes, sir.

Q. Anybody make any objection to its regularity? A. No, sir.

Q. You showed that, and what reply did you get? A. That it was all right, and that I could watch, but on my insisting on looking inside the railing, I was told to get out.

Q. Who told you to get out? A. The chairman.

Q. To get out of where? A. To get outside of the railing.

Q. Were you then inside the railing? A. I was then inside, and made a vigorous protest against it, but to avoid any further trouble, I went out, and it was only during the afternoon I went in.

Q. Was a policeman there, when you were ordered outside the rail? A. Yes, sir.

Q. You appealed to him? A. Yes, sir.

Q. What did he say or do? A. He said, "I think you better go outside the railing anyway, to avoid any trouble."

Q. Anything else? A. I believe that is all.

Cross-examined by Mr. Nicoll:

Q. Did you make any complaint to the captain? A. Yes, sir.

Q. To the inspector of the district? A. To the inspector of the district?

Q. The police inspector of the district? A. I don't believe there is any there.

Q. Did you make any complaint to the board of police? A. No, sir.

By Mr. Sutherland:

Q. Did I understand you to say that the policeman told you you had better get out of the polling place itself? A. No, sir; outside of the railing.

Adolph Freund, called as a witness by Mr. Sutherland, being duly sworn and examined, testified as follows:

Q. Where do you live? A. Two hundred and forty-eight Stanton street.

Q. Where did you vote last fall, 1893? A. In 140 Forsythe street.

Q. What Assembly district is that? A. Third Assembly district.

Q. And nineteenth election district? A. Yes, sir.

Q. What time of the day did you go to the polls? A. Between 12 and 1.

Q. What occurred after you got there? A. They told me when I went there in the polling-room; the election inspector told me I could not vote; I had voted already, and I told him; I asked him how that was, because I was able to prove that I did not vote, and he told me it was no use talking; I had voted already; I asked him if he would let me swear in my vote, and he refused, and the policeman that was in the pollroom told us to get out, and I opened the door to get out, and the policeman gave me a kick with his foot to go out quick, and on the street I met two friends of mine, who came from the city I came from, and they told me not to bother myself with voting; it was all humbug, they told me.

Q. Where did you go from there, after the policeman kicked you out? A. I went to the station-house at Eldridge street, and I told the man there behind the bar how it was; I told him the whole story; and he told me he could not do anything for me; I could not vote; and when I went to walk out from the station-house, he called me back.

Q. Who, the man sitting behind the desk? A. Yes, sir; and asked me, "For whom were you going to vote?" I told him

I had nothing to do with the police, and I was never arrested, and it made me afraid, and, therefore, I told him Tammany Hall, because I thought I would be locked up over night, or something like that, and I did not like to get in trouble.

Q. What did he say? A. He called out a detective with a black mustache, big, stout fellow, and told me to go with him to the pollroom, and that I should get my vote in all right.

Q. What happened then? A. He talked with the captain in my district.

Q. You mean the Tammany captain? A. Yes, sir; and after the talking, turned around to me, and told me, "You could not vote, you voted already;" and I was so excited I went down to the "World" office and I told it there in the office, the whole story, and he sent a reporter with me to the Superior floor, I think it is, the evening editor, and there I told him the whole story, and he sent a reporter with me to the Superior Court, and I got a mandamus from Justice Andrews.

Q. And you went back and voted? A. Yes, sir.

Q. Do you know who the policeman was? A. No, sir.

Q. Did you get his number? A. No, sir.

Q. Did you know the name of the man behind the desk at the Eldridge street station? A. No, sir; I was too excited; I did not look for no number or anything at all; I was afraid of getting locked up, and I could prove it that I was not out of the house on election day before.

Q. Were you out of your house election day before you went there to vote? A. No, sir.

Q. And you had not voted before that day? A. No, sir.

Q. Do you know who it was voted on your name? A. No, sir.

Q. Were you acquainted with any of these inspectors? A. No, sir.

Q. How long had you lived in that district? A. Seven months before election; I lived seven months.

Cross-examination by Mr. Nicoll:

Q. Are you a member of the Tammany Hall organization? A. No, sir.

Q. Of what organization are you a member? A. None.

Q. How long have you lived in the city of New York? A. Over five years.

Q. Where did you come from? A. From Germany.

Q. When did you come from Germany? A. Over seven years ago; I was in San Francisco about two years; the first two years I was in California.

Q. What were you doing there? A. I worked there.

Q. At what? A. Cigars; I am a cigarmaker by trade.

Q. The making of cigars? A. Yes, sir.

Q. You came to this city five years ago, you say? A. Yes, sir.

Q. Have you been making cigars ever since? A. Yes, sir.

Q. Who do you make cigars for? A. Sutro & Newmark, Seventieth street and Sixth avenue.

Q. Is he a manufacturer of cigars? A. Yes, sir.

Q. Are you a married man? A. Yes, sir.

Q. Where do you live in the city of New York? A. At the present time I live at 248 Stanton street.

Q. You have a room there? A. Yes, sir.

Q. And at that time you were living where—at the time of the last election you were living where? A. One hundred and sixty-nine Eldridge street.

Q. Where did you vote on election day in 1892? A. During the election of 1892 I lived in the same house I live now; I lived there the second time in 248 Stanton street.

Q. Where did you vote in the election of 1892? A. Furniture store in Houston street.

Q. That was the polling place in the district in that year? A. Yes, sir.

Q. Did you vote in the same district in 1893 as you did in 1892? A. Yes, sir.

Q. What district did you vote in in 1893? A. Third Assembly district.

Q. You were a stranger in that district? A. Yes, sir.

Q. Did you not know any of the election officers—inspectors or poll clerks or ballot clerks? A. No, sir.

Q. Or the police officers? A. No, sir.

Q. As I understand you to say, when you came forward to vote, someone objected that your name had been voted on? A. Yes, sir; it was the election inspector, I think, who was behind the bar.

Q. He noticed that a vote had already been cast upon your name? A. Yes, sir.

Q. And that was the ground upon which he refused to let you vote? A. Yes, sir.

Q. And thereupon you went down and saw the editor of the World and accompanied by a reporter procured a mandamus and did vote upon your name? A. Yes, sir; I asked the inspector of election before I went away to let me swear in my vote, and he refused that, and the policeman told me to get out of the pollroom.

Senator Bradley.—He helped you out?

A. Yes, sir; he gave me a kick with his foot.

Q. What was the number of the police officer? A. I did not look at the number.

Q. His name? A. No, sir.

Q. Have you seen him since? A. I have seen many policemen, although I don't know if I seen that policeman; maybe I did and maybe not; would not swear to it.

By Senator Bradley:

Q. When you were stopped there, you said something about some man offering you money? A. Yes, sir.

Q. Someone tried to buy your vote? A. Yes, sir; the story was in the Evening World, and all the papers.

Q. Who was the man offered you money? A. I never saw him before.

Q. How much did he offer? A. Two dollars; I told him I would not sell my vote any more than I would my life.

Q. What party did he belong to; was he a Republican or a Democrat? A. Democrat.

Q. Are you sure he was a Democrat? A. Yes, sir.

Q. Why? Because he offered me the Tammany paster.,

By Senator Lexow.

Q. Do you know the name of the officer who was in the police station behind what you call the bar? A. No, sir; I never was in.

Q. Do you know whether he was a police sergeant? A. No, sir; I could not swear whether it was the sergeant or captain; I knew it was a stout man; I never in my life had anything to do with the police.

Q. Did he have a police uniform on? A. He got some gold stripes on his collar.

Q. How many gold stripes? A. Two gold stripes.

Q. Around his collar? A. Yes, sir.

By Senator Saxton:

Q. I suppose you had registered before you voted? A. Yes, sir.

Q. On what day did you go there to register? A. On the 18th, I think.

Q. Don't remember which registry day it was? A. Before the last two; second registry day.

Q. Were the same election officers there when you registered? A. Yes, sir.

Q. Did you have any talk with them? A. No, sir.

Q. Simply had your name registered and went away? A. Yes, sir.

By Mr. Nicoll:

Q. Whose names were on the paster? A. The names were — what I voted?

Q. The names on this Tammany paster? A. Sullivan and Roesch were on; after I got the mandamus, the paper I voted had the name of McGibney on.

By Mr. Sutherland:

Q. Voted the straight Republican ticket? A. Yes, sir.

Joseph Gano, called as a witness by Mr. Sutherland, being duly sworn and examined, testified as follows:

Q. Where do you reside? A. Fifty Ninth avenue.

Q. What is your business? A. Truckman.

Q. How long have you resided there? A. Three years.

Q. How long have you been engaged in that business? A. About 11 months, this month.

Q. In what Assembly district is that? A. The ninth.

Q. Is that the district in which Mr. Bahan received the independent nomination? A. Yes, sir.

Q. Did you know Mr. Bahan? A. Yes, sir.

Q. Did you sign his papers? A. Yes, sir.

Q. Anything happen to you after that? A. Yes, sir.

Q. What was it? A. I had a couple of gents come to me and said, "Did you know you were doing wrong when you signed his paper?" I said, "I did not;" he said you did; you better go up and sign Mr. Boyle's papers and take his indorsement off of that;" I said, "I will not;" about half an hour after a policeman came up to me and said, "They want you around to the station-house;" I said to him, "What do they want me there for?" he said, "I don't know; you will have to come;" I jumped on the truck and went with him, and went as far as Eleventh street and Bleecker, and a man came up and said, "Hello, Tom!" to this policeman, who was on the truck with me, and he went down and spoke to the man, and the policeman called me down and this man said to the policeman, "That is all right; I know this young man; go and tell him you could not find him," and the policeman went off, and I went off with this man on the truck, and as I got on the truck I went up and got as far as Bleecker and Bank, and this man said, "Come in and have a drink;" and I said, "Oh, I was obliged," and he said, "Come in and have a cigar," and I said, "I will

have a cigar," and I walked in and had one, and came out, and he said, "You know Bahan has not the power I have, that Tammany Hall has;" and he said, "You go and take your name off that;" "No," I said, "I will do nothing of the kind," and I kind of thought then of the trick they were trying to play on me, and that ended it, and they did not bother me after that.

Q. Did you see this same man afterward? A. Yes, sir; he came down afterward, and said to me, "I understand you want a license."

Q. The same man who met the policeman? A. Yes, sir; he came down afterward and said to me, "I understand you want a license;" I said, "That is what I am looking for."

Q. License for what? A. License for a truck; and he said, "You go up to Mr. Boyle and he will write you out a note for a license;" and I went up and Mr. Boyle wrote a note for me to go and get a license.

Q. Who is Mr. Boyle? A. The Tammany Hall leader of the Ninth Assembly district—James W. Boyle.

Q. Did he give you a note? A. Yes, sir.

Q. Addressed to whom? A. To some man down here, board of excise; I believe I have that same note yet, and when I went down, they said, "You can not get any license until November 1st; that notice is no good;" when I got that note Boyle said to me, "You better go over and sign your name to that."

Q. To what? A. To his petition, and I was all mixed up, and I went.

Q. What was the paper that Boyle had? A. Some paper there, stating that you did not know what you were doing, or something of that kind, I understood, after I signed it.

Q. In regard to McDermott's and Bahan's canvass? A. Yes, sir.

Q. And this paper was in the interest of McDermott, and against Bahan? A. Yes, sir.

Cross-examination by Mr. Nicoll:

Q. You first signed for Bahan? A. Yes, sir.

Q. And then Mr. Boyle undertook to get a license for you? A. Yes, sir.

Q. And then you signed for McDermott? A. Yes, sir.

Q. You did not get your license? A. No, sir.

By Mr. Sutherland:

Q. Do you know the name of the man who jumped on the truck? A. No, sir; I have been trying to find out since.

Q. Stranger to you? A. Yes, sir.

By Senator Bradley:

Q. Do you know the policeman? A. No, sir.

Q. Or his number? A. No, sir; I have been looking for the past two days to see if I could find his number, and could not find it.

By Mr. Sutherland:

Q. You would know him again if you saw him? A. Yes, sir.

Q. Is he still on the force; have you seen him since that? A. No, sir; I have not seen him since that.

Walter C. Smith, called as a witness by Mr. Sutherland, being duly sworn and examined, testified as follows:

Q. What is your business? A. I am a clerk.

Q. For whom? A. The International Navigation Company.

Q. Were you a watcher in the last election? A. Yes, sir.

Q. Where stationed? A. Fortieth election district and Second Assembly district.

Q. You have your certificate with you? A. Yes, sir.

Q. Produce it? (Witness produces a paper.)

Mr. Sutherland (reading certificate) — "Republican county committee, New York, a political party organization, which has duly filed a certificate of the nomination of candidates for office to be filed at the general election to be held on the 7th day of November, 1893, does, by virtue of the power given to it by section 102, of chapter 680, of the Laws of 1892, appoint Walter Smith as watcher, to attend the polling place of the fortieth election district, of the Second Assembly district of said city and county, during said election; in evidence whereof, the chairman and secretary of said committee have signed this appointment the 3d day of November, 1893. (Signed, John H. Smith, chairman; William H. Bellamy, secretary.)"

Q. With that certificate in your pocket did you attend? A. I did, sir.

Q. What time in the morning did you reach there? A. When the polls opened.

Q. That was what time? A. At 6 o'clock.

Q. Did you display your certificate? A. I did.

Q. To whom? A. The Republican inspector.

Q. Did you meet with any difficulty? A. Not until the Democratic watcher appeared, who contested my right there and told the police officer to do his duty.

Q. What did he say when he contested your right? A. Said I had no right behind the rail, that he, as a watcher, has no right behind the rail, and I, as a watcher, had no right.

Q. What did he say to the policeman? A. He said to the policeman to do his duty.

Q. Was that the expression he used? A. Yes, sir.

Q. Then what? A. I did not wait for him to do his duty; I went out; I went to Inspector Byrnes' office and had an interview with him, who referred me to the captain at the Elizabeth street station.

Q. What was his name? A. That I do not know.

Q. What did you do about it? A. I told him that —

Q. Did you go to the captain? A. Yes, sir; and showed my certificate.

Q. What time of the day was that? A. That was, I should judge, about 7 or half-past; I exhibited this certificate and told him that I wished to go behind the guard-rail, and read him an extract of the law, and he said that it was a technicality, and I had no right behind there, and he sent a man around to the election district with me, the polling place.

Q. Do you know who the man was? A. He was a policeman, one of the reserves, I think.

Q. Did he tell him how to settle it? A. No, sir; he did not tell him; he said I was in trouble around there and he should settle it.

Q. The captain told you you had no right there, behind the rail? A. Yes, sir.

Q. Was that in the hearing of this policeman that he sent around? A. That I can not swear to.

Q. He told this man to go around with you and straighten this matter up. What did you do then? A. I saw that the space behind the guard-rail was rather small, and that they might raise the objection that there would not be room enough for the voters and election officers and watchers, and I could see the boxes from behind the guard-rail as well, I did not insist on it any further, and remained the other side of the guard-rail, outside, until the count, when I went within.

Q. What did this policeman do, when you got there with him, or say? A. He spoke to the other policeman, the conversation I don't remember, the substance of it was I agreed to stay outside the guard-rail was rather small, and that they might raise the

Q. With whom did you make that agreement? A. With the policemen, and the other Democratic watchers.

Q. The policemen stationed at the polls or the policemen who went there with you? A. With really both.

Q. What did they say that led up to that agreement? A. I don't remember that conversation.

Q. Did they request you to stay outside the guard-rail? A. Yes, sir; they did.

Q. Did they say they would not allow you to go inside the guard-rail? A. They said I had no right behind the guard-rail.

Q. That was after this man came from the station? A. Yes, sir.

Q. Both policemen said you had no right there? A. Yes, sir.

Q. Did you request them to put you inside the guard-rail? A. No; for the reason I have stated.

Q. They both informed you that you had no right there? A. Yes, sir.

Q. Finally you agreed with them that you would stay outside? A. Yes, sir; I did.

Q. You promised that you would? A. Yes, sir.

Q. And then this other man went away? A. Yes, sir.

Q. Did you see any irregularities there that day? A. Well, I saw one repeater, and there must have been more repeaters, on account of the number of votes that were sworn in.

Q. You saw one repeater do what? A. Vote one name, and the reason I remember it was that he had a peculiar face, and he voted a Hebrew name.

Q. What kind of a face did he have? A. He was evidently an Irishman.

Q. What did you do about it? A. When this repeater entered the polling place, some of the other men who were with this Democratic watcher, they came into the polling place, and it seemed to me that if I had challenged the vote or objected in any way, that one of them would have struck me, and we would both have been arrested, and for that reason I did not object; I wanted to be present at the count.

Q. What made you think that anybody would molest you? A. From the fact that they surged into the polling place.

Q. How many surged in? A. I should judge half a dozen.

Q. Did they come in to get ballots; come in to vote? A. No, sir.

Q. Come in with this one voter? A. Yes, sir.

Q. What did they do after he had voted? A. They dispersed then, and went out.

Q. Where was the policeman during this occurrence? A. In the polling place.

Q. Where he could see these men surging in? A. Yes, sir.

Q. Did he attempt to stop them? A. No, sir.

Q. Could he see that they did not apply for ballots and did not vote? A. Yes, sir; he could.

Q. He made no objection to their presence? A. No, sir.

Cross-examination by Mr. Nicoll:

Q. I understand you to say that the Democratic watcher was kept outside the guard-rail? A. Yes, sir; he was outside.

Q. Did he remain out all day? A. Yes, sir; until the count.

Mr. Sutherland.—The ground for that was that there was no need of his being there; he did not have to watch anybody.

Q. At all events, he was not inside? A. No, sir.

Q. Could he see from where you were all that was going on inside? A. Yes, sir.

Q. You stood up by the rail, so you could see everything? A. Well, that was the reason I did not insist further.

Q. As matter of fact, the difference in your position from one side of the rail to the other, would not have made a difference of more than two feet, would it? A. I could have gone eight feet away, six feet.

Q. You did not do that, you stood up close? A. Inside the guard-rail; I could have gone eight feet further toward the Republican inspector.

Q. There was nothing to interfere with your sight, as to anything which was going on? A. No, sir.

By Senator Bradley:

Q. You say that this man who voted, voted on a Hebrew name? A. Yes, sir.

Q. You were there all day? A. Yes, sir; I was there, except about an hour when I took lunch.

Q. Did the Hebrew present himself that day and offer to vote? A. I can tell that by reference; I had a list of the—

Q. Did you see him come in and offer to vote, certainly it would cause a little disturbance if he came to vote and the inspector told him that he had voted before; that did not occur all day? A. No, sir; the Hebrew did not come in.

Q. Did you see anyone during the day assist voters in the booth? A. Yes, sir; there was an alleged blind man that was assisted.

Q. Only one? A. Yes; I remember one distinctly.

H. M. Reiss, called as a witness by Mr. Sutherland, being sworn and examined, testified as follows:

Q. Where do you reside? A. Four hundred and fifty-four West Forty-seventh street.

Q. What is your business? A. Clerk.

Q. For whom did you clerk? A. Stern Brothers.

Q. Were you a Republican watcher at the last election?

A. Yes, sir.

Q. Stationed where? A. Twenty-eighth election district, Third Assembly district.

Q. Whereabouts was the polling place? A. Three hundred and something Broome street; I have forgotten the number, 350 something.

Q. What time did you go there in the morning? A. I got there about 8.

Q. Did you display your certificate? A. I did.

Q. To whom? A. To the officer at first.

Q. That was the police officer? A. The police officer.

Q. To whom else did you display it? A. The chairman of the committee of inspectors.

Q. Did anybody question the regularity of the certificate?

A. At first they did not; admitting me inside the guard-rail, and after about 25 minutes I was ordered out by the police officer.

Q. The same police officer to whom you had shown this? A. Yes, sir.

Q. What did he say? A. He said I had no right to be inside; I showed him the certificate, and called his attention to the rules and regulations of election, and he showed me one portion of it which read to his idea, and I showed him the other, and he said he can not help it, I must go out; and I did go out.

Q. Did he give you any reason why he let you in in the first place, and then ordered you out afterward? A. No, sir.

Q. What was his number? A. No. 2792, I believe.

Q. Did anybody else join in the conversation, when you were ordered out? A. Quite a number, at least half a dozen.

Q. Who were they? A. They were, I believe, Tammany men; I believe so.

Q. Were they election officers? A. I believe so; they were.

Q. What officers? A. Two inspectors.

Q. Who else? A. The third inspector took my part, claiming I had a right to be inside.

Q. Who else took part in the conversation? A. Outsiders.

Q. How many outsiders? A. About half a dozen outsiders.

Q. They were not election officers at all? A. No, sir.

Q. Where were they standing? A. Inside and outside the guard-rail.

Q. Inside? A. Inside; there were two constantly inside the guard-rail.

Q. Two of those outsiders? A. Yes, sir.

Q. They joined in with the policeman and insisted that you should go out? A. Yes, sir.

Q. What happened then? A. I went out and stayed out about 10 minutes, and finally I thought I better go back and stay outside, and see what was going on; I waited then until about 2, when Mr. Smith and Mr. Murray, of the Republican headquarters, came around, and they got out of the carriage, and instructed the officer to allow me to remain inside; said they had seen Superintendent Byrnes I believe; he then let me in; outside of myself, there were two inside as well.

Q. Two inside at the time? A. Yes, sir; before that and after.

Q. They were not election officers at all? A. No, sir.

Q. Do you know their names? A. No, sir.

Q. While you were there acting as a watcher, did you discover any irregularities? A. Yes, sir.

Q. What? A. I noticed outsiders going inside the booths with the voters.

Q. Did you say or do anything about that? A. I objected every time.

Q. To whom did you object? A. To the chairman of the inspectors.

Q. What was said or done? A. He told the men to go out; he had no business inside, but no sooner had he said it than he was in again.

Q. Where was the policeman at this time? A. In and out.

Q. Did he see these men going in the booth? A. Yes, sir.

Q. Did he hear the chairman tell them they must not go in? A. Yes, sir; because he spoke very loud and distinct.

Q. You say the man would step out and in? A. Yes, sir; no sooner turned his back than I saw another man inside.

Q. Did that occur frequently during the day? A. Yes, sir; quite.

Q. Did you see any other irregularities? A. At one time I came very near getting a licking.

Q. How did that happen? A. I saw one of the outsiders going inside the booth with a voter, and when he came out, I challenged his vote on those grounds, and finally he was thrown out, and he came around and was going to hit me.

Q. Who came around? A. The voter.

Q. How do you know he was going to hit you? A. Came around with his fist; there were several men between him and me, and naturally he could not do anything.

Q. Did you see any people there who claimed to be disabled? A. Several.

Q. How many? A. About half a dozen.

Q. What disablement did they claim? A. They were blind, and some men claimed they could not use their hands.

Q. Did those men who were blind give any evidence of blindness? A. The first man went inside and did not say anything, and got his ballots a few minutes afterward, and another man went inside with him, without the request of the voter to go in with him, and after he was rejected, he said that he was blind; he told the inspector that he was, this other man, that he could not see.

Q. Did he take any oath? A. After he came out the first time he took the oath.

Q. Took the oath that he was blind? A. Yes, sir.

Q. What happened then? A. Admitted him inside the booth, of course.

Q. This other man went with him? A. Yes, sir.

Q. Came out and he voted? A. Yes, sir.

Q. The first time, you say, the man went in without saying anything? A. Yes, sir; got his ballots and went inside.

Q. Did he walk to the poll clerks alone? A. Yes, sir; came in alone, and went out alone.

Q. Had no assistance given him in getting out? A. No, sir.

Q. Gave every appearance of having his eyesight? A. He walked slow, but he walked alone and knew where he was going.

Q. Was he blind or not? A. He was near-sighted, perhaps, but I could not say whether he was blind or not; he said he could not read, he was so near-sighted.

Q. So near-sighted he could not read? A. Yes, sir.

Q. Were there any other cases of that sort? A. Well, there were several that were totally blind; they swore that they were blind; they swore that they were blind, and naturally allowed inside with assistance.

Q. What was the appearance of these as to blindness? A. I don't know what you mean by appearance exactly.

Q. Appearance of being totally blind? A. Yes, sir; they were blind.

Q. Did you notice any Italians voting there? A. Several, I remember.

Q. Did any of those people swear they were blind? A. I don't believe they did.

Q. Did you see any of those people get money? A. No, sir.

(No cross-examination.)

Henry A. Snow, called as a witness by Mr. Sutherland, being duly sworn and examined, testified as follows:

Q. Where do you reside? A. No. 210 West Fourth street.

Q. What is your business? A. I work for Scott & Barnes.

Q. Were you a Republican watcher last fall? A. Yes, sir.

Q. Where stationed? A. I have forgotten the election district, but it was No. 93 Chrystie street.

Q. Did you take your certificate with you? A. Yes, sir.

Q. Did you exhibit it? A. Yes, sir.

Q. To whom? A. To the Democratic inspector.

Q. Were you allowed to take your proper place? A. No, sir.

Q. Who objected to it? A. There were some parties came in from the outside of the street, and seen me inside the rail and objected to it, and the Democratic inspectors they told me that I would have to get out; told me to get out; I said I had the privilege of staying in there; he called on the policeman to put me out and the policeman told me I would have to go.

Q. Who was the policeman? A. I don't know his name, but I have his number.

Q. What was it? A. No. 2155.

Q. He ordered you to go out then? A. Yes, sir.

Q. Did you go? A. Yes, sir.

Q. At what time in the day was that? A. It was about 11 o'clock.

Q. How long did you remain outside? A. I remained outside there until Mr. Smith came along from the Republican Club, and he asked me why I was outside, and I said I was put out, and he told me go inside the rail and stay there, and I did so until I guess about 1 o'clock or half-past, when these same people came in again and objected, and the Democratic inspector told me to get out, and the policeman said he would have to enforce the rule; I spoke about the rules in the little book they had, and they said that did not count.

Q. Who said it did not count? A. The Democratic inspector.

Q. You were put out again? A. Yes, sir.

Q. Did you see any irregularities in the voting? A. Well, I think it was 27 repeaters there, but I did not see two men vote twice; at least, I did not see one man vote twice.

Q. What names did they vote on? A. On men who had voted earlier in the morning.

Q. On the same names already voted? A. Yes, sir; and these parties who did vote, claimed to be the right people, and swore all that was necessary, and it appeared that way.

Q. How many cases of that kind were there? A. Twenty-five or 27.

Cross-examination by Mr. Nicoll:

Q. Were you a witness before the grand jury? A. No, sir.

By Senator Bradley:

Q. Did you give testimony before the grand jury on these election frauds? A. No, sir; I have not; this is the first testimony I have given.

Q. Did you make a report of your testimony to Mr. Murray? A. Yes, sir.

Q. You told him what you have told us? A. Yes, sir.

Q. Were you not afterward subpoenaed to come down before the grand jury to investigate these election frauds? A. I was subpoenaed to come here, that was all I received.

Q. This is the only court to which you have come? A. Yes, sir.

Q. You are a Republican in politics? A. Yes, sir.

James J. Martin, recalled for further examination by Mr. Sutherland, testified as follows:

Q. The regulations require you to keep a book of complaints made against officers, do they not? A. Yes, sir.

Q. Do you keep such a book? A. There is such a book kept in the office of the complaint clerk.

Q. Who is he? A. His name is Peterson.

Q. The regulations also require you to keep a record of the trials before you? A. Yes, sir.

Q. Who keeps that book? A. It is also kept in the clerk's office.

Q. By the same clerk? A. No, sir; by another clerk.

Q. What is his name? A. Derby; but I am not positive about that.

Q. You sometimes examine these records of complaints? A. No, sir; I do not; except as far as they come to my office.

Q. What is the purpose of keeping that record? A. That is for the purpose of reference at any time, to show the date of the complaints, date transmitted to the president's office for approval, or date returned, and date of the trial, and judgment rendered by the board.

Q. Isn't that the book upon which the fact that a complaint is made is first entered? A. Yes, sir.

Q. How do you learn that a complaint is made? A. The usual complaints for violation of the rules come from the captain of the precinct to the superintendent's office; from the superintendent's office to the office of the complaint clerk, where entries are made in those books.

Q. Then what? A. Then transmitted to my office, where, as chairman of the committee on rules and discipline, I examine the complaints as to form.

Q. These complaints come from the complaint clerk directly to you? A. Yes, sir.

Q. So you have knowledge, then, by communication from the clerk of every complaint that goes on that book? A. Yes, sir.

Q. Were there any complaints filed in your office against policemen prior to the last election, charges prior to the last election with regard to registration or conduct of the officers at registration places? A. I think there were some complaints in reference to the officers being inside the polling places, sitting down, in violation of the rules in that respect.

Q. You say on election day? A. No, sir; days of registration.

Q. Were there many such complaints? A. I think quite a number.

Q. Were there complaints against any officers growing out of any other infraction of the law referring to elections? A. Registrations?

Q. Yes, sir. A. I don't recollect of any.

Q. Do you remember that the newspapers were filled with the accounts of padded registration? A. Yes, sir; I remember there was something in the newspapers to that effect.

Q. Do you remember that investigations were had on that subject, and a good many names stricken from the registration list? A. There were some investigations made; yes, sir.

Q. Do you remember that it was charged that the police were implicated in that to some extent? A. I don't recollect that it was.

Q. Was there any complaint filed against officer No. 493 to your recollection? A. I do not recall it.

Q. Do you remember that the New York Herald and the New York Press, in the edition of Sunday, October 22d, published an account of the visit of their reporters to the saloon kept by District Leader Timothy D. Sullivan, and their examination of the premises to see whether men could live in the stories whence they were registered? A. I remember there was something published in the newspapers on that subject.

Q. Do you remember that the same account said that on the floor above Mr. Sullivan's saloon, they found people engaged in gambling? A. I don't recollect the account in detail.

Q. And that officer 493 was there on both their visits? A. I remember there was something stated about a police officer being in the place.

Q. Did you take any steps to investigate the truth of that statement? A. I talked with Superintendent Byrnes about it.

Q. What else did you do? A. The matter was in his hands, he was investigating it.

Q. What else? A. Nothing further.

Q. Did you ever inquire what was the result of that investigation? A. No, sir; I did not; there was no special report made on it.

Q. Have you the complaint that was filed with your board by Dr. Parkhurst? A. I don't think the communication of the society is there, but I can state what it was.

Q. Yes; here it is; is that a copy of the communication? A. This is the answer of the Parkhurst Society to the resolution adopted by the board of police on the 24th of January, asking that they should present any evidence which they might have as to disorderly houses in the fourth precinct; in answer to the resolution adopted by us, of which you have a copy on the other paper.

Q. I now show you a copy of your resolution adopted on the 24th of January? A. The record shows that it was adopted January 23d, according to this copy; the letter of Mr. Parkhurst shows it was January 24th; I think the 23d is correct.

Q. But the letter unquestionably refers to the resolution I now have? A. Yes, sir; no doubt about that.

The two papers are marked Exhibits "A" and "B" of this date, April 8, 1894.

Q. Is this paper a copy of the memorandum that was presented to the commissioners with reference to policemen going about in citizen's dress to enforce the Excise Law? A. I suppose this is a copy.

Q. Is it a paper which you produce? A. The clerk informs me that on examination of the files of the police department the original of this communication is not on file; he can give the reason for that, as far as he knows, I suppose.

Q. From that data does he make this; this is furnished you by the clerk? A. Yes, sir; and I presume that is a copy of the original communication.

Q. Do you know where he — ? A. The clerk told me that he had sent to Senator Boyd and procured a copy in that way; the original paper has been mislaid somewhere in the office, it has been looked at so often lately.

Q. Then, so far as you can tell, this is an accurate copy? A. Yes, sir; it is.

(Paper marked Exhibit C of this date, April 7, 1894.)

Q. And that is a copy of the resolutions adopted by your board with reference to that memorial? A. That is a copy of the resolution adopted by the board of police on the 1st day of September, 1891, with reference to this.

Q. And it is this resolution to which you had reference in your conversation with Inspector Steers? A. Yes, sir.

(Paper marked Exhibit D of this date.)

Q. Before this resolution was adopted by your board, had you received any intimation that members of your force were receiving bribes? A. Well, I had received some vague information on that subject; I won't say that it was specific in any way.

Q. I understood you to say yesterday that was the first intimation you had of it? A. I should think it was about that time.

Q. From whom did your information come? A. I don't recollect who it came from.

Q. Was it from more than one person? A. I think it was; yes, sir.

Q. And as I understood you yesterday, you took no steps to ascertain the truth of it? A. No, sir; no special steps; I talked with the superintendent, as I said yesterday; I think it was Superintendent Murray; I am not sure; I have talked with both superintendents.

Q. But in this resolution you state that you utterly condemn the force soliciting or receiving bribes of any kind or character, for any purpose whatever? A. Yes, sir.

Q. That was on the 1st day of September, 1891? A. Yes, sir.

Q. Why did you condemn the soliciting or receiving of bribes by the force? A. Well, there were rumors of that kind had reached me, and had reached some of the other commissioners.

Q. Why did you condemn the force; did you believe they were receiving bribes? A. I had some reason to think that some members of the force were receiving bribes, individual members of the force.

Q. You did think the force, or some of them, should be put under condemnation? A. Yes, sir; if it were true.

Q. What was the evidence that induced you to believe that some were receiving bribes? A. There was no specific evidence.

Q. What unspecific evidence was there? A. There were some rumors and stories that I had heard that some officers, individual officers, as I said before, that were around in citizen's clothes, that they were receiving money from the saloon keepers.

Q. What was the evidence that you had that they were taking money? A. I had no evidence.

Q. Why did you condemn them, then? A. I condemned the practice, if it existed.

Q. You do say "if it exists" in your resolution? A. I know that.

Q. You said a moment ago, that at the time that resolution was adopted, you did believe that some members of the force were accepting bribes? A. Yes, sir; I did.

Q. Upon what evidence did you believe it? A. I had no evidence; no legal evidence.

Q. You believed that some of the members of your force were guilty of this offense? A. Yes, sir.

Q. And you believed it without evidence? A. Yes, sir.

Q. Was that because of the character of the men? A. No, sir; it was from the opportunities they had.

Q. Do you wish the committee to understand that the mere furnishing of opportunities to policemen to receive bribes is sufficient evidence in your mind to convict them for having received bribes? A. Not as a whole.

Q. What was the difference between those particular men and others that made you condemn them? A. Some men are worse than others.

Q. Who were those men that you thought had been taking bribes? A. The men I had information of.

Q. Who were they? A. I had no specific names, and no names were mentioned.

Q. Then, do you tell the committee that without having a single man of your 4,000 men pointed out to you, and by mere rumor that bribes were being taken, you actually believed that some members of the force were accepting bribes? A. Yes, sir; I say that to the committee.

Q. Didn't you deem it your duty to attempt to single out those men and remove them from the force? A. I had no evidence that would enable me to do it; if I had, I would have very gladly singled them out.

Q. Did you not deem it your duty to get evidence? A. I had no means of getting the evidence.

Q. Are not the powers of the police commissioners extraordinary? A. Yes, sir.

Q. Are you not in supreme command of the entire force? A. Yes, sir.

Q. Have you not required the superintendent to prefer charges against men? A. Yes, sir.

Q. And try those charges? A. Yes, sir.

Q. Isn't it within your power to command the force of detectives to ferret out crime? A. Yes, sir.

Q. Is there any more dangerous a crime to this community than the crime of policemen accepting bribes for failure to discharge their duty? A. I don't think there is.

Q. Is there any greater duty incumbent upon you, if you believe that one or more of the members of your force have been guilty of that crime, than to seek, by every means within your power, to ferret out the individual who commits that crime? A. There is no greater duty.

Q. But you did nothing? A. I was unable to get evidence.

Q. How did you try to get it? A. I inquired about it.

Q. Of whom? A. Various people.

Q. Of whom? A. I don't recollect; it is a long time ago; there was never any information, no evidence submitted to the police board on the subject.

Q. Did you ever send for a detective on this subject? A. No, sir.

Q. Did you ever communicate your suspicions to the superintendent? A. Yes, sir.

Q. Did you point out to him upon whom your suspicions rested? A. I told him I had no information as to any particular member of the force, any individual.

Q. While this information was fresh in your mind, did you give to the detective force, or superintendent, all the information you possessed? A. I talked with the superintendent and gave him all the information I had.

Q. You told him who the people were who informed you of that? A. I don't think I did.

Q. Why not? A. I don't think I knew who they were at that time; it was very vague and indefinite.

Q. And yet so vague and indefinite that you believed it? A. Still, I was convinced that something of that kind was going on, and I was trying to correct it as best I could.

Q. Did you talk with any of your fellow commissioners on that subject? A. Yes, sir; I did.

Q. When and where? A. Previous to the adoption of this resolution.

Q. Was it brought up in open meeting of the board? A. I think it was brought up in open meeting of the board.

Q. Was any other formal action taken by your board, except the adoption of this resolution? A. No, sir; that resolution was drawn, prepared and offered by Commissioner Voorhis, who was at that time in the board; I had talked with him about it; the original resolution is in his handwriting now.

Q. Did you talk with any of the police justices as to evidence of bribery in connection with these excise cases? A. No, sir.

Q. Not any of them? A. No, sir; I had some talk in a general way with police justices at that time, to the effect that in cases where arrests were made and complaints for violation of the Excise Law, that in a great many of these cases, the testimony was very weak as to violations.

Q. That is to the violation of the Excise Law? A. Yes, sir; and that in consequence of the testimony they were compelled to discharge in those cases.

Q. What had that to do with the bribery by policemen? A. Nothing specially.

Q. I asked you if you talked with those police justices in regard to evidence of bribery by policemen? A. No, sir; they had no knowledge or information about it, as far as I know.

Q. Did you talk to them to find out? A. No, sir; I don't think I did.

Q. Where was Commissioner McLain at the time this resolution was passed? A. He was in Europe.

Q. Do you remember the day of the week on which the 1st day of September fell; was it your regular Tuesday meeting? A. I think it was the regular meeting of the board.

Q. Your meetings are held every week? A. I think in the summer time — the usual meetings during the year are on Tuesday and Friday; I think in the summer we postponed the meetings until Wednesday, as matter of convenience to some of the members, during July and August and possibly September.

Q. Mr. McLain was expected home Saturday of that week? A. I think he did not attend a meeting of the board from the 31st of July to the 18th of September.

Q. Was he expected home from Europe on the Saturday of that week? A. Not that I know of.

Q. Did you hold a special meeting that week, after adopting this resolution? A. I don't recollect; I don't think we did.

Q. And approved the minutes of this meeting, including the passage of this resolution? A. I don't recollect it.

Q. And before Mr. McLain got home? A. I don't remember anything of the kind.

Q. Will you kindly look that up, so you can answer it next week? A. Yes, sir; I shall be very glad to.

Q. You have told us of two instances, and two only, in which you actively interposed with regard to the conduct of the police, one was when you sent for Inspector Steers, and notified him or called his attention to the passage of this resolution we have just been talking about? A. Yes.

Q. The other was, when, on the Sunday before the election of 1892, you visited the office of the superintendent and took part in the instructions that were given to the police? A. Yes, sir.

Q. Have there been any other instances since you have been a member of the board of police commissioners, wherein you have personally attempted to influence the action of the superintendent? A. No, sir; had no intention of interfering with them, at that time.

Q. You have told us of one charge in the newspapers, which resulted in the investigation by your board, that is the charge

in the New York Herald with regard to the policy shops existing within a stone's throw of police headquarters? A. There were no complaints, and there have been no complaints made as yet as to these places; the complaint that was made was in reference to policy shops existing in the twenty-eighth police precinct, which was in the upper portion of the city.

Q. But that same article referred to policy shops within a stone's throw of police headquarters? A. Yes, sir; referred to both.

Q. And gave cuts of the place? A. Yes, sir.

Q. Was there any other newspaper article which resulted in any charge being preferred by you against any officer? A. I think many complaints against officers grew out of the articles in the newspapers.

Q. Can you mention any at this time? A. I can not, but I have no doubt we have discovered a great many.

Q. Have any of the charges within the last six months published in the newspapers, resulted in any charges being preferred against these officers? A. What charges do you refer to?

Q. The last six months, charges in the World, for instance? A. I think there have been complaints made against police officers by newspaper articles within the last six months; I can't say what they were.

Q. Can you tell why those were selected, and others left out? A. No, sir; these charges came from the superintendent's office.

Q. Have you preferred charges? A. No, sir.

Q. Against any officer? A. No, sir.

Q. Have you required the superintendent to prefer charges against any officer? A. No, sir.

Q. Have the board required the superintendent to prefer charges? A. I don't think the board has required them; the superintendent is very vigilant as to those matters.

Q. You know Captain Haughey? A. Yes, sir.

Q. Who preferred charges against him? A. The superintendent of police.

Q. By whose order? A. Order of the board of police.

Q. You have just told the committee that the board had not told the superintendent to prefer charges against anybody charged? A. Growing out of the newspaper statements, as I understand it.

Q. Have the board required the superintendent to prefer charges against anybody else except Captain Haughey? A. I think so.

Q. Since when? A. I can not fix the time.

Q. Was it a year ago? A. Since I have been in the board; I can not say anything very definite about it; I think more than a year ago.

Q. Is there more than one instance aside from Captain Haughey in which the police commissioners have compelled the superintendent to prefer charges against an officer? A. I should think a number of these cases came to the board of police, complaints coming to them in the first instance, to the board of police in the first instance, many come to the superintendent in the first instance, and come to our board and are usually referred to the superintendent for investigation; sometimes they come back with the report of the facts; the board of police directs charges to be preferred against the officer, and referred back to the superintendent, to prefer charges in those cases.

Q. How many cases of that kind are there? A. No doubt quite a number.

Q. That happened a good many years ago? A. All the time, more or less.

Q. Where you require the superintendent to prefer charges? A. Yes, sir.

Q. Was there more—I understood you to say that except in the case of Captain Haughey, that you know of, there were none you could remember, except those of ancient date? A. That is the important case I refer to now; the Haughey case; the other cases are not so important, and might be regarded as merely small breaches of rules.

Q. Have you directed the superintendent to prefer charges against Captain O'Connor? A. Not as yet; the matter has not come up before the board.

Q. Have you directed any steps to be taken in that matter? A. The board would have had a meeting yesterday, except for this investigation, and we have not had a meeting since.

Q. There are three other members of the board, except yourself? A. Yes, sir.

Q. Can not they meet in your absence? A. One was here yesterday; I suppose that prevented a quorum; I inquired if they made any effort to have a meeting and I was told no.

Q. You do state it to be within your power and scope of your duties to direct that charges shall be preferred against officers? A. Yes, sir.

Q. Isn't it also within your power to command that investigations shall be made? A. Yes, sir.

Q. In what you shall believe to be violations of the law? A. Yes, sir.

Q. Even if you had no evidence of it? A. Yes, sir.

Q. You have condemned the police for taking bribes? A. Yes, sir.

Q. Why have you not appointed someone to investigate those facts? A. We thought that was all that was necessary to be done.

Q. Mere condemnation? A. And any persons who had information to bring the matter to us, contained in the same resolution.

Q. Do you say to this committee that you believe the passage of that resolution will stop policemen from taking bribes? A. I do think it would have some effect.

Q. Do you want the committee to understand you that the mere passage of the resolution condemning the acceptance of bribes by policemen would be sufficient to put a stop to that practice? A. Not entirely; to some extent.

Q. That is, if anybody would volunteer to appear against them, you would listen to them? A. No way to compel them.

Q. Is there no way for you to compel investigation? A. We can direct an investigation.

Q. Why didn't you? A. We did not think it necessary.

Q. The reason you assigned for lack of necessity is that you believed the passage of this resolution would put a stop to it? A. I believed it would have some good effect; if I did not believe so, I would not have voted for it.

Q. Do you wish to withdraw the statement that you thought the passage of that resolution would stop the practice? A. I thought it would.

Q. Did you believe it would? A. I thought it would, to a great extent.

Q. You are not withdrawing from that statement? A. No, sir.

Q. When these charges came up two years later, that policemen were accepting bribes, when the World published them, column after column, and pointed out places which it claimed were being protected by the police, did it occur to you that your resolution was not efficacious? A. No, sir; it did not; I did not believe the statements of the World.

Q. Did you believe the stories? A. No, sir.

Q. You did not read them, did you? A. To a certain extent I did; my attention was called to them occasionally.

Q. What portion of them did you read? A. Can't say as to that; I saw more or less of them.

Q. You had no belief as to those you did not read? A. No, sir; I refer to attacks generally.

Q. You can not refer to those that you did not see? A. No, sir.

Q. Nor did not read? A. No, sir.

Q. Nor to those which you were not sure about? A. No sir.

Q. Those you did see and read you believed to be false? A. Yes, sir.

Q. Were not printed charges published in newspapers, scattered broadcast over the city, a little more definite accusations than the vague rumors you heard before the passage of the resolution in 1891? A. Before the passage of the resolutions?

Q. Before you adopted your resolution in 1891, you condemned the police on vague rumors; you believed they were guilty from mere suspicion that came to you; now, two years later were not those publications in the newspapers much more specific, definite and sharply defined evidences of guilt than the mere rumors on which you acted in 1891? A. I don't think so; no, sir.

Q. You did not consider it your duty to take any steps whatsoever to discover the truth or falsity of the charges published from day to day in the public press? A. No, sir.

Q. Whether those charges reflected upon you, or your inspectors, or your captains, or roundsmen, or patrolmen? A. This committee was appointed to investigate the matter.

Q. I ask you about your duties? A. We expected to be heard.

Q. The committee was not appointed until after the 1st day of January? A. No, sir; it was appointed some day in January.

Q. The Legislature did not meet until the 1st day of January, and these charges came along in the summer and fall, didn't they? A. No, sir.

Q. Haven't I read you the November and December issues in the World? A. I think you read in December, but none in November, that I recollect.

Q. That was before the committee was appointed, wasn't it? A. Yes; and I said I did not believe the World's story.

Q. Now, the question I ask you is whether you deemed it or did not deem it your duty to make any investigation or any of these charges against any members of the force, including yourself? A. No, sir; I did not.

Mr. Sutherland.—That is all for to-day, Mr. Martin.

Cross-examination by Mr. Nicoll:

Q. Did you hold any other office or public position except police commissioner? A. No, sir; I did not.

Q. And do you devote a large part of your time to the performance of your official duties? A. I do.

Q. What, as a rule, are your hours for attending to the transaction of the public business in your department? A. Well,

usually from half-past 10 in the morning until 5 o'clock in the afternoon.

Q. And during those hours what are the—speaking in a general way—the duties which you are discharging as police commissioner, and as president of the board; give us, in other words, briefly, an account of your official duty? A. Well, as president of the board, a great many official communications are received by me from the various departments of the city government, and from citizens generally, in reference to the force, and the affairs of the department.

Q. What are the general nature of such communications? A. Well, they are from—the mayor refers a great many communications to the board of police, that are received by him as mayor, and citizens generally, not only in New York, but throughout the country—a great many of those communications; and then we have communications between the comptroller and the department in reference to its fiscal affairs—the appropriations; we have communications from the board of estimate and apportionment transmitted to us quite frequently; various communications come to me from citizens of the city in reference to the affairs of the department; and communications from the various departments of the city.

Q. From the various departments attached to the police department? A. Yes, sir.

Q. And do you have complaints against officials of the force, and trials? A. The complaints against the members of the force are made; they reach me almost every day, and are examined by me, and usually approved, very rarely disapproved; I do not suppose there is one in a hundred that is disapproved; and trials occur every Wednesday of each week, presided over by one of the four commissioners.

Q. In turns? A. In turns.

By Senator Bradley:

Q. What do you mean by approved? A. Approved as to form; I order the trial; it is transmitted to me for approval, and if the form of complaint—the evidence is not submitted—the names of the witnesses are there—and if the form of the complaint is correct, as it usually is, it is returned to the complaint clerk, and notices are sent to the parties complained of, and they are summoned for trial at the next meeting of the board; officers are usually tried within a week after the complaints are made.

By Mr. Nicoll:

Q. Have you stated in a general way—given in a general way—the outline of your official duties each day? A. Those duties are

repeated each day of the week, and on the meeting day, a meeting of the board occurs, and I preside over the meeting as president of the board.

Q. At that time is taken up all questions of appointment and promotion? A. The meetings of the board occur twice a week, on Tuesdays and Fridays, and at other times when important matters require action.

Q. Now, during election time, or prior to election time, you have other duties to perform, haven't you? A. In connection with the election there is a very large amount of business devolved on the board of police in reference to the affairs of the election — the ordering and printing of the ballots, and the distribution of the same — all of that work in the county here is devolved upon the board of police.

Q. The appointment of the election officers? A. The appointment of the election officers; the designation of the places of registration and election; the appointment of election officers covers inspectors, poll clerks and ballot clerks.

Q. You are familiar, are you not, with the provisions of the Consolidation Act relating to the police department, in a general way? A. Pretty generally familiar with it; yes, sir.

Q. During Mr. Sutherland's examination of you, he seemed to imply that it was your duty, or that the duty was imposed upon you by law to close gambling-houses, or houses of prostitution; do you understand that that duty is directly imposed upon you or upon the force? A. I understand that the statute imposes it upon the police force.

Q. The duty is imposed upon the police force? A. Yes, sir.

Q. And generally speaking, the duties of the commissioners are the duties of administration, government and discipline, are they not? A. Of the government and discipline of the force, I think, is the language of the statute.

Q. Whereas, the specific duties imposed upon the uniformed force is to preserve the peace, to prevent crime, take and arrest offenders, to suppress dangerous assembly, to carefully inspect places of public amusement, places of business of excise or other licensed houses of ill-fame, or prostitution, lottery offices, policy shops, and so on, under subdivision 282? A. Section 282.

Senator Cantor.—Of the Consolidation Act?

Mr. Nicoll.—Of the Consolidation Act.

Q. So that the law, while it imposes a general duty of government, or administration, or discipline, upon you, imposes the specific duty of executing the powers I have mentioned upon the police force; that is as you understand it? A. That is as I understand it; yes, sir.

Q Now, some suggestion was made by Mr. Sutherland, in the course of his examination, that you found some difficulty in discharging your duties as police commissioner, because of the fact that you were a district leader of Tammany Hall; have any such embarrassments arisen in the discharge of your duty? A. No, sir; they have not.

Q. Take, for instance, the acts of the police officer whom you recommended, after he had passed the civil service examination, for appointment, at the request of someone in your district, and assumed that thereafter that police officer committed some violation of duty or breach of discipline — have you any such case? A. Yes, sir; quite frequently.

Q. Have you felt under any restraint because of the fact that you suggested the appointment at the instance of someone in the district, in disciplining him? A. Not the slightest; no, sir; I did not.

Q. Not the slightest; there was no direct or implied sense, directly or indirectly, any obligation on your part to refrain from administering to him proper discipline in case he violated the law, was there? A. No, sir.

Q. No such a thing was expected, was it, or promised? A. It might be expected, but certainly was not promised.

Q. And was not, as a matter of fact, received? A. And was not received.

By Senator Saxton:

Q. You think you would be entirely unbiased in a case of that kind? A. I think I could try a case fairly and without any bias in the matter.

Q. And without any prejudices? A. Yes; I think I could; in fact, I want to say on that, I have made probably over 300 appointments, and would not recollect but very view of them, unless my attention was specially called to them.

By Mr. Nicoll:

Q. And, as a matter of fact, have you disciplined persons whom you have recommended for appointment, at the suggestion of different individuals — different citizens? A. I have.

Q. Have you found any difficulty or hesitation in administering to them whatever discipline they deserved in consequence of that fact? A. I did not.

Q. Now, since you have been a member of the board of police commissioners, as I understand it, within the last two years, the board has been made up of four persons, has it not? A.

There have been four commissioners in the board since I have been there.

Q. And those commissioners are of one political creed or party? A. No, sir; they are not.

Q. Is it not a matter of fact, that since you have been in the board, there have been only two commissioners attached to the Tammany Hall organization? A. Only two commissioners; yes, sir.

Q. And of the other two commissioners, one has been a Republican in politics, and the other an independent or unattached Democrat? A. Yes, sir.

Q. Now, probably, unintentionally, counsel for the committee, in the course of his examination, conveyed the impression that you and Mr. Sheehan controlled all the appointments to the force, is that a fact? A. Mr. Sheehan and myself recommended one-half of the appointments of the force, as vacancies occurred.

Q. And the other half were recommended —? A. By the other two gentlemen.

Q. By the other two commissioners? A. Yes, sir.

Q. Commissioner McClave, representing the Republican organization, had his share of recommendations, had he? A. An equal number with myself.

Q. And Commissioner McLain, representing citizens generally, had his share of it? A. Yes, sir; that is right.

Q. Now, I understand you to say that of all the appointments recommended by you to the board since you have been there numbered about 300, did they not? A. I think about that.

Q. Were there as many appointments, after all, as that; haven't you included in that list promotions? A. I should think there were about something in the neighborhood of 300 appointments and promotions.

Q. Appointments and promotions? A. Appointments and promotions; yes, sir.

Q. Then speaking of appointments only, were there over 250 appointments? A. Between 250 and 275; something of that sort.

Q. And Commissioner Sheehan has been there a much shorter time than you, has he not? A. Commissioner Sheehan has been there since March, 1892.

Q. Do you know generally, in round numbers, the number of parties recommended by him; about a hundred, or something of that sort, were there, or less? A. I should think something in the neighborhood of a hundred; I was there three years before him.

Q. Well, then, all of the appointments to the force under any possible aspect to be charged to Commissioner Sheehan, or

yourself, numbered about 350; is that so, of appointments? A. I do not think it would reach that number — about that number.

Q. That is something like — that is less than 10 per cent. of the entire police force of the city? A. The entire police force of the city is something over 3,900 at this time.

Q. Those recommended by you are less than 10 per cent. of the entire police force? A. Yes, sir; on that basis.

Q. During the same period you have been making these appointments, has the police force been recruited by the persons recommended by Commissioner McClave, from the Republican party in city? A. I don't know that.

Q. You know he has made appointments, don't you? A. He has made the same number of appointments.

Q. That you have? A. That I have.

Q. And so has Commissioner McLain? A. Yes, sir.

Q. Can a police officer be appointed to the force on the recommendation of a commissioner without anything else? A. Directly?

Q. Yes? A. No, sir; he can not.

Q. Before any citizen can be appointed to the police force in the city of New York, what must he do? A. He must make application either to the civil service board at Cooper Union, or to any one of the four police commissioners, for appointment; he must make his application on a blank provided for that purpose, at either of those places.

Q. Please go on and tell us the method employed by you in dealing with an applicant for the force? A. Well, an applicant comes to me, and I examine him, as to his place of birth, if foreign born, how long he has been in the United States, how long naturalized, how long in the city of New York, his age, occupation generally, as to what occupation he has been engaged in, as to his education, requiring that he shall have a fair education.

Q. Do you take into consideration his physical condition? A. And as to his character; of course, his physical condition; he stands in front of me during his examination and I make up my mind whether or not he is fitted for the police force.

Q. From that superficial examination? A. Yes, sir; and from the appearance he makes in answering my question.

Q. Having made up your mind that he is presumably fitted, what do you do then? A. I authorize my clerk to permit him to file an application paper.

Q. He makes out an application paper to the board, asking for an appointment, does he? A. Yes, sir.

Q. And that having been made out, what does he do then? A. Following the making out of that paper, he is notified to

appear within a short time, say a week or 10 days, before the board of police surgeons, for examination as to his physique, and if he passes a satisfactory examination, he is required to fill out other papers in connection with his record; he is required to have the names of a certain number of citizens, usually five, to vouch for him as to his character—their acquaintance with him; and all those papers having been finally completed, the papers are sent to the civil service board, where examinations are held from time to time of batches of such applicants.

Q. Is not some application made to the captains of the precinct for the purpose of examining into his residence and record?

A. Yes, sir; and application is made to the captain for examination of his character and as to the persons who signed the paper, and a report is made in writing by the captain.

Q. Made in writing to whom? A. Made in writing to the board of police.

Q. I understand the applicant has got, in this way, before the civil service board; who do they consist of? A. There are three civil service commissioners appointed by the mayor; I do not recollect the names just at this time.

Q. Do they subject him to an examination for the purpose of ascertaining his mental equipment? A. Once a year the civil service board made an examination of all applicants for patrolmen, and they usually examine in batches of from 400 to 600.

Q. Examine in batches of that number on questions prepared by the—? A. They are examined in a sort of general gymnasium they have there, as to their physique; and also they are examined mentally on questions prepared by the examiners; the board of police has nothing whatever to do with these examinations.

Q. Nothing to do with that? A. Nothing to do with that.

Q. If the policeman fails to pass the examination, what of it? A. We never hear of it, if he fails to pass.

Q. He might be recommended in the very strongest terms, but if he failed to pass that examination, his candidacy would come to an end, wouldn't it? A. His candidacy would come to an end; in fact, we very seldom hear of any of those who do pass.

Q. You say the great majority of those who fail to pass? A. I say a great majority of those who do pass fail to come to the place,—about 70 per cent.

Q. Now, having passed the examination, and having acquired, in the course of his examination, a certain percentage, what becomes of the name of the candidate? A. From time to time, as vacancies occur in the number of police, requests are made on the civil service board for what we call an eligible list of persons to fill the vacancies.

Q. You are empowered to appoint how many, during the course of the year; how many patrolmen? A. The force has usually been increased a hundred each year, and I should think the same number of vacancies occur for various causes, such as deaths, resignations and retirement.

Q. So there is generally about 200 in the course of the year the board will be called upon to appoint? A. I should think that would be a fair number; it might run a little over that.

Q. Having ascertained the number of vacancies, the board calls upon the civil service examiners or civil service commissioners, for their list? A. From time to time; not at one time; several times during the year.

Q. What list does the civil service commissioners furnish? A. The civil service commissioners send us one and a half name for each vacancy that exists at the time of our call.

Q. If you had 10 vacancies to fill, they would send 15 names? A. Exactly, that is it; 150 for 100 vacancies.

Q. If you had 20 vacancies to fill, they would send you 30 names? A. Yes, sir; from the top of the list, the ones that had the highest percentage.

Q. Well, then, what happens? A. That list is sent to the board, and from time to time the commissioners recommend persons on that list for appointment to the board.

Q. Now, you are obliged to take any one you recommend from that list? A. We are obliged to take persons from the list, to fill these vacancies.

Q. But within the limits of the list, you are privileged to recommend in accordance with what you think the best interest of the force requires? A. We have a right to recommend any person on that list.

Q. And do you receive indorsements and recommendations concerning these different candidates from citizens generally? A. Yes, sir.

Q. And from officials? A. Yes, sir.

Q. And from judges? A. Yes, sir.

Q. And from politicians? A. From all classes of people.

Q. From all classes of people? A. Yes, sir.

Q. And in that way you make up your mind which one of the eligible list you will recommend to fill a specific vacancy? A. Yes, sir.

Q. And is that practice, which I have described in some detail with you, a practice adopted by your fellow commissioners? A. I think it is.

Q. The same thing; now, when it comes to making promotions, you are governed by a statute, are you not? A. Yes.

Q. You recollect what the statute is, on the subject of promotion? A. I recollect it in a general way; it requires that promotions should be made.

Mr. Sutherland.—Wait; let Mr. Nicoll read it to you.

By Mr. Nicoll:

Q. You recollect it requires promotions of officers and members shall be made by the board on grounds of meritorious police service and superior capacity? A. Yes, sir.

Q. Let us take, for instance, the promotion of a sergeant, or the promotion of a captain, if the procedure is the same. A. The procedure is the same.

By Senator Saxton:

Q. Before you go into that, I understood Mr. Martin to say he had made a certain number of appointments, I think you said about 300 appointments or less of yours made on the force; how do you make those appointments? A. I recommend those appointments or promotions to the board of police.

Q. Out of these lists that come to the board? A. Out of these eligible lists that come to the board.

Q. And you would recommend a certain number of appointments out of these eligible lists to the board, and they would make the appointments? A. The board would make those appointments.

By Chairman Lexow:

Q. Who suggests the names of those that are examined, to the examining board? A. For promotion, do you refer to now?

Q. For examinations? A. Well, as I have described as to applicants they come either direct to the civil service board, or through one of the four commissioners, and after their papers are fully completed, and examinations made as to character, the papers are turned over to the civil service board, and there examinations are made several times a year.

Q. By whom are they turned over? A. By the clerk of the board, when the papers are completed in our board.

Q. With the indorsement of anyone of the board? A. No, sir.

Q. The original application is signed by the commissioner before whom the person came? A. A person coming to me, if I gave him an application paper, my name is attached to it; I sign my name to it.

By Senator Saxton:

Q. But none of these applications are sent to the board of civil service examiners until the examination has been had by you, and by the police captain, in the manner you have described? A. No, sir; it is after that.

Q. So really the names sent to the civil service board are those that have been first passed upon by your board, and the captain of your district, where the applicant resides? A. Yes; that is right.

By Mr. Nicoll:

Q. I think you are a little in error there, are you not; any man desiring to be an applicant for a place on the police force may go to the civil service examination and make application? A. Yes; I have stated that; he may go to the civil service office, or to any one of the four commissioners.

Q. For instance, a man wishing to belong comes to me to assist him to be on the force, and I could send him direct to the civil service commissioners? A. Yes, sir.

Q. And they would be required to give him an application blank? A. Yes, sir; if they were satisfied with him.

Q. Or I could give him a note and state this man seems to be qualified and put him in the way of examination? A. Yes, sir.

By Senator Saxton:

Q. Would he be appointed in any event, until the examination had been made by you gentlemen, and by the captain of the precinct? A. He could not be appointed until long afterward.

Q. Would he be appointed in any event, having gone over to the board of civil service examiners, until he passed the examination you prescribe, and the examination into his antecedents? A. The same examinations are made as applicants to the civil service board.

Q. If he makes an application to you first or last, the same examination is made by the board of police captains? A. The same examination is made, yes, sir, before he is appointed.

By Chairman Lexow:

Q. And does this examining board, as a fact, examine any applicants, unless they have the certificate from the police commissioners? A. Oh, yes, sir.

Q. Do you know of any cases? A. Yes; I should think half of them; I should think half of the persons examined appear

originally to the civil service board without examination by the police commissioners.

Q Without any indorsements whatever? A. Yes, sir.

By Senator Saxton:

Q. I suppose the board of civil service examiners, when they take from the top of the list having the highest percentage they make a choice between those that have the same percentages, as to what names they must send? A. No, sir; they must send from the top of the list down for the number called.

Q. Suppose there were 40 names that had the same percentage and there were only 20 names sent in, I suppose then they could make the selection from the 40? A. They would take them in their order on the list; take them from the top of the list down — that number of names.

Q. But between the 40 having the same percentage, in the case I have mentioned, there is no choice there? A. I do not know of any such number; they usually divide up between 98 and 99, and divide it up into very fine fractions, so fine, I don't think there is much to it.

By the Chairman:

Q. And do you uniformly start from the top of the list and appoint down? A. No, sir; we do not; we take them from any portion of the list.

Q. So that your statement a moment ago that you took from the list down, has that qualification? A. I said the civil service board, in sending the eligible lists, from which we make appointments, in sending them to us they take from the top of the list down, for the number of names our call permits them to send us.

Q. When you make the appointments you are not considered to be governed by the names as they appear, from the top down, but can take any man appearing on the list? A. We have the discretion to use our discretion in the appointment from the names on the list, and we do, in fact, do that.

Q. You do not consider yourself bound, by any percentage, so long as his name appears on the list from the examining board? A. That is a fact.

By Senator Bradley:

Q. Don't you know by the percentage; I think you don't understand the question of the chairman; supposing a man has got 85 per cent.; you give him the preference over the men that has 84, don't you? A. No, sir.

Q. You don't? A. No, sir.

By Chairman Lexow:

Q. Do you mean to say that you are always governed by the highest percentage? A. No, sir; I don't; I say that the list— Senator Cantor.—He makes no discrimination.

The Witness.—I say that we have the list before the board; I will commence at the head of the list and run down to about 87 per cent.

Senator Cantor.—That was the very object of the law.

The Witness.—Running from 95 down to 87, and we appoint any portion of the list.

By Senator Bradley:

Q. They have all to be recommended by the civil service board to you? A. Yes, sir; certainly to us.

By Mr. Nicoll:

Q. Now, I was going on to ask you to explain to the committee the method of procedure in regard to the appointment of a sergeant or captain; you said it was the same; will you please tell us that? A. The procedure in the matter of the appointment of a captain or sergeant—the promotion of these officers commences in this way: the sergeant of police, desiring a promotion to captaincy, makes application to the board of police for promotion—to be examined for promotion; the board of police refers that application and that request to the superintendent for his report as to the character and efficiency of the officer; that usually comes to us at the next meeting of the board; if the superintendent's report is favorable, the application of the officer is referred to the civil service board; the same occurs in reference to the application for promotion of a roundsman to the place of sergeant; the superintendent certifies to us his opinion as to the character and efficiency of the officer, and if favorable, it is referred to the civil service board.

Q. Now, the officer's record, is that certified to you? A. The officer's record is certified to us by the superintendent at that time.

Q. By the superintendent? A. Yes; his report covers that.

Q. And if that is passed upon favorably, then his application goes to the civil service board? A. And a copy of the officer's record is also attached to the application papers to us.

Q. Now, that is the same rule in regard to inspectors, too, is it not? A. Yes, sir.

Q. Now, if on his record—? A. There was one instance where we appointed an inspector without a civil service examina-

tion in the first instance; he was appointed subject to the civil service examination.

Q. Who was that? A. Inspector McLaughlin.

Q. And was Superintendent Byrnes appointed in the same way? A. And Superintendent Byrnes was appointed superintendent in the same way.

Q. And with these two exceptions, all the procedures are as you have stated? A. Yes, sir.

Q. Now, if on the record of these captains should appear the fact that he had been tried before the board, and convicted for a breach of discipline and violation of duty, or neglect of duty, it might work a serious disadvantage to him in his ambition to be promoted to a higher grade, would it not? A. Yes, sir; if the board is not satisfied with the officer's record.

Q. I say, the fact that he has been convicted of a breach of duty of that sort would certainly interfere seriously with his promotion? A. It would work an injury to an officer, as far as promotion is concerned.

Q. And is that why the punishment of the board, the conviction of the board, whatever the fine imposed may be, is felt a very severe punishment to the offending officer? A. It is so regarded.

Q. While it is true that you may fine him 10 days' fine, or six days' fine, he still has in his record the conviction of the board of police? A. Yes, sir.

Q. And that constantly interferes with his promotion in the service? A. Yes, sir; so even a reprimand by the board is an injury to him.

Q. Well, now, this record having been sent to the board, the board then ascertains in that way the meritorious service of the officer, does it not? A. Yes, sir.

Q. In accordance with the statutes? A. Yes, sir.

Q. It then remains to ascertain in various ways his superior capacity as mentioned in the law? A. Yes, sir.

Q. These applications are then, as I say, referred to the civil service board? A. Referred to the civil service board.

Q. And what is done there? A. And there examinations are had usually once a year, sometimes oftener, of these applications for promotion, and, as vacancies occur from time to time, the board of police makes the same requisition on the civil service board for an eligible list to fill such vacancies, and those lists are sent to us; three names for each vacancy that may exist.

Q. That is, if it is a case of a captain, there are three names sent you? A. Three names for each vacancy; yes, sir.

Q. And in case of a sergeant, three names for each vacancy?
A. Yes, sir.

Q. And in the same way for any other officer sought to be promoted? A. Yes, sir; above the grades of roundsmen.

Q. From these three names do you select the captain to be appointed—does the board select him? A. If there are but three names before the board, and there is but one vacancy existing, the board selects from these three names.

Q. Those three names approved by the civil service examiners indicate that all of the applicants are equal capacity, do they?
A. Yes, sir.

Q. That is, they have passed the examination for sergeant, or captain, whatever it is? A. Yes, sir.

Q. And the board selects upon the recommendation of some one of its members one of those three names? A. Yes, sir; the person recommended being brought before the board, and examined in the presence of the board.

Q. And is that the way that Captain Devery and Dougherty and Gallagher and Inspector McAvoy were appointed? A. That is the way they were appointed.

Q. Now, as I understand you to say, their candidacy was supported by friends of theirs in Tammany Hall, wasn't it? A. Yes, sir.

Q. Who recommended these officers to you and pointed out their capacity for the higher position on the police force? A. Such recommendations were made after the eligible list was before the board.

Q. And after their qualifications in accordance with the statute had been determined in the way which you have described? A. Yes, sir.

Q. Something was said to you in the course of your examination by Mr. Sutherland about the different fines imposed by the board in different years, and the apparently large discrepancy between certain years was noted; have you any explanation to offer for that? A. Yes, sir; I think I have.

Q. What is it? A. The falling off in the fines occurred in the year 1892.

Q. Yes? A. I think there was a falling off of about \$5,000 in the amount collected from the fines in 1892.

Q. Have you the list of the figures?

Mr. Sutherland.—Eighteen thousand in 1891 to \$11,000 in 1892.

The Witness.—Yes. (Witness examines list.) In 1891 the amount from fines was \$18,330.61, and in 1892, \$11,033.65.

Q. Can you go further and give the fines of 1893? A. In 1893, \$15,664.65, and in 1894, for three months, \$4,209.69; now, the

reason for the falling off in 1892 is this: that in consequence of the efficiency and good conduct of the officers of the police force in this city during the Columbian celebrations in that year, Superintendent Byrnes recommended after the celebrations were over, recommended to the board, that all fines and punishments should be dismissed or should be set aside, and such action was taken by the board.

Q. That accounts for the difference between fines in 1891 and 1892? A. I should think it would certainly account for \$5,000; I have the fines from two years before 1891 here.

Q. Put them on record? A. The amount of fines in 1889 was \$10,861.77; the fines in 1890 was \$16,448.48; and I think I could give some reason for that increase.

Q. What was the reason for the increase? A. The board of police, in December, 1889, remanded 30 roundsmen to patrol service, on account of the report made by the superintendent as to their inefficiency; the result of the action was that the roundsmen in the following year, and since that time, have been more efficient.

Q. And therefore there has been less fines? A. And therefore there has been increased fines, except for the reason stated in 1892.

By Senator Saxton:

Q. That is, the vigilance of the roundsmen increased the amount of fines, because of discovery? A. Yes; they make more complaints against the patrolmen.

By Mr. Nicoll:

Q. Now, Mr. Martin, your attention has been called by Mr. Sutherland to the resolution prepared by Police Commissioner Voorhis in the year 1891, in reference to the complaint made by the Citizens' League; do you mean to say anything more in reference to your belief, as to the members of the force soliciting and receiving bribes in the language of the resolution, that you entertained the belief that that might be possible in regard to some few members of the force? A. I believe it was possible so far as members of the force going out in these citizen's clothes or plain clothes.

Q. That would be a very few members of the force, wouldn't it? A. Yes, sir; a very few members of the force.

Q. Do you wish to convey by your testimony the impression to this committee that it is your belief, as the president of the

board of police, that the police force generally were men of the character that would be likely to receive bribes? A. No, sir; I did not mean to say so.

Q. Do you mean to say anything of that sort? A. No, sir.

Q. And do you intend to limit your testimony to the expression of the belief that some few members might, taking advantage of the absence of the uniform, yield to a temptation of that sort? A. Yes, sir; I mean some few members of the force might do that.

By Chairman Lexow:

Q. Were those officers who were detailed in citizen's clothes not men so chosen especially because of their efficiency? A. Well, I can not answer as to that; I remember they were selected on account of their efficiency by the captains in their precinct.

Q. And for their peculiar efficiency on the force? A. I presume so.

By Senator Cantor:

Q. They were selected by the captains, were they not? A. They were selected by the captains.

By Chairman Lexow:

Q. You believe those men were open to bribes? A. I believe some of them were acting in that way; yes, sir.

By Mr. Nicoll:

Q. And your belief was based not upon any direct evidence, or even indirect evidence, but, as it is said, upon rumors more or less vague, which would come to your ears? A. Yes, sir; they were more or less vague.

Q. Was this resolution passed by your board for the purpose of discouraging and suppressing any such practice, if it existed? A. Yes, sir.

Q. Now, I notice at the conclusion of your resolution, you made this declaration: "Any and all persons having knowledge of the commission of acts of the foregoing character are requested to make the same known to the board of police, in order that they may be properly investigated, and such further action had in the case as the facts established may require?" A. Yes, sir.

Q. Well, now, in pursuance to that public request and invitation, did any persons pretending to have knowledge of the commission of acts of that character, make the same known to the board of police? A. No, sir; they did not.

Q. You gave no circulation to it? A. No, sir.

Q. Was any complaint in response to this call made by any one to your board in reference to any misconduct on the part of any police officer in citizen's clothes or otherwise? A. No, sir; they were not.

By Chairman Lexow:

Q. Was that published, Mr. Martin? A. Yes, I think it was pretty fully published in the press at that time.

Q. Have you caused it to be published as an advertisement or notice in any of the papers? A. No, sir; we did not.

Q. What circulation did you give it? A. We had no authority to do that.

Q. Not other than the newspapers publishing it? A. They published as news, yes, sir.

By Senator Bradley:

Q. Was it an order to be read in the station-houses? A. Yes, sir; it was transmitted to the superintendent, and no doubt transmitted to the various station-houses and read to the force.

By Mr. Nicoll:

Q. Was it not, as a matter of fact, very fully published in the different journals of this city? A. I think it was; that is my recollection of it; that is attracted considerable notice.

Q. And was discussed and written about? A. Yes, sir; I think the Tribune, at that time, had an article in favor of it.

Q. In favor of it? A. Yes, sir; in favor of the action of the board; that is my recollection.

Q. That is, discouraging the practice of allowing the force to act as spies? A. Yes, sir; the resolution reads, that the board condemns that as a general practice; the board had no intention of condemning the sending out of policemen in citizen's clothes on special occasions.

Q. And that has been done? A. Yes, that has been done, certainly.

Q. Now, something was said to you, in the course of your direct examination by Mr. Sutherland, in reference to political or social clubs; you do not apprehend there is any objection to any police officer belonging to any social club, do you? A. No, sir, I do not.

Q. He may join any social club in this city? A. Yes, I think he would have a right to do it.

Q. And there are in this city numerous clubs that may be called political-social clubs, are they not? A. Yes, sir.

Q. For instance, there is the Manhattan Club, which is a Democratic social club? A. Yes, sir.

Q. With a good sprinkling of Republicans? A. A very fair sprinkling of Republicans.

Q. And there is the Union League Club, with no Democrats? A. A few mugwumps, I think.

Q. Now this club, the Tomahawk, in your district? A. Twenty-first district — yes, it is located there.

Q. Now, what is that club? A. I suppose it is a club of that character; I don't know anything about it; I have never been there.

Q. The Tomahawk? A. No, sir; I have never been to the clubhouse; I never had anything to do with the club, in starting it, or since it was started.

Q. It is a social club, is it not? A. I think it is; I so understand it.

Q. If you, as leader of that district, have never been even to the clubhouse, and had nothing to do with inaugurating the club, it scarcely had a political inception? A. Well, I think there are many friends of mine and friends of the Democratic party that are connected with that club; I have so heard.

Q. Now, all you meant to discourage on the part of the police force was joining out-and-out political clubs; that was all you proposed, wasn't it? A. No, sir.

Q. Do you conceive you have any right to deprive a police officer of the privilege of joining any social club? A. No, sir; I don't think we have a right.

Q. What? A. I don't think we have any right to do it.

Q. Unless, as you said in your testimony, he uses it to excess and it interferes with the discharge of his duty? A. Yes, sir; and also where the police officers were joining a number of clubs with the view of getting political support for promotions, and so on.

Q. You thought the practice of joining a number of clubs for the purpose of making the acquaintance of politicians or persons in authority was a reprehensible practice on the part of the police? A. I thought it should be discouraged; yes, sir.

Q. It tended to demoralize the service? A. Yes, sir.

Q. And was all you stated to leaders, generally, of Tammany Hall or to your brother commissioners in that line, done for the purpose of discouraging that practice and ameliorating the service? A. That was my motive.

Proceedings of the eleventh meeting of the committee in the city of New York, Friday, April 13, 1894, at 10:30 a. m.

Present.—Senators Clarence Lexow, Jacob A. Cantor, George W. Robertson and Cuthbert F. Pound, of the committee; William A. Sutherland and Henry Grasse, of counsel for committee; John W. Goff, counsel for the committee; Delancey Nicoll, counsel for the police board.

The Chairman.—The committee will please come to order, Mr. Sutherland, Mr. Goff is here. A witness has been subpoenaed at the instance of Mr. Goff, and the committee has been requested to suspend the pending examination for some little time for the purpose of getting an opportunity to examine a witness. Have you any objections to it?

Mr. Sutherland.—I have no objection to anything the committee desires to do.

Chairman Lexow.—Mr. Goff, I have received the following communication. Will you look at it, please.

(The following is the communication:)

“Police Department of the City of New York.

“Precinct No. 20,

“New York, April 13, 1894.

“To the Senatorial Investigation Com.:

“Gentlemen.—Captain James N. Price, of the twentieth precinct, has been on the sick-list since March 8th, suffering from influenza and bronchitis. This has induced such a condition of general nervous exhaustion that I have directed him to apply for a leave of absence long enough to permit of his taking a sea voyage. As he is certainly unfitted to attend to his official duties, he is likewise equally incapacitated for appearing before your committee in his present physical condition.

“Respectfully submitted,

“DAN. H. SMITH, Surgeon of Police.”

Mr. Goff.—Before I look at the communication, Mr. Chairman and gentlemen, I would like that Captain Price be called.

Chairman Lexow.—Will the sergeant-at-arms call Captain Price — James K. Price.

(Captain James K. Price was called by the sergeant, but did not respond.)

Mr. Goff.—Mr. Chairman and Gentlemen of the Committee.—From the fact that Captain Price has recently made arrangements for a trip to Europe, to commence to-morrow morning at

5 o'clock, or 5:30, by the steamship Umbria, from information in our possession, we deem it essential that Captain Price should be called before this committee previous to his departure for Europe, not for the purpose of a general examination of matters, but for a brief examination upon a few specific points; and being unaware how long the vacation might be, to what extent it might reach, we thought it proper to have him here. We have used every effort in our power to have him subpoenaed. I telegraphed to his house personally. We have not received any answer, and have been unable to serve a subpoena upon him, and it appears from this statement here, that he is suffering from influenza, which your honor has just handed to me, and that he is in a condition of general nervous exhaustion, and that he has been directed to apply for a leave of absence long enough for him to permit of him to take a sea voyage. As it is the intention of Captain Price to go to Italy, we are unaware how long it will take him to go to Italy and back again, we thought it proper and necessary to have the committee put to him some questions before his departure. It is unfortunate, sir, that Captain Price's physical condition is of such a nature that prevents his attendance here this morning.

Mr. Nicoll.—I think it is very unfair, Mr. Chairman,—

Mr. Goff.—Pardon me, one moment.

Chairman Lexow.—Anything further, Mr. Goff?

Mr. Nicoll.—I was going to say, I think it is very unfair that counsel should endeavor to put one of my clients in the attitude of endeavoring to escape examination before this committee. I believe I did state, in the presence of this committee, and its counsel, at the outset of this investigation, that whenever any person connected with the police department, whom I represented, was wanted, he should be on hand; and Mr. Sutherland will bear me witness to the fact that whenever he has required any facility in the department, or when he has asked the presence of any of its officials, I have procured them promptly. Now, Mr. Goff makes a sudden appearance here, not seeing him before, and without ever having made any application to me to even investigate the circumstances about Captain Price's condition. I have not the slightest doubt, if the certificate says he is in that condition, that he is so. I do not know personally; but I resent any imputation that there is any intention on his part to escape the probe, either of Mr. Goff, or Mr. Sutherland, or Mr. Jerome, or anyone else.

Mr. Goff.—The difficulty with the situation, your honors, is this, that I did not propose to intervene at this stage of the investiga-

tion, as your honors well know, until a later stage; but the sudden emergency compelled me to use every effort possible to procure the attendance of Captain Price here before this committee. If Captain Price had given notice of his intention to Mr. Nicoll, and if I were aware of the fact, I should with pleasure have applied to Mr. Nicoll; but when an emergency forces itself upon an attorney, and he desires to secure the attendance of a witness, he does not go around to counsel on the other side to procure that witness for him. I fully agree with Mr. Nicoll that the department, I have no doubt, will secure the attendance of any of its members here before this committee; but the difficulty is that the department has no control over Captain Price to-day; and Mr. Nicoll no doubt is aware of the fact, inasmuch as Captain Price has been on the sick list, it is not in the power of the police to compel his attendance here.

Chairman Lexow.—I do not think Mr. Nicoll raised that question before this committee. The question is whether Captain Price was regularly subpoenaed, and, if so, whether the excuse made here on his behalf by the police surgeon covers the case.

Mr. Goff.—Your honors, he has not been subpoenaed. We have not been able to reach his person. That is the difficulty in the situation, and upon this point I think it of public interest to ask the committee in the hearing of Mr. Nicoll, counsel for the police department, if there is no truth whatever in the rumor which seems to be well founded, and to be taken from the records, that Inspector Williams is about to go on a vacation. If so, of course, it would be proper to enable the committee now in advance to say whether or no they will require Captain Williams' attendance before any vacation should commence, or whether they think such vacation would enable the committee to rest assured they would be enabled to see Inspector Williams on his return.

Chairman Lexow.—Does counsel care to make any answer to that?

Mr. Nicoll.—I am entirely mixed up; I do not understand this situation; I had supposed the committee was taking up certain branches of the investigation relating to politics, and was going to pursue that until they had concluded their labor, and that the very useful services of Mr. Goff would be postponed until that conclusion had been reached; we are now in the middle of that investigation.

Chairman Lexow.—Can you answer this, Mr. Nicoll, how it comes that, although Captain Price was not subpoenaed, a communication of this kind was sent to the senatorial investigation committee?

Mr. Nicoll.—I do not know unless the subpoena was left at his house.

Mr. Goff.—The subpoena was not left at his house.

Senator Cantor.—As I understand Mr. Goff, he telegraphed to Captain Price at his house.

Mr. Goff.—This morning; that letter must necessarily have been dated before my telegram reached Captain Price.

Senator Cantor.—Dated April 13; that is to-day.

Mr. Goff.—My telegram was sent this morning.

Chairman Lexow.—Mr. Sergeant, do you know how this letter reached you?

Sergeant Jacob Walsing.—From the surgeon; I was at the surgeon's house myself, and received that communication myself this morning.

Mr. Goff.—What caused you to go to the surgeon's house?

Sergeant Walsing.—A communication I received last night at 10:55 that Captain Price was subpoenaed to appear before the senate committee at 10 o'clock.

Mr. Goff.—And did you go to the surgeon on your own responsibility, or in consultation with anyone?

Mr. Nicoll.—This is an informal way, inconsistent with the dignity of this committee, to be taken in such a talk as this.

Mr. Goff.—Will the sergeant take the stand?

Mr. Nicoll.—One moment. I will do this: I have said at the beginning that an official of the department whose presence was needed by this committee should be present. I repeat that now. It is not necessary for counsel to be sending people around scurrying around with subpoenas after police captains, or inspectors, or commissioners, or anybody else. All they have got to do is to send me a note, if they want them at a certain time, and they will be present.

Mr. Goff.—Will you state Inspector Williams will be present when he is needed here?

Mr. Nicoll.—I will state he will be here when he is needed. Did you consult with the committee that Captain Price should be here this morning? Mr. Goff seems to have jumped at a conclusion, sending out for the witness.

Chairman Lexow.—I would not criticise on that account. Mr. Goff is one of the counsel for the committee, and has perfect right to subpoena witnesses if he wants to; and the only question is whether this is in good faith or not. If Captain Price is going to attend when he is needed, and if Mr. Nicoll makes that statement, that should cover the case.

Mr. Nicoll.—Exactly. I have not the slightest doubt that he is in the condition presented by the surgeon. He is described

as being in a nervous condition, which is doubtless the result of his trial and conviction by the commissioners. When you want him you can have him. Those who think he is going to Italy to remain there on account of Mr. Goff, that is too absurd to demand a reply.

Mr. Goff.—No, the attractions of the Mediterranean have been of such a forcible character, that people have remained there longer than they expected. Mr. Chairman, I ask that this sergeant be called to the stand. I wish to ask him a question.

The Chairman.—Will you take the stand?

Sergeant Jacob Welsing, called as a witness, being duly sworn, testified as follows:

Direct examination by Mr. Goff:

Q. Sergeant Welsing, you are one of the sergeants at Captain Price's precinct? A. Yes, sir.

Q. The twentieth? A. Yes, sir.

Q. After you received a communication at 10:55 last night that Captain Price was required to appear before this committee, did you consult with any person between that and the time you went to the police surgeon this morning? A. No, sir.

Q. Did you go to the police surgeon of your own mind? A. Yes, sir.

Q. Without consulting anyone? A. Yes, sir.

Q. You did not see Captain Price at all? A. Yes; I did. }

Q. Where? A. I seen him at the station-house.

Q. When? A. This morning.

Q. So that he was not covered up with blankets, was he, or in any condition— A. No, sir; he was not.

Q. Was he in uniform? A. He was not.

Q. What time was he at the station? A. About 8 o'clock this morning.

Q. How long did he remain? A. A very short while.

Q. Where did he go after he left the station? A. He went home.

Q. Did you tell him you had a communication last night at 10:55 requesting that he should be before this committee this morning? A. I did.

Q. Was it after that when you saw Captain Price this morning that you went to the surgeon? A. Yes, sir.

Q. Did he direct you to go to the surgeon? A. No, sir.

Q. Did you tell him you intended to go to the surgeon? A. Most assuredly.

Q. As the result of that conversation between yourself and Captain Price, you told him you would go to the surgeon? A. Yes, sir.

Q. You told him you would go to the surgeon to get a certificate of the surgeon of his sickness? A. I did not tell him that; but I went there to get that certificate.

Q. And that was the understanding between yourself and the captain to go there and get a certificate? A. It was my duty to do so.

Q. I am not asking for your duty; I am asking for your intention? A. Well, my intention was.

Q. Was it not your intention when you told the captain you would go to the surgeon to get a certificate from the surgeon to be present here this morning? A. Most assuredly.

Q. And the captain was aware of your intention from your conversation? A. Yes, sir.

Q. And the captain went home with the knowledge that he was wanted here? A. I presume he did; yes, sir.

Q. When was the captain last at the station before this morning? A. Well, I really could not say the dates.

Q. Last evening at roll call? A. No, no.

Q. Or yesterday morning? A. No, sir.

Q. The captain has been on sick leave for some time, hasn't he? A. Yes, sir.

Q. And going backward and forward to the station? A. He would go to the doctor.

Q. Wasn't he coming backward and forward to the station? A. No, sir.

Q. Hasn't he been at the station several times since he has been on the sick-list? A. Yes, sir.

Q. And this doctor who signed the certificate is a police surgeon? A. Yes, sir.

Q. Where does he reside? A. Two hundred and twenty-three West Thirty-fourth street.

Q. How soon after Captain Price left you; how soon did you go to the doctor's? A. Immediately.

Q. And you told the doctor the captain was wanted before the Senate committee this morning? A. Yes, sir.

Q. And you told him you wanted a certificate as to Captain Price's condition? A. Yes, sir.

Q. You are aware he intended to sail for Europe to-morrow morning, are you not? A. Yes, sir.

Q. Early? A. How early I don't know.

By Senator Cantor:

Q. What is the leave of absence of Captain Price? A. Thirty days.

By Mr. Goff:

Q. That is the highest leave that can be granted? A. He has 35 extended to him; five days, that is, in the case of an accident.

Q. In case of an accident? A. Yes, sir.

Q. And did you see his leave of absence? A. I did, sir.

Q. Do you not know that the leave of absence commences at the end of the sickness? A. It does.

Q. So, when he gets well his leave of absence commences? A. Yes, sir.

Q. And if he continues ill for six months, then his leave of absence commences after his illness? A. I think so.

Q. Yes? A. Yes, sir.

Q. The Mediterranean is a salubrious place; don't you know that the communication you received last night was received from a police authority? A. It was, sir.

Q. And that police authority requested Captain Price to appear here this morning, did it not? A. It requested me to notify Captain Price.

Q. To appear here this morning? A. Whether he could appear here this morning.

Q. And you replied he was under the care of the doctor last night? A. I replied he was sick and unable to attend.

Q. You assumed that yourself? A. Yes, sir.

Q. You sent that information last night in reply to the message, that he was sick, and unable to attend? A. Yes, sir; the communication I received last night.

Q. You sent that communication to Captain Price last night? A. Yes, sir.

Chairman Lexow.—Any questions to ask, Mr. Nicoll?

Mr. Nicoll.—No.

Chairman Lexow.—That is all.

Mr. Goff.—In the face of—one moment, Sergeant—in the face of the sergeant's testimony, I ask this committee to direct this police official, and I ask Mr. Nicoll for his kind services also, to request the presence of Captain Price, he being able to be out this morning, at the station-house, to request his presence here at an hour to be fixed this afternoon.

Mr. Nicoll.—That all depends upon the physical condition of Captain Price.

Mr. Goff.—If he was perfectly able to be out at 8 o'clock, he ought to be able to be here at 2 o'clock.

Sergeant Welsing.—We had to take him home in a cab.

Senator Cantor.—The sergeant states they had to take him home in a cab.

Q. Did he come in a cab to the station-house? A. I can't say.

Q. Were you there when he arrived? A. I was in bed when he arrived.

Q. Did you see a cab waiting for him? A. It was at the door when I came out.

Q. Wasn't it sent for? A. That is what I don't know.

Chairman Lexow.—It goes without saying that if the condition of Captain Price is such that he can not attend, if his physical condition is such that it is impossible for him to attend, this committee would not be justified in compelling his attendance here. On the other hand, it looks to me as though this witness had upon the stand here made out a case of some doubt upon that question; and the committee ought to be placed in a position of further information, before it can come to any conclusion.

Senator Cantor.—You might send for the surgeon.

Chairman Lexow.—You might either send for the surgeon, or have further evidence as to the physical condition of Captain Price to be placed before the committee.

Mr. Goff.—You see, Mr. Chairman and gentlemen, it is my sincere desire to not interfere with Captain Price's departure; so that any accusation or suggestion could be made that we wished to play anything sharp upon him by serving him immediately upon board the steamer; so I endeavored to have him here to-day, so that it would not interfere with his departure, and our examination would take up a very short time. It is a great pity we can not have him here under those circumstances. I appreciate the objections that we can not compel a sick man.

Chairman Lexow.—Mr. Nicoll, inasmuch as the counsel for the committee places so much stress upon the examination of Captain Price before he leaves the city; and as I understand him it is his intention only of putting a very few questions to him, would it not be possible, in your judgment, to have Captain Price here this afternoon for that purpose?

Mr. Nicoll.—I don't think it would. I think, inasmuch as this committee is going to sit for an indefinite period of time, and are going to afford every facility for examination, that there is no particular reason for having a man who is in the unfortunate condition that Captain Price is and bringing him down here for examination. I do not think it is proper treatment. It would not be done by a court. Why should it be done here?

Chairman Lexow.—The circumstances are a little different. There is nothing on record as yet establishing the authority of this committee to sit longer than the session of this Legislature.

Senator Cantor.—No question about it, however; not the slightest in the world.

Chairman Lexow.—Does the leader of the minority on the floor make that statement absolutely?

Senator Cantor.—Certainly, that will be extended after the session.

Chairman Lexow.—That ought to cover that proposition. The leader of the minority in the Senate states that the authority of this committee will be continued after the session; he makes that authoritatively, and that should be conclusive.

Mr. Goff.—That is gracious of Mr. Cantor.

Chairman Lexow.—I suppose that Captain Price will not remain over a year. If he does, we can send a commission to the Mediterranean.

Mr. Goff.—Your honors will excuse me. I am sorry to have taken up your time this morning.

Chairman Lexow.—The committee will stand adjourned until to-morrow morning at half-past 10.

Proceedings of the twelfth meeting of the committee, Saturday, April 14, 1894, at 10:30 a. m.

Present.—Senators Clarence Lexow, Jacob A. Cantor, Edmund O'Connor, Charles T. Saxton, Daniel Bradley, and Cuthbert W. Pound, of the committee, and Mr. C. D. Schram, sergeant-at-arms of the Senate.

William A. Sutherland, counsel for committee.

De Lancey Nicoll, counsel for the police board.

Chairman Lexow.—Mr. Sutherland and Mr. Nicoll, the committee have —

Mr. Sutherland.—I desire to make a statement.

Chairman Lexow.—Certainly.

Mr. Sutherland.—It seems to me, that the committee ought to be relieved from the charge that it has in its employ counsel concerned in an attempt to frustrate the examination by the committee to the police force; that charge has been distinctly made in the public press, in the journal, which I shall not dignify by naming, but in that interesting screed, is this statement: "There are some interesting facts behind Lawyer Goff's failure to subpoena Captain Price, which apparently connect that failure with Mr. Sutherland's remark in court, this morning, 'No, let him off.'" A previous paragraph in the same paper states that when the name of Captain Price was called, and he failed to appear, that I remarked in an undertone, "Now, let him off." We are not informed to whom that remark is said to have been addressed; certainly not to the committee, for it was made in an undertone,

and the committee could not have heard; certainly not to Mr. Goff, for he said he was not disposed to let him off. No such remark was made, nor anything susceptible of any such interpretation, and I challenge any person in the courtroom now, or outside its walls, to substantiate that allegation. The Mail and Express had a knowledge of the nature of the evidence which Captain Price was to have been questioned. This knowledge, it is needless to say, was not communicated to the Mail and Express by myself. Probably not by Captain Price. The Mail and Express also knew of the efforts that were being made by Price and Williams, who is more or less interested in events which Price would have been asked to recall, to take a quiet vacation.

“A reporter followed closely Mr. Goff’s efforts to reach Price, and learned how his failure was due directly or indirectly to Lawyer Sutherland and his associate, Mr. Grasse.

“The subpoenas which could have compelled Price’s appearance before the committee are in the hands or under the control of Sutherland and Grasse.”

I am advised that some two weeks ago the police department extended to Captain Price a leave of absence which he now holds; that it was open and public, and that two weeks since efforts could have been made to obtain a subpoena, if the presence of Captain Price were desirable.

“The failure to serve Price was due to an unsuccessful effort to get subpoenas from either of these gentlemen, and not from a failure to find Price himself.”

Chairman Lexow.—This committee does not believe a word of that article, so it does not seem to me necessary to go into these extended details. I do not believe the committee, and I am sure the people do not, believe a word of it.

Mr. Sutherland.—I desire to make my statement of the facts.

Senator O’Connor.—I should think that you were too old and too experienced a man to think it needful to take up the time of the committee to explain that article.

Mr. Sutherland.—Has the committee anything else to do this morning?

Senator O’Connor.—Not particularly, but the committee is able to take care of itself, and at any time when any counsel is unsatisfactory to this committee, his connection with the committee will cease. I do not think it is incumbent upon any counsel to try to satisfy the committee of his honesty; we are satisfied with your conduct of the case, and we take no stock at all in this business.

Mr. Sutherland.—I should ask the committee for permission to take the stand and contradict this statement under the solemnity of an oath, but the committee have said that that course

would not be in accordance with the dignity of the committee, but the committee accorded me the privilege of making a statement and I desire to make it seriatim.

"The messenger who asked Mr. Grasse for the subpoenas knew nothing of the object for which they were required." The messenger who asked Mr. Grasse for the subpoenas asked him in my presence, and they were asked for at 3 o'clock or thereabouts, Thursday afternoon. I was in Mr. Grasse's private office in consultation with him; the door was closed, and no newspaper reporter was present or where he could have heard what took place. A messenger came with a card, stating that he had come from Mr. Goff and was one, as I understood, of Mr. Goff's assistants and asked for a subpoena. He asked for it in Mr. Grasse's private office, where we three only were present. Mr. Grasse immediately gave him a blank subpoena, and he replied, that he wanted one which was already signed, and then said Mr. Grasse, "If you desire one to serve upon a witness," the idea being to have printed copies made, "you had better take two, so there may be a proper affidavit of service returned to the committee." "Yes," said that gentleman, "That is a good suggestion." He took two subpoenas that were already signed. He was asked if he desired more and he said no. He left the office with those two subpoenas about 3 o'clock, Thursday afternoon. There was no refusal on the part of Mr. Grasse or myself. How the information could have got to the paper that such took place, the committee can judge as well as I.

Senator O'Connor.—Newspaper enterprise.

Chairman Lexow.—Newspaper enterprise or imagination.

Mr. Sutherland.—Then the article says not only was refused but required to bring a written order; that this came, and Mr. Grasse had gone home, and then that the messenger followed me to the hotel, conveying the idea, perhaps, that it was earlier in the afternoon. "There were three men who accompanied this gentleman on his return. They all hastened to the Metropole Hotel, where Lawyer Sutherland was found enjoying some refreshment." I saw no one on this subject until 10 minutes after 7 Thursday night, when eating my dinner; one man only came to me; no others were within hearing distance; I was alone at my table, and none of the tables immediately adjacent to me were occupied. He asked for more subpoenas, and handed me a letter, and I took out my watch and saw that it was 10 minutes past 7. I said, "Mr. Grasse is not at his office; you had better go to his house and see if you can find him; I have no subpoenas," and the messenger departed.

The article then asks questions about my complicity with the

attempt to suppress this evidence and says: "Why did they wish to have it delayed until the service would be too late, if they both knew Price was going to Europe? Why did they try to help Price get away? Where did they get their information? Was it through any channel which has been open to Mr. Sutherland since the new friendship between himself and Inspector Williams has existed?"

I have met Inspector Williams but twice in my life; both times in the corridor of the Fifth Avenue Hotel; both times when he was in company with another gentleman and on neither of the occasions was the subject of this committee alluded to, and both interviews were less than five minutes' duration. I have received no information from Inspector Williams directly or indirectly regarding the investigation before this committee. I have received no greater information from him than I have from Mr. Goff; no more and no less; that is, none whatsoever.

Chairman Lexow.—I understand that it is admitted that the information received by Captain Price came directly from the office of the counsel of this committee, Mr. Goff. There does not seem to me to be any question about that; it is admitted that Mr. Goff sent to the police department, and asked them to produce Captain Price, and Captain Price, through Superintendent Byrnes, was informed of the fact.

Mr. Nicoll.—He did more than that—

Mr. Sutherland.—Excuse me, please. I desire now to request of the committee such action as it seems to me is proper under the circumstances. Certainly, I have not the slightest desire to do or to say anything that shall impede a successful prosecution of this investigation. In view of these published statements and the source from which they have evidently sprung, I now ask the committee to suspend the further investigation in any department, until the committee shall meet after the adjournment of the Legislature.

Senator O'Connor.—Did you want to say something, Mr. Nicoll?

Mr. Nicoll.—I have nothing, of course, to say on the subject. Commissioner Sheehan is here and has been here some five or six days away from his office, awaiting to be investigated.

Mr. Sutherland.—He has been here on my subpoena.

Mr. Nicoll.—Other clients are ready to be investigated; they will always be ready; if it is the pleasure of the committee to investigate them three weeks from now or five weeks, or six weeks, that will be equally acceptable to them. I do think, however, that I should say on behalf of Captain Price, whose son has come to me this morning, that to put it as mildly as possible,

there was some over statement of the difficulties attending the effort to subpoena Captain Price. It was suggested that there was an attempt to keep himself concealed—

Chairman Lexow.—I do not think it is proper to throw any reflection upon counsel for this committee in any statement that they have made here; the evidence that we have is under oath, the facts are well known, as the committee, through me, stated before that they do not believe the statements in the paper, because the facts are in our possession that show it is not true.

Mr. Nicoll.—I suppose the committee believe the statement of their own counsel.

Chairman Lexow.—Unless Captain Price is here to be examined this morning, we will suspend the further proceedings until such time as may be appointed by the committee after the adjournment of the legislative session.

Senator Cantor.—I understand that Commissioner Sheehan is here, and that Captain Price has abandoned the trip abroad and is subject to the committee for investigation.

Mr. Nicoll.—That is true, and I want to say this, that while we were here discussing yesterday, with great solemnity, the question of the departure of Captain Price to Europe, for the benefit of his health, he had sent a telegram to Mr. Goff offering to appear.

Chairman Lexow.—I understand that is admitted. We will adjourn especially for the reason that this being the end of the legislative term, and our duties being so onerous in Albany, that it will be impossible for us to sit here next week or the week after, and for that reason it seems best to adjourn over until such date after the end of the legislative session that may be fixed by the committee.

Mr. Nicoll.—I want to say one more word, and that is this: I have had my attention called to that article referred to by Mr. Sutherland, and especially to that sentence in the article which says, "Now, let him off," and I wish to say that I was sitting as near Mr. Sutherland as I am to-day, or nearer; he was sitting here and Mr. Grasse there, and my face was directly toward them, listening to what Mr. Goff was saying, and I am positive that he made no such observation or anything like it.

Chairman Lexow.—The committee does not think that Mr. Sutherland's standing in the community is such that he need make any explanation of a matter of that kind.

Mr. Nicoll.—I quite agree with that.

Chairman Lexow.—I do not believe anybody who knows Mr. Sutherland would credit that article for one moment.

We stand adjourned until such time as may hereafter be appointed.

Proceedings of the thirteenth meeting of the committee, held in the Court of Common Pleas, Part II, in the County Court House, in the city of New York, Monday, May 21, 1894, at 10:30 a. m.

Present.—Senators Clarence Lexow, Edmund O'Connor, Jacob A. Cantor, Charles T. Saxton, Daniel Bradley and Cuthbert W. Pound, of the committee; George W. Robertson, John W. Goff, W. Travers, Jerome and Frank Moss, of the counsel for the investigating committee; Mr. De Lancey Nicoll for the police board.

John McClave, called as a witness, being duly sworn, testified as follows:

Direct examination by Mr. Goff:

Mr. Goff.—I think it but proper, Mr. Chairman and gentlemen, to state that Mr. McClave's examination will very probably occupy the entire day; and I would therefore suggest that you excuse the police commissioners who have been subpoenaed to be present for to-day.

Chairman Lexow.—All the other witnesses?

Mr. Goff.—The police commissioners, if you please, not the police clerks that may have been subpoenaed, but Commissioner Sheehan and Commissioner Martin, if he be present. Please excuse Commissioner Sheehan for the day.

Chairman Lexow.—Commissioner Sheehan, if you desire to go you are excused for the day; your testimony will not be reached to-day.

Q. What is your business, Mr. McClave? A. I am a lumber dealer, and have been such since 1860.

Q. Do you conduct your lumber business individually or in conjunction with partners? A. No, sir; I have no partners at all; I am single handed.

Q. How is your lumber business designated? A. In what respect?

Q. How is it called? A. John McClave.

Q. Lumber business? A. Yes.

Q. Where is it located? A. Twenty-first and Twenty-second streets, Eleventh avenue and North river.

Q. Are you interested in any other lumber yards but that one? A. No, sir.

Q. Are any members of your family interested in any other lumber yards but that one? A. No, sir.

Q. How long have you been in business, do you say? A. Since the 10th day of January, 1860.

Q. How many times have you failed? A. I was a junior member of a firm that went into liquidation in 1870; that was the only time.

Q. How about 1866? A. I did not fail; I was not connected with any failure in any way at all.

Q. Did you make an assignment for the benefit of your creditors in 1866? A. I did not.

Q. Did you ever make an assignment for the benefit of your creditors? A. I did not.

Q. Did you ever enter into an agreement with your creditors to liquidate your debts for ten cents on the dollar? A. No, sir; I did not.

Q. Do you know Charles Christman of Christman & Norton? A. I do sir.

Q. He has claims against you now for old debts? A. He has not.

Q. When were you first elected alderman? A. I think it was in 1879.

Q. You mean to say Mr. Christman has not a claim against you? A. He has not, sir.

Q. You mean to say he has not made a claim against you? A. No, sir; he has not.

Q. You mean to swear he has never made a claim against you? A. Absolutely and positively.

Q. So you assume now to know what Mr. Christman may have done, and what he may not have done? A. I don't know what he may have done, but I say absolutely and positively he has no claim against me.

Q. Do you know whether he ever made a demand? A. He has never made a demand on me.

Q. To your knowledge? A. Never.

Q. This is the first you have heard of it? A. Yes, sir.

Q. For any transaction growing out of any business relation you had with him in 1866? A. No, sir; never had any claim.

Q. Do you state, commissioner, how many times you failed or were connected with concerns that did fail? A. I have.

Mr. Nicoll.—I object. I object, that it is utterly irrelevant and immaterial. If he has failed 20 times, what difference does it make. You are here for the purpose of inquiring into his conduct as police commissioner, for the purpose of obtaining information to pass remedial legislation at the next session of the Legislature. What difference does it make whether he failed or not?

Chairman Lexow.—I do not understand that the witness has claimed the privilege, and until the witness claims the privilege, I do not see that your objection should stand.

Mr. Nicoll.—If you expect the witness to claim any privilege that any question put to him by Mr. Goff will criminate him, you will never have any such privilege. But that is not the thing. He ought not to be examined about his business affairs back 30 years ago. He will never claim that privilege; I will guarantee as long as he sits in that chair he will never claim the privilege on the ground of its incriminating him. I object to it, because of its immateriality, on the line of the investigation mapped out by the committee.

Mr. Goff.—Before I comment on Mr. Nicoll's objection, I want to ask Mr. McClave one or two questions.

Q. Have you any counsel here? A. Mr. Nicoll is counsel for me.

Q. Have you, for the police commissioners? A. For the police commissioners and for the police department, as I understand.

Q. Do you know it? A. I know that to be a fact; yes.

Q. Was there a resolution passed to that effect? A. No.

Q. How do you claim he can act for the police department or police commissioners, without a resolution? A. Because they asked him to act.

Q. Is there any record on the police minutes to show that? A. No.

Q. How does he represent the police? A. Mr. Sheehan, and Mr. Martin, and myself, have asked him to serve.

Q. You mean the individual members of the police commission? A. I suppose so.

Q. When the board of police commissioners want to have an order executed, it is done by resolution, is it not? A. Yes, sir.

Q. And there is no resolution inscribed on the minutes of the appointment of Mr. Nicoll as counsel for the police department, is there? A. No, sir.

Q. The simple fact is you paid him a retaining fee, didn't you? A. That is correct.

Q. And Mr. Sheehan gave him his retaining fee? A. Yes.

Q. And Mr. Martin gave him his retaining fee? A. That is true.

Q. And Mr. McLean refused to give any retaining fee? A. I never heard him so state.

Q. Has it not been so stated? A. Not to my knowledge.

Q. To your knowledge has any police official of any kind whatever written Mr. Nicoll about a retaining fee, except Mr. Sheehan, yourself and Mr. Martin? A. I have no knowledge of it; will the committee permit me to explain; I want to say this —

Q. This is not a place for making a speech? A. I have nothing in my life to conceal, and you can go right back to my child-

hood; and some intimations that you are throwing out here are uncalled for; there is nothing in connection with my entire life that is not open to the broad sunlight; and when you go back 30 or 40 years, you can go back to my babyhood.

The Chairman.—Order. You will only answer the question.

Mr. Goff.—I beg the committee to allow Mr. McClave to talk.

Senator O'Connor.—I wish the chairman to instruct Mr. McClave not to say anything, except to answer questions, until he gets through, when he can make any explanations he deems necessary.

Chairman Lexow.—I was on the point of instructing the witness in that way; but as I understand Mr. Goff, he now wants Mr. McClave to make any explanation he desires.

Mr. Goff.—I am satisfied. Go on, Mr. McClave.

The Witness.—Go on and put your questions; I am through now.

Mr. Goff.—Now, if your honors please, we might as well dispose of this question now, at the threshold of Mr. Nicoll's objection, because if it be allowed to germinate into a fusillade of objections, the result will be to impede the work of this commission and to obstruct the investigation. Personally, I would be delighted to enter into any discussion that I would feel competent to enter into with Mr. Nicoll; and personally I know him to be a delightful gentleman, and we have had very pleasant conversations and intercourse with each other professionally and personally; but this involves a question of right, and of principle. This is not a court of justice where technical objections may be made to the competency or the materiality or the relevancy of certain questions. This is a commission to inform the minds and to affect the conscience of the legislators of this State; and they can only derive their knowledge from probing and questioning the witness in their own way upon each subject that comes up. Upon the direct question of the objections, Mr. Nicoll says that he objects to going into this gentleman's private life. The witness himself repudiates his counsel's objections, says he is perfectly willing that we shall go into his private life, that he has nothing to secrete from us. That disposes of that objection; but I might as well inform the committee that even in a court of law, where a principle was enunciated by a high judicial authority for whom Mr. Nicoll, I have no doubt, entertains profound reverence—his honor, the recorder of this city, has ruled over and over again, as I have the records here before me, that where persons are upon trial, and where for instance, their mode of life becomes a subject that may be relevant to the inquiry, that the inquiry as to their mode of life, may be gone into and properly pursued; and apart from that being

good law, it is good morals. There is not a president of a bank to-day in New York to whom, if it was reported that one of his clerks or subordinates was living beyond his means, on the race-course, in the gambling hall, with women of questionable repute, it would be that president's duty to call that employe to order, and inquire from him where he derived the means that he was spending and squandering out of the orderly routine of his clerical life. If he did not do that, he would be false to his principals. The people of the city of New York has this gentleman on the stand here as a witness. He has been their servant — and I do not mean my remarks to apply to him personally, but to all men acting in the same position — he has been a servant; he has lived upon a stated salary, so far as the public knows, fixed by law. It is the duty of this committee, acting for the public, if it appears to them proper and relevant as a subject of inquiry, to find out whether this man has been living as a millionaire; where he has derived the source of his income and expenditure. If any witness coming within the same category that Mr. McClave comes shall refuse to answer such questions, I respectfully submit that his refusal will be more damnatory to him than his objection; and if these objections are continued, we must have them disposed of now. It is on record that Mr. Nicoll is not the counsel of the police department of this city; so the witness has proven. Your honor recognizes the fact that a corporation never can act, except by a resolution; the board of police commissioners can not act, except through a resolution or its rules. There has been no resolution passed; and Mr. Nicoll is the private counsel of Mr. John McClave, and appears in no other capacity. Let me call attention to the case of *The People against McDonald*, reported in the 99th N. Y.; and I read from the case, at page 485, which was a case for the commitment for contempt in refusing to answer certain questions before the Senate. As my associate informs me, I recollect now, it was the Senate committee of that year to whom were preferred charges against the public works department of this city under the administration of Hubert O. Thompson, and the witness refused to answer certain questions; and the question was afterward litigated by habeas corpus proceedings and writ of certiorari to the Court of Appeals. The court says: "But where the relator was not on trial, nor was he a party, but he was a mere witness called upon to testify in relation to charges against another person, and there was no trial pending against any one, as well might a witness examine before a grand jury, conducting an investigation of a charge against another person with a view to his indictment, who claimed the right to be attended by counsel. We do not think that a witness has that right." The investiga-

tion which your honors have started to carry on is one directed to be made by the Senate of this State upon charges preferred by the citizens of New York in a common and general way, and by common report, of corruption and bribery and maladministration, existing in the police department in this city. Mr. McClave is called as a witness to inquire into that question, not as a charge against Mr. McClave personally; but he forms part of the government charged with dishonesty and corruption, and he being one of that government, he comes here necessarily to answer questions which you may deem proper to put to him, touching not only his official acts, as recorded in the book of minutes of the police department, but touching his life as a citizen in connection with his official character as police commissioner. Now, if your honors please, I say right here, that while I shall have the pleasure or honor of attending before you, I shall always be delighted to extend to Brother Nicoll whatever courtesy may lie in my power, and I am sure he will reciprocate; but I wish to warn him here in advance that these objections must be stopped at the threshold, or this investigation will be delayed indefinitely, and the result of it will be that part, or the greatest part of the time, will be taken up by wrangles between counsel and possible competitions as to their width and brilliancy of expression. That is not what this committee is here for. It is here to obtain evidence upon which to base its report to the Senate of this State. I, therefore, submit, if your honors please, that it is a question that calls for your most earnest attention and prompt action.

Senator Saxton.—Mr. Goff, please hand up that McDonald case, because I want to look at it.

Chairman Lexow.—I do not think it makes any material difference whether Mr. Nicoll appears for the police department as a department, or for Mr. McClave as an individual. Mr. Nicoll understands, I believe, that he is here by courtesy of the committee.

Mr. Nicoll.—Entirely, sir.

Chairman Lexow.—That he has got no legal status here; that his clients can not claim any representation before this committee at all legally; but we have accorded him that courtesy, and he comes here in one sense as an *amicus curiae*. I hope to assist the committee rather than to impede the committee or to hinder its action. If he offers an objection, they will pass upon it, and if it is a frivolous objection, they will treat it accordingly.

Mr. Nicoll.—I want to say that that was the agreement between the honorable chairman of the committee and several of its members at the very commencement of the investigation,

when my rights and the rights of the witnesses were well defined and spread upon the record.

Chairman Lexow.—The suggestion is made by several members of the committee, however, that this may be a good point to discuss as to how far this committee will be or is privileged to go into the private character and private life of those who indirectly are under charges before the committee.

Mr. Nicoll.—I was just coming to that, and was about to suggest it was not a good point, because it does not seem to be spread out on the record. Now, for instance, Mr. McClave has been subpoenaed to bring down here books relating to his household, to the payment of his servants, and to all his business continued during the past 30 years, as well as to his books, kept by him in his position as treasurer of the police board. Of course, as to those, they are public records, and they are at the service of the committee at all times; but not only is he asked to produce those, but he is asked to produce his household book, to spread before you the accounts of his butchers and bakers and the servants he keeps in his house, and the nurses he pays for his children, and various other things. This is a subpoena to produce: "The three bank-books of your personal, private and household accounts in the Bowery National Bank." Now, when Mr. Goff comes around to that point in Mr. McClave's investigation, I have it in my mind, in fairness to submit to the committee, whether or not they were going to pursue that line of inquisition and investigation, and at that point, I propose to submit such reasons as I have formulated to induce them to refuse to go into that, but it is not up now. The only reason I objected to it now was that Mr. Goff should go back 30 years ago, when Mr. McClave was a young and struggling merchant in New York and find out about his failures long before he had anything to do with the police department. I think he was appointed first in the police department some seven or eight years ago.

Mr. McClave.—Nine years ago.

Mr. Nicoll.—Nine years ago. Very well. Here he goes back 30 years. You may assume that nine years ago the citizens of New York have a right to inquire what his mode of life was, and whether he lived at a greater expense than his salary permitted. What has that to do with 30 years ago, whether he had an arrangement with his creditors 30 years ago? And I assure you it was not because I wanted to raise the question, but from a spirit of indignation that any man should have his life investigated for 30 years past, that I put in my objection. Mr. McClave has said, "Do not assert the objection, Mr. Nicoll, I will answer it." So I withdraw it, and Mr. Goff may go on, and when the

proper time comes, I will raise this question and submit my views and authority to the committee.

Q. Mr. McClave, do you remember the night when you first received the information that this committee had been appointed in Albany to investigate the police department? A. No, sir; I have no special recollection of it.

Q. Have you any recollection, whether special or general? A. I have nothing that I can fix in my mind that would lead me to remember that particularly.

Q. Let us see; you remember being at an entertainment at a friend's house, when you received the news? A. No, sir; I have no such recollection.

Q. Do you remember going to Delmonico's in a carriage with members of your family on that night? A. Well, I don't recall that at all; I have been to Delmonico's with members of my family; I go there quite often.

Q. I ask about the night when you first received information that the committee had been appointed? A. I have no recollection of anything that transpired at the time; I could not tell you this moment when they were appointed.

Q. I am not asking you when; I am asking you for a circumstance? A. I have no recollection; if you recall to my mind anything particular I will admit whether it is so or not.

Q. Do you remember saying that you did not know or could not understand why those fellows up in Albany wanted to annoy honest men in New York about it? A. I never made any such statement as that.

Q. You swear to that? A. Positively.

Q. You were elected as a Republican to the board of aldermen, was you not? A. I was.

Q. How many times? A. Three different times; I think twice at-large and one what is known as Senate district.

Q. When were you appointed to the police department? A. I was first appointed on the 24th day of November, 1884.

Q. By whom? A. By Mayor Edison; and I was reappointed at the expiration of my term by Mayor Grant.

Q. Were you appointed in any representative capacity touching a political party in this city? A. I was supposed to be appointed as a Republican; I have been one all my life.

Q. Are you one now? A. Certainly, sir.

Q. Were you appointed as a Republican by Mayor Grant? A. I was, sir.

Q. And in your official actions, particularly in appointments, have you been in any sense guided by political opinion? A. My appointments have been made for Republican friends, as well as for business men of the city here.

Q. I repeat my question, sir; the stenographer will please read

it. (The question is read by the stenographer.) A. You remember that our appointments—

Q. Do you understand the question? A. I think it is necessary to explain this fact—that the—

Q. Do you understand the question? A. Have I been guided by political action; you mean by that, if I made appointments that some gentlemen who were Republicans have indorsed?

Q. I have not said, and did not mean so; will you please state whether you understand the question or not? A. I do not understand it, Mr. Goff; I am trying to answer it if you can get through my head what you mean; I shall be glad to answer it.

Q. In making your appointments as commissioner of police of men to the police force, and of promotions from one grade to another, have you, in making such appointments or such promotions, been guided or affected by political purposes with reference to the party which you were supposed to represent? A. A very large number of the appointments, Mr. Goff, have been made on representations of Republicans.

Q. Will you answer my question? A. It seems to me that is the answer; if you will show me exactly what kind of answer you want, I will give it.

Q. Please read the question again. (Stenographer reads question.) A. If you will allow me to explain that, and if I am not correct in my understanding of it of what you are trying to get at, I will try to get your understanding of it.

Q. Will the stenographer read the question? (The stenographer read the question.) A. I think if Mr. Goff will state just how I did make them, then if I do not answer what you want, you can correct that.

Q. We will save time if you will just answer. A. If you will tell me just what you want me to answer; I am trying to answer you.

Q. I will try again. A. The—

Q. Will you pardon me? A. Well, what is it you want?

Q. Have you, in making any appointments or promotions, been affected by your political views as a Republican, or the views of the party that you were supposed to represent in that board? A. Well, sir, all other things being equal, I will put it in that shape, an indorsement from any Republican's friends would carry weight with it.

Q. Give it a preference? A. Certainly.

Q. When you say you put it in that shape, you were adapting the question to the answer, or is it a fact? A. That is an absolute fact, sir.

Q. So that, as I understand you, Mr. McClave, in the adminis-

tration of the police department, no politics enter into the administration of that department, do they? A. I want to say, Mr. Goff, that I have been nine years in the police department, and I know nothing that enters there in the shape of politics except that of the simple appointment of ballot clerks and poll clerks, and those I have appointed from a list given to me by the Republican county committee of the city of New York.

Q. Now, any appointments that you have made in that board have they been accorded to any political party? A. Oh, no; I do not credit them; I would not do that.

Q. Has that custom been followed in the board of crediting appointments to any political party? A. Not to my knowledge.

Q. You are reported in the morning newspaper as follows:—
Mr. Nicoll.—What morning; this morning?

Mr. Goff.—This morning, yes.

Q. "As a Republican, I would, of course, be glad to see a Republican succeed Commissioner McLean," is that true? A. That is not the statement I made; no, sir.

Q. Then you are recorded incorrectly? A. I said this, that as a Republican—he asked me a question whether I was in favor of a bi-partisan bill. I said, as a Republican I would, of course, be very glad indeed to see another Republican come into the board of police commissioners, but so far as the actual results were concerned, I did not think it would make any material difference, because there was no politics there.

Q. In the sentence I have read, have you been correctly reported? A. Not so far as Mr. McLean is concerned; not so far as it refers to Commissioner McLean; I think you and I can understand one another, Mr. Goff; you don't seem to want to understand me.

Q. There is no necessity of exhibiting any temper? A. I don't want to exhibit any temper.

Senator Lexow.—If counsel will limit himself to putting questions, and the witness to answering them, you will get along better.

Q. "But as a citizen and taxpayer, I must admit politics actually takes no part in the efficiency of the board; I have been for nine years in the board of police commissioners, and I most earnestly declare that politics has nothing to do with the working of that board," is that true? A. Yes, sir; that is true.

Q. Were you present at the examination of the president of the board, Commissioner Martin? A. I was not.

Q. Did you read his testimony? A. I did not, sir.

Q. I will read a little of it, for you?

Q. "Q. —

Mr. Nicoll.—What are you reading from?

Mr. Goff.—Mr. Martin's testimony.

Mr. Nicoll.—What page?

Mr. Goff.—It is from the Tribune.

“Q. Did anybody recommend Devery? A. Yes, sir.

“Q. Who? A. Many of his political friends.

“Q. Did Tammany Hall recommend them? A. No, sir; there was no formal recommendation by Tammany Hall; there never was such, but many Tammany Hall men recommended him.

“Q. Wasn't it a Tammany Hall appointment? A. Yes; to my mind it was due to Tammany influence.

“Q. And in the case of Captain Michael Docharty, who made the recommendation? A. The same kind of people.

“Q. Do you keep books? A. I have some memorandum.

“Q. On these books were the appointments charged up to Tammany Hall? A. Yes.

“Q. To nothing else? A. No, sir.

“Q. And the same is true of Captain Gallagher? A. Yes, sir.

“Q. And of promoting Captain McAvoy to be inspector? A. Yes, sir.

“Q. These men felt obliged to Tammany Hall about election time? A. They might.”

Q. Do you know of any such book in police headquarters? A. I have never seen it; I did not know anything of that kind.

Q. Did you ever hear of it before? A. No, sir.

Q. Is this the first you ever heard of appointments being charged up to Tammany Hall? A. I should think —

Q. I have not asked what you think? A. I have no knowledge of such a book; and if the gentleman kept it, it would be a private matter.

Q. Will you kindly answer the question? A. I say to you, no, sir, I don't know.

Q. That is all I want; can you state whether Commissioner Martin, when he answered the questions that I have read, and gave the answer to those questions, stated what was true or not?

A. Well, the only thing I could say, for instance, I should make an appointment on the recommendation of Mr. Depew —

Q. Will you please answer my question; I am asking you whether those answers were true or not? A. Well, it is a personal matter with him.

Q. Do you know whether they were true or not? A. I know I can not tell anything about that; I know nothing about that at all.

Q. So that it appears from Commissioner Martin's testimony that the commissioners in the board representing Tammany Hall

kept books or memorandum in which they charged up to Tammany Hall certain appointments, and that being so, from Mr. Martin's testimony, did you keep any book or memorandum in which you charged up appointments to Republicans? A. No, sir; I did not.

Q. And politics have no part or parcel in your administration in the way of policy? A. I think not, sir.

Q. Do you know it? A. I say, all things being equal, as a Republican, if the man had Republican recommendation, I would aid him in preference to a Democrat.

Q. Mr. Nicoll has referred here to a subpoena duces tecum which you received as regards your bank-books; have you produced those bank books? A. I have, sir.

Q. You have three accounts in the Bowery National Bank? A. What are they? I do not know which three; my personal accounts?

Q. I ask if you have? A. No; I have not of my own account.

Q. Have you three accounts in the Bowery National Bank, either in your individual name, or in a representative capacity? A. I have a bank account, and my business account has been there 22 years, and there is an account of the police department in the Bowery bank, too.

Q. In the Bowery National Bank there is an account held by you as treasurer of the police department? A. That is right; yes; as trustee.

Q. Are they in two separate accounts? A. No, sir; just a pension fund; that is all.

Q. Don't you have an account as treasurer of the board in some bank? A. Yes, sir; in the Importers and Traders'.

Q. You have an account as treasurer of the police board in the Importers and Traders'? A. Yes, sir.

Q. You have an account as trustee of the pension fund with the Bowery National Bank? A. Yes; and in the Garfield Bank; it is called the supply, alteration and repair account.

Q. Are you treasurer of that fund? A. All of them; yes, sir.

Q. Treasurer of the whole of them? A. Yes, sir.

Q. Are those all the accounts that you have in a representative capacity? A. Yes, sir.

Q. Now, tell me how many accounts you have in the Bowery National Bank in a private capacity? A. My business account, and what I call my personal account.

Q. Your business account — under what heading is that? A. John McClave.

Q. Lumber account? A. It is not marked lumber; it is lumber account.

Q. And you have a personal account there? A. Yes, sir.

Q. And have you any other? A. No, sir.

Q. Did you ever have any other account in the Bowery National Bank? A. No, sir.

Q. Did you ever have an account marked "private?" A. No, sir.

Q. Did you ever have an account marked "household?" A. No, sir.

Q. In that or any other bank? A. No, sir.

Q. You used to bank in the Bank of North America, didn't you? A. You mean the police department?

Q. Yes? A. I think some six years ago there was an account in the Bank of North America, up to about six years, and there was some rumors in reference to its standing at that time, and the board of commissioners determined to draw out what money they had there; about six years ago, I think; the bank-book is here, and will show that fact.

Q. So that within six years you have no account in the Bank of North America? A. That is my recollection, Mr. Goff; I may be mistaken two or three years; it may be four years; but I think it is about six years.

Q. Have you got the book here? A. Yes; it will show that fact; the book is here.

Q. Can you see it? A. It is tied up in the package there with the clerk from the treasurer's office. (Addressing the clerk.) You just hand to Mr. Goff the deposit book of the Bank of North America.

Q. May I open it, Mr. McClave? A. Certainly, sir; will you let me explain that little memorandum there, so you will understand it? That will show you when the book was closed; there is the amount of \$680.62 that was carried down so as to hold it for this bank; it is unclaimed salary; the unclaimed balance was here.

Q. October 19, 1891, is the last balance? A. Yes; that was \$80; \$11,000, I think, is the gross balance.

Q. I presume you have all the vouchers returned? A. For that bank; yes, sir.

Q. Of this account? A. Yes; I have them all.

Q. Have you got them in court? A. I directed the bookkeeper to have them all here this morning; Mr. Gott, have you got the vouchers, the checks in connection with the Bank of North America, the return checks?

Mr. Gott.—We have got the stub of the check-book here.

Q. Let us have that, please; have you got the bank-book of the accounts in the Bowery National? A. Yes, sir.

Q. And the Garfield? A. Yes, sir.

Q. What other bank did you mention? A. That is all—Importers and Traders'.

Q. Have you got those? A. Yes; the Importers and Traders', and Traders'.

Q. Have you got those? A. Yes; the Importers and Traders' the Bowery and the Garfield.

Q. Have you the check-books of those? A. Yes, sir.

Q. Now, you have no objection, have you, for counsel or the committee to examine into those books? A. Not the slightest.

Q. To look into those check-books? A. Not the slightest, sir.

Mr. Nicoll.—Which check-book do you refer to?

Mr. Goff.—The check-books just referred to.

Mr. Nicoll.—The Bowery, where the pension is kept, and the old account of the Bank of North America, and what other one?

Mr. Goff.—Importers and Traders'.

The Witness.—That is the account that is kept of the uniformed fund in the Bowery National.

Mr. Nicoll.—Of course we have no objection to that within such reasonable limits as a committee will fix for the transaction of the public business, and recognize the fact that these check-books are in constant use.

Mr. McClave.—Oh, yes.

Mr. Goff.—The stubs. We do not want your current check-books.

Mr. Nicoll.—Those you can have, of course.

Chairman Lexow.—How far back, Mr. Goff?

Mr. Goff.—Two or three years.

The Witness.—I have five bonds of \$460,000, and I am personally responsible for these books; they are all here.

Q. They are not convertible into cash? A. No, sir; I suppose not, but they are a matter of record.

Q. We may not go into them to any great extent; we may want to inquire of one or two items, and possibly Mr. McClave's examination may avoid that examination.

Senator O'Connor.—Are those books in evidence?

Mr. Goff.—Not at the present time.

Q. Have you been engaged in speculation in Wall street? A. Not to any extent.

Q. Do you ever speculate? A. I did; about 1863 or 4 or 5; I have bought some little stocks; very few; I bought them as an investment, as a rule.

Q. Had you a special firm of brokers? A. Yes; whatever I did; Dominick & Dickerman; they are on Broadway, just below Wall street; my transactions are very light there.

Q. And in what line of securities? A. I have simply bought sometimes a hundred shares of stock of some kind for investment, and perhaps after two or three or four years I have sold it again and bought something else.

Q. Railroad stocks or wheat? A. Yes; railroad stocks; I never bought any wheat.

By Mr. Nicoll:

Q. What was the date of this? A. The last purchase?

Q. When was this account? A. I think I have not bought any stock in perhaps three or four years, and then I think I bought a hundred shares of the National Lead, preferred, and 200 of common; the stock I have prior to that I had a hundred shares, I think, of the Manhattan.

Q. That was in 1890, was it not? A. I think it was about 1890; I bought it in 1890, and sold it.

Q. You bought it on margin? A. No, sir; bought it right out.

Q. By your check? A. Yes.

Q. Paid your check? A. Yes.

Q. What bank was that check drawn on? A. It was drawn on the Bowery, because that was the only place I have to pay from.

Q. What check did you give Dominick & Dickerman for your lead stock, drawn on? A. The Bowery bank.

Q. At the time you gave the check to the brokers for the lead stock had you more than one account in the Bowery National Bank. A. Well, I had my two accounts there for a number of years.

Q. You had your private accounts and your representative account? A. Yes; you mean of the —

Q. The police account? A. I had my lumber account; I had been there 22 years as depositor of my lumber account.

Q. At the time you gave your check to Dominick & Dickerman, brokers, how many accounts had you all together in the Bowery National Bank? A. There was three.

Q. What were they? A. One for the police pension fund.

Q. Yes, that is one. A. My business account.

Q. Two. A. And what I call my personal account, where I deposited my salary or any little amount I got.

Q. On which of these accounts did you draw your check for the lead stock of Dominick & Dickerman? A. I ordinarily drew it on my personal account.

Q. What account did you draw your check from? A. I drew it right direct from my regular business account, and would

deposit from my personal account into my business account to meet it.

Q. You drew your check for Dominick & Dickerman from your personal account first? A. Yes.

Q. Have you that voucher? A. I had my vouchers and my books so far as it relates to my personal account back to 1891, I think; so far as it relates to other accounts they are back, I think, from two to three years; from April 12, 1893; my personal business took fire, and a large number of my books were burned.

Q. Please do not be so diffuse.

Senator O'Connor.—How would he indicate which bank he was to draw upon by check?

Q. Will you tell the Senators upon which of the three accounts you drew the checks, payable to Dominick & Dickerman, in payment of your lead stock? A. I don't think I drew a check on my bank, except on my personal business account; I will state that as a fact.

By Senator O'Connor :

Q. How did you indicate which of those accounts you intended to draw from? How did you indicate on the check?

Chairman Lexow.—He testified three times he drew on his business account, and drew money out of his personal account and put it back.

By Mr. Goff :

Q. Have we the fact that this check was drawn to the firm of brokers in the first instance upon this account in the Bowery National Bank; is that the fact? A. I state that as a fact.

Q. Do you remember the amount of that check? A. No, I could not tell; I did not buy them—

Q. About? A. I should say, probably, 100 shares of preferred lead would be worth \$6,800.

Q. Don't you remember your brokers telling you that there was going to be a rise in lead, and advising you to get all the money you could to put into the stock? A. That is not true.

Q. Did they say anything to you about it? A. Never made any such statement as that to me at all.

Q. Did you act on your own judgment in buying that stock? A. Certainly.

Q. You had never bought any before? A. I had some when the company was first formed; I had a little of it.

Q. How far back? A. If you can go back to the organization

of the lead company; I do not remember, myself; I should think five years.

Q. Within 10 years? A. Within 10 years, certainly.

Q. Within 10 years up to the time you bought these shares, you hadn't any stock of importance? A. No, sir.

Q. What induced you to purchase this particular stock that time that you did? A. Simply because I thought I was buying it low, and could make a little money out of it.

Q. Was it not suggested to you, that being low, there would be a rise? A. No; I exercised my own judgment; nobody made any such suggestion; I am not a speculator, in any sense of the word.

Q. Did you consult Dominick & Dickerman in regard to it? A. No, sir.

Q. Which of the brokers did you have relations with? A. With their office simply.

Q. Which of them, if either? A. I don't know their first name; there are three brothers of the Dominick, and one Mr. Dickerman.

Q. How did you deliver the check you paid the stock with? A. I think I mailed it to them; I think I called them on the telephone.

Q. Will you swear you did not send it by messenger? A. I could not tell you positively about that.

Q. Did you have the checks certified? A. No; I never had them certified.

Q. Do you swear you did not have that check certified? A. I do; it was not necessary.

Q. Will you explain to us why it was that you drew your check upon your business account, and then drew a check from your private account and deposited it in your business account? A. Yes, sir; if you will permit me to explain; I want to state to you when I first went into public life I made up my mind that any salary I might receive as public official I would not spend it at all; that I would make my business sustain me and provide for all my living, and, therefore, my salary or any little investment I might have made from the result of that salary was put into that personal account and kept separate from my business account; my living expenses and all my household expenses, and my expenses of every other nature are kept in my regular business books at my office and charged up to my accounts, specifying in detail what every item is for, charged up to my business account.

Q. Then only matters arising from your business in dealing in lumber went into your business account? A. Yes, sir.

Q. And your private account contained matters only relating

to your salary? A. Relating to my salary, or, for instance, when I sold my house in Seventy-second street I put the money in my personal account.

Q. That was your private account? A. Then a \$25,000 mortgage that I placed on my house for the purpose of putting in my country home—that went into that account.

Q. Into what account did the \$80,000 insurance which you got go? A. I did not get that.

Q. How much did you get? A. About half that, I guess.

Q. You ought to know? A. Yes; let me see, I can calculate; I got less than \$30,000.

Q. Into what account did that go? A. Into the Bowery Bank, into my business account.

Q. That did not go into your private account? A. No, sir.

Q. Have you given all the reasons you wish to give now why it is or it was that you drew your check on your private account to balance your business account? A. That is all.

Q. And a habit with you when you drew on your business account you then drew on your private account to balance your drafts on your business accounts; was that a habit? A. As I say, in a case of that kind; supposing I had been to buy a hundred shares of stocks, I would take it out of my private account, my personal account, but instead of sending a little check which is in my book—my regular business checks are lithographed, and they are numbered, and they are printed and much safer checks to send out—I would send that check out and put the other in its place.

Q. You had only one stock transaction? A. Yes, that is all—you mean that one time?

Q. That one time? A. I suppose in 10 years I probably bought and sold stocks 20 or 30 times.

Q. Through this one firm? A. Yes, sir.

Q. Will you swear that that check which you drew was not upon the police pension fund? A. Absolutely; and anybody that has ever made any statement such as that is an absolute and contemptible liar.

Mr. Nicoll.—Give him an opportunity to answer.

The Witness.—Anybody that has made a statement of that kind that I have touched a dollar of that police department is a contemptible liar.

Chairman Lexow.—We must ask you to restrain yourself.

The Witness.—I have got some rights; I am an honest and an honorable man, and I do not propose to be insulted in this way; I say if Mr. Goff has got any information of that kind who ever made it is a contemptible, miserable liar.

Chairman Lexow.—You have already stated that on three occasions. One will do. Just answer the question.

Q. You have sat as judge in the examination of policemen? A. I have, sir.

Q. Is it a practice for you to indulge in such violence of temper? A. I have no such occasion, Mr. Goff.

Q. Since you are such an honest man there is no necessity for your getting in such a temper if you are right? A. I know, but Mr. Goff —

Chairman Lexow.—I will protect any rights you have.

Mr. Nicoll.—I object to any such question.

Chairman Lexow.—I do not believe you ought to insinuate any such matters into your question. We will simply get into a condition where the witness and counsel are both belligerent, and it will embarrass the committee. Now, if you will simply put questions leading up to any point you desire to elucidate, I will ask Commissioner McClave to restrain his outbursts, for they must be restrained.

Mr. McClave.—I will say this —

The Chairman.—You may say this afterward. You will have abundant opportunity.

By Mr. Goff:

Q. Will you tell this committee whether or not you have the voucher in your possession that you drew for the payment of that lead stock for Dominick & Dickerman? A. I am inclined to think not sir; I am inclined to think that was destroyed by the fire; the fire occurred on the 12th of April, 1893, at which time my offices were entirely destroyed: my stable buildings were entirely destroyed; no, I have brought to you all the books and all the vouchers; I have all the personal bank-books that run to 1889, I think.

Q. I am perfectly satisfied, commissioner, with your answer; do you remember where you were when you drew that check? A. I never draw them, I think, except in my own office.

Q. How many hours a day do you spend in your own office? A. I spend, as a rule — I get there at 8 or half-past 8 in the morning, and remain until half-past 10, and then go to police headquarters and remain during the day, and sometimes I go back to my office between 5 and 6 o'clock; I have my three sons at my office with me.

Q. Did you keep your private bank-books — the check-books at your business office? A. Yes, sir.

Q. All the time? A. Yes, sir; always.

Q. Have you made your deposits in your private account from

your business office? A. My son generally takes the money down to the bank from my business office.

Q. Have you ever sent a deposit to your private account from police headquarters? A. Never in my life.

Q. Have you put your private money in a black bag and sent it from police headquarters? A. Never in my life.

Q. That is as true as anything you have testified to? A. Yes, sir.

Q. You know your messenger, Pat? A. Pat McLoughlin?

Q. You have a messenger named Pat? A. I have a man by the name of Pat McLoughlin, who has been in my employ 25 years.

Q. Has he ever carried money from your office in Mulberry street to the account in the Bowery bank? A. Never in the bank.

Q. Has he ever deposited any money? A. He has often taken deposits for the police board.

Q. Will you let me look at your private account in the bank? A. Mr. Barnes, just let him have it.

Chairman Lexow.—What year, and when?

Mr. Goff.—Covering a period of three or four years back.

The Witness.—Can I aid you?

Mr. Goff.—No; we will get along. One of them is marked personal. That is the only one, I think, that goes back to 1889.

Mr. Nicoll.—Is that all there is?

The Witness.—That is all there is; this is my only personal account; that is marked personal.

By Mr. Goff:

Q. That commences—the last entry in that is in 1893; May 12th, 1893? A. Yes, sir; that is right; that is the only one.

Q. And starts from 1889 and runs down to 1894? A. Yes, sir; that is right; that is the only one.

Q. That the one you keep the business account in? A. No; the other three are the business account.

Q. I thought you said the other three were your police account? A. No; all three are my business in the Bowery bank.

Q. This is the one you kept your salary and city investments you make out of the accumulations on it; am I right on that? A. Yes, you are right.

Q. I hand you three books marked “John McClave, Bowery Bank, New York,” and ask you to describe which of those three books; that is, the accounts that represent Mr. McClave; and whether or no they are co-existent with the personal account

there, or whether they are consecutive, one after the other? A. They are right in succession, commencing back; commencing as one book is filled up, and another opened by the bank; it is a book of deposit; you have three of them altogether.

Q. Those three? A. There is another one.

Q. We have one marked personal. A. I beg your pardon; yes, that is personal; these are all in the business accounts.

Q. Those are all business account? A. Yes, sir.

Q. I am not wishing to look at the contents, except to fix the dates, Mr. McClave? A. Yes, sir.

Q. I hand you a fourth book and ask you to describe that book; it is marked personal on the outside? A. That is the book which is marked my personal account, and contains the deposits for my salary and any other little investments that I may have made, besides the sale of the house for \$58,000, and a mortgage placed last August upon my home of \$25,000.

Q. You obtained a mortgage on your home? A. On my home; yes, sir.

Q. Twenty-five thousand dollars? A. Twenty-five thousand dollars; yes, sir.

Q. Will you please point out in these business books the item of \$25,000 that you paid to Hass, appears for the decoration of your house? A. I did not pay any such amount of money at all.

Q. I ask you, if you please—

Mr. Nicoll.—That perhaps is as good an occasion as any to have the committee pass upon it.

Chairman Lexow.—The witness does not ask it.

The Witness.—There is not a word of truth in it. I never paid any such money. I think about \$6,000 would be nearer to it than \$25,000.

Mr. Nicoll.—I do not expect the witness will ask any such privilege. There is no possible aspect of this examination in which he will permit me to assert any privilege whatever.

Chairman Lexow.—Then I would not do it.

Mr. Nicoll.—Because we want to have this question decided. It is an objectionable thing. Mr. Goff wants to know for his future enlightenment how far you are going to permit an investigation into a man's private affairs.

Senator Saxton.—I do not know how the other members have felt, but in view of the charges against the police department—I understand they are charged with practices by which they have obtained large gains from illegitimate services—it seems to me their private business and public business are so interdependent on each other that to sustain such a charge we will have to permit a large latitude to go into private affairs; otherwise they

may have accumulated a lot of wealth, which they say they obtained legitimately, and the people may make the charge that they obtained that illegitimately. How are we to determine whether that wealth was obtained illegitimately or not without we go into their affairs.

Mr. Nicoll.—Will you permit me to answer that question?

Senator Saxton.—Yes.

Mr. Nicoll.—I think I have got the answer right in my mind, and the answer is this: "If any evidence or corruption is produced here, you understand, by counsel or by these complainants, then it may be proper for the proposed corroborating and substantiating, in that aspect of the case, to take the private examination of public officials; but before any such foundation is laid, to take a man's private account, household bills, business affairs, and ransack and spread them out before the public, it seems to me to be a departure from the ordinary procedure adopted by committees in the past, and a very serious violation of the rights of individuals. There has been a talk, I do not know for how many years, that everybody has grown rich in connection with the police department, and that Mr. McClave has. Here he to-day stands absolutely refusing to allow his counsel to claim a privilege; and if it is true, let them bring some evidence; and if it is, let them go into the private affairs, if you think it necessary; but will you permit them in advance to take their bank accounts, to take their domestic accounts, their business accounts, and spread them out before the readers of this city, before all their rivals in business, before all their social friends? Would any member of this committee like it? Would you not resist it to the last drop of blood in your veins.

Chairman Lexow.—We might object, but no objection is made by the witness, therefore —

Mr. Nicoll.—I know; but if a member of this committee was charged of being dishonest, and some proof was laid that there was anything of that sort, then it might be followed by some evidence to show that during the period when they had acquired illegitimate gains they had made large deposits or splendid investments, or something of that sort, then, counsel might not, perhaps, be allowed any objection; but here we are in advance of anything of the sort, and we are asked to spread all these things upon the record without a single scintilla of proof. I submit with all—I know you are a fair-minded body of men, and I know also that you are almost all lawyers, knowing more about it than I do, and I leave it to your sense of fairness and justice, and to your knowledge of law, and your own experience

as to whether this is the procedure you will permit to be adopted by the counsel for the committee.

Chairman Lexow.—I think it is usual, on examinations of this kind, to ask counsel on the other side if he expects to connect it with anything that will throw light on it?

Senator O'Connor.—The evidence of matters connected with his private life may be very important as throwing light upon his public life. We have got to take these matters as they come up. If the matters connected with his private affairs are so remote that it seems impossible to affect his public life, we wont permit it; but it is hard to tell whether it has such a bearing or not. It seems to me, that we ought to hear the testimony for the present, and assume that Mr. Goff intends to make it material, and if it is not material and is not connected with any acts on the part of Mr. McClave or the police commissioners, which would be improper in their official capacity, then this wont have any bearing.

Chairman Lexow.—Do you expect to connect it?

Mr. Goff.—The learned counsel's position presents the strangest phenomena of anything ever presented in a court of justice. Here is a witness on the stand who has, with considerable warmth to-day, expressed his determination to demonstrate his honesty above all cavil and question, and here his counsel stands up and says, don't do it.

Mr. Nicoll.—You are misinformed; I don't do it, and I stated privately some few minutes ago to you, that we would have to have this question settled in this witness or some other way, and we might as well have it argued and debated now.

Chairman Lexow.—Do you expect to connect it, Mr. Goff?

Mr. Goff.—I expect to; I do not hesitate to say in Mr. McClave's hearing, and give him warning, in my expectation I may fail in it; I do not think I will—that we will prove Mr. McClave has banked the proceeds of bribery and corruption in his bank.

Mr. McClave.—I want to say to you, it is absolutely false.

Chairman Lexow.—The objection is overruled.

Senator O'Connor.—If they prove that, there will be no question of this at all.

Mr. Goff.—I can not get at it immediately; here is an adverse witness on the stand; will your honors not extend to me the rights that courts extend to counsel with an antagonistic witness; if I put a legal question in, I know the answer that would come; it would be foolish to attempt to do so; this case, if it succeeds at all, must depend on inherent justice to prove the circumstances that exist.

Chairman Lexow.—The objection has been overruled, and, therefore, there is no question for discussion.

Senator Saxton.— We presume you know what you are talking about, and you should make the charges good; I think there is a great deal of force in Mr. Nicoll's position that insinuations should not be made by indirection, but there ought to be some direct proof; the moment you establish one dishonest act of this official then I should be in favor of giving the greatest latitude to prove everything in public and private life, but I think in some points of the investigation, we ought to have some proof of dishonest practices by this man as an official; I do not think this case should be built up entirely on inferences.

Mr. Goff.— But, if the Honorable Senator will bear with me a moment.

Senator Saxton.— We indulge you with the inference that you are going to make proof, and this goes to the method of the proof, and I think it is entirely proper to overrule the objection.

Chairman Lexow.— Go on, Mr. Goff, we will take up all the session in this discussion.

Mr. Nicoll.— I do not want to take up one minute. Has not Mr. Goff told the committee he expected to be able to prove that Mr. McClave had banked the proceeds of corruption?

Senator Saxton.— Yes.

Mr. Nicoll.— If he expects to prove that, he has got that proof somewhere, and now let us have it.

Chairman Lexow.— Apparently he is laying the foundation.

Senator O'Connor.— We had better allow the counsel to take his proof.

Mr. Nicoll.— If he does not make it good, it will react on him badly.

Mr. Goff.— All we can say is, we are all human, and all liable to err, and the most we can rely upon is our judgment, but I never made a statement that I want to seek a way out of it.

Chairman Lexow.— If you will continue —

Mr. Goff.— I never seek a way out of a position I take.

Mr. Nicoll.— But you always leave a chance to find your way out.

By Mr. Goff:

Q. Now, Mr. McClave, you testified that your account in the Bowery Bank was a private account; this bank-book is marked personal; do they represent the one and the same thing? A. It is the only one; yes, sir.

Chairman Lexow.— Are you offering those in evidence?

Mr. Goff.— No, sir; not yet.

Q. Did you receive a check from George W. Judd, of 92 Park row? A. No, sir; never did.

Q. Did you ever appoint a policeman on the force for George W. Judd? A. Not to my knowledge, sir.

Q. Do you know Mr. Judd? A. No, sir; never saw him.

Q. Did you ever hear of him? A. I think I had a son-in-law who was a clerk with Mr. Judd some years ago, one that I had some difficulty with in connection with my family.

Q. Do you know what business Mr. Judd was in? A. I think he was in the produce business, although I have never been at his place of business.

Q. Do you remember appointing a policeman that came from New Jersey at his request, either directly by you, or by anybody else? A. I don't remember it, sir; I don't recollect doing anything of that kind.

Q. Will you swear you did not appoint a policeman by the name of Cook from Whitehall, New Jersey, at his request? A. I don't think I ever did.

Q. Will you swear you did not? A. To the best of my recollection, I never did.

Q. Wouldn't it strike you as remarkable if it was a man coming from New Jersey that you appointed? A. I don't think I ever appointed such a man.

Q. Will you swear you never appointed Frederick G. Cook, from Whitehall, New Jersey, on the police force? A. I have no recollection of any such name; I may have appointed a man by the name of Cook, but I think the rules of the police department prohibit the appointment of a man not a resident of the city.

Q. The rules are all right; will you swear you did not receive a check from George W. Judd, drawn on the North River Bank, in 1887, to the amount of \$250? A. Positively, sir.

Q. You are clear about that? A. Positively, sir.

Q. You are clear about that? A. Yes; will you let me explain; I think I can set you perfectly straight on what you are trying to get at; I think I see through it now.

Q. Very well, if you can see through it? A. I had a son-in-law by the name of Granger; Mr. Jerome knew him; he was his counsel; he married my daughter on the 31st of December, 1887; his acts and conduct were such that it became necessary for her to commence proceedings for divorce, which she did, and in the case a judgment was taken out here within the past week; this Mr. Granger was in the employ of Mr. Judd; at about the time of Mr. Granger's marriage he brought to me a note of Mr. Judd's for \$5,000 at 30 days, and asked me if I would cash it for him, stating that certain sight drafts had been drawn upon him; finding he was short, and having no reason to believe that his statements were untrue, I let him have \$500 for the note for 30 days; he got married and went off; I found before he had been in my

family for a month, I had a scoundrel for a son-in-law, and for six years I tried my best to reform him; and that note I think I have still; it was supposed to be signed by Judd, and it was a forgery, indorsed by my son-in-law, Mr. Granger, and he did, after he got back from his wedding trip, give me some money; I think it was \$150 or \$200 on account of the note that was indorsed on the back of it; and it was no doubt money he had saved out of the \$500 I had given him to go for his wedding expenses; and you probably have received your information in connection with that matter from this man, who is thoroughly unreliable, thoroughly untrustworthy; he can not be believed under oath, under any circumstances; and if he has ever made any such statement as that to you that I ever received any such money for any such appointment, he has told you that which is absolutely and unqualifiedly false.

Q. Are you through? A. Yes, sir.

Q. I have not mentioned Mr. Granger's name to you, and I certainly, commissioner, would hesitate and would never think of suggesting one word that would bear upon your feelings or your family difficulties? A. I feel it, Mr. Goff.

Q. I am here to do the best I can with relation to you, as a public officer; with your private affairs I have nothing to do; so I will have nothing to say about your private affairs; those are matters for your own judgment; I certainly shall not; I ask you again, if the check that you have got from Judd for \$250 was not made directly payable to your order? A. I do not think that I ever received a check from him at all, sir.

Q. Will you swear you did not? A. I am pretty sure of it; very sure of it; it is a good many years ago; I do not remember, but I think the note is not in my possession at present, but in the possession of Messrs. Frazer, Shepard & Ogden; that is the only thing.

Q. Then did you ever receive a check signed by Judd payable to your order? A. No, sir; I should say never.

Q. Then, in what shape did you receive this money from your son-in-law? A. I say he brought back, I think, that much money from the \$500.

Q. And that note has never been paid? A. No, sir.

Q. It has never been paid? A. No, sir.

Q. You never sued on it? A. No; I think it is a forgery.

Q. You never attempted to prove it? A. Oh, no.

Q. You never sued Mr. Judd for that note? A. No.

Q. Mr. Judd is a well-known merchant in the city? A. I don't know him, sir.

Q. You know him? A. I don't know him; except my son-in-law was working there, and getting \$6 or \$7 a week.

Q. If you had this note as you say given to you by your son-in-law, and signed by Judd, a wholesale produce merchant in this city, to whom was the note payable? A. The note was payable to the order of my son-in-law, Granger.

Q. Did he indorse it to anyone? A. He put his indorsement on the back of it; I should be very glad to produce the note, and give it to you.

Q. Then the note passed into your possession? A. Yes, sir.

Q. How soon was that note payable, after you got it? A. Thirty days after.

Q. When was your son married? A. He was married on the 31st of December, 1887.

Q. And at the expiration of 30 days, did you present that note for payment? A. The note was made payable, I think, at my place of business.

Q. Did you transfer the note for payment? A. No.

Q. Did you have the note protested? A. No, sir; never had it protested.

Q. Did you ever send a demand to Mr. Judd to pay that note? A. I think I had no communication with him at all.

Q. And the fact then remains, that you paid out money upon a promissory note made by a wholesale produce merchant of this city, and it has laid in your possession since 1887, and you have made no effort to collect it; is it so or not? A. No; it is not true, because I stated to you that note is a forgery, and does not contain his signature.

Q. Did you ever go to him about it? A. No; because I knew there is a hundred other such cases.

Q. You paid out money on that note? A. I paid it to my son-in-law.

Q. When did you discover he was a forger? A. Within four weeks after he was married.

Q. That was within the 30 days? A. Yes.

Q. Did you discover that note was forged? A. I did.

Q. How? A. Because he himself told me.

Q. He himself admitted it to you? A. Yes, sir.

Q. You did not make any effort to find out whether he told the truth or not? A. No, sir.

Q. It has laid in your hands ever since? A. Yes, sir.

Q. And after the 30 days, you kept him in your business for how many years? A. Never in my business at all.

Q. You kept him about you so many years? A. He was in my house.

Q. For how many years? A. I told you for six years; I kept that man for his own sake, and his wife's sake, and children's sake, and after six years I had to abandon it.

Q. Did he ever do any business transaction for you in six years? A. Not one, sir.

Q. Who delivered to you the check made by August Dux? A. I never heard of such a name.

Q. Did you ever hear of Dux, the butcher? A. No, sir.

Q. Up on Eighth avenue? A. No, sir.

Q. Did you ever receive a check from him? A. Not to my knowledge.

Q. Will you swear you did not? A. I will.

Q. Positively? A. Positively.

Q. Did you ever appoint a man on the police force of the name of Dux? A. Not to my knowledge.

Q. Does your memory fail you there again? A. I am not supposed to remember the names of the men I have appointed in nine years in the department, but I say this, if you will permit me, Mr. Goff —

Q. All right? A. I have the letters of indorsement for every appointment that I have made since I have been in the police department, connected with the papers, and if you will give me any cases that you require, I will produce those letters so that you may have them yourself to look at them.

Q. You always insisted upon that — getting letters? A. I have letters of indorsement generally from the people in whose employ they were.

Q. Even after it was announced it would cost so much money for the appointment, you insisted upon letters of recommendation; did you? A. To whom?

Q. To everybody? A. I never knew of any such fact.

Q. Will you swear it never occurred? A. I know since the history of the police department for 40 years, there has been rumors in the air of that fact.

Q. You heard rumors? A. Yes, sir.

Q. You never heard rumors concerning yourself? A. Never heard one.

Q. In your duties as police commissioner, did you ever run down those rumors since you have been in the board? A. No.

Q. They were not worthy of consideration? A. I do not say that; I have no personal knowledge of anything of that kind, and for me to undertake to excuse the entire board of commissioners, and 4,000 police officers, that would be very foolish.

Q. You heard rumors of corruption, of men having to pay for positions? A. I say there has been rumors in existence for 40 years.

Q. Did you ever hear anyone say it? A. To me, personally?

Q. Yes. A. I swear I did not; I do not think any man ever spoke to me about it.

Q. Did you ever see it in the newspapers? A. Yes; I have seen it in the newspapers.

Q. And isn't it a fact that they existed since you were in the police board? A. All the time since then.

Q. And since you have been in the board these rumors have been pretty persistent in their circulation? A. I don't know any more than yourself; I should guess they always continued so.

Q. And you, nor none of your fellow commissioners have ever taken a step to investigate the truth or the falsity of these rumors that men had to pay for appointment; I am asking you a fact, sir; did you? A. I do not recollect anything of that kind.

Q. Has it ever been brought up and discussed? A. By our board?

Q. By your police board; has it ever been brought up and discussed in the executive sessions of the board? A. Never, sir.

Q. Never heard it mentioned? A. No, sir.

Q. Do you know whether your brother commissioners heard similar rumors? A. I have no knowledge of it.

Q. You sat in the board, day after day, and you never brought it to your brother commissioners' attention? A. As to the rumors?

Q. Yes. A. No; I suppose they would hear as much as I did.

【AFTERNOON SESSION.

John McClave resumes the stand.

Direct examination (continued) by Mr. Goff:

Q. You have your check-books for the pension fund printed in numerical rotation? A. Yes.

Q. And your books are made continuing in numerical number from one book to another? A. Yes, sir; that is right.

Q. In your system of auditing and checking accounts, you compare your return vouchers with the bills rendered, do you? A. Yes, sir.

Q. The affidavits and sworn statements rendered? A. Yes.

Q. And the number of your checks that you had in consecutive order, in comparing these accounts, don't you? A. Yes, sir; that is correct.

Q. And when your vouchers are returned from the bank, do you take your vouchers, and go over the payments that you have made, checking each payment, with the vouchers returned from

the bank? A. That is done by the treasurer's bookkeeper, Mr. George B. Gott, who has been there 22 years.

Q. Who has control or personal charge of these check-books?

A. The treasurer's bookkeeper, Mr. Gott; the payments are made under the direction of the board, and all checks are signed by the treasurer, and countersigned by the chief clerk, and treasurer's bookkeeper.

Q. And the checks being made, are drawn by the treasurer, it will follow that the treasurer has the check-book in his possession? A. Excepting to sign the checks; yes, sir.

Q. What? A. After they are signed by the chief clerk and treasurer's bookkeeper, they are brought to me for my signature; I am personally responsible for it, and my bond is \$480,000.

Q. I am not questioning that, sir? A. The payments are all made under the direction of the board of police commissioners, the checks are drawn by the bookkeeper, and signed by him, and brought to me for my signature, he takes them back, and when they come back again he checks them with his bank-book, and we have a lot of those vouchers and can find them, without any trouble.

Q. Your stubs show the names of the payees of each check?

A. Yes, sir; about 1,200 of those pay vouchers are paid quarterly, each three months.

Q. I call your attention to the stub No. 33,486, and ask to whose order that check was drawn? A. Where is it?

Q. On top, sir. A. I do not know just what those figures are; if you permit me to ask the bookkeeper's clerk, he will know; that seems to me "A. M."

Q. "All." A. I don't know what that means.

Q. I am asking the treasurer of the police board now. A. I don't really know what that means; I never have seen it before; and the bookkeeper himself, I should rather fancy, it means all checks are drawn on that bank.

Q. Don't fancy. A. Well—is it the Bank of North America?

Q. Bank of North America, yes; treasurer's office? A. Yes.

Q. Now, I ask you, on stub No. 23,487, the word "stubs" appears on that? A. There don't seem to be any amount there; I rather fancy no check was drawn.

Q. I want to know where the check that was attached to this stub has gone; what was done with it? A. I can not tell you; that I don't know.

Q. I am asking the treasurer of the police board to explain, if he can, where those checks are; what was done with them? A. Mr. Goff, that reads "All;" that on this page; yes, "All this page not used;" that would seem to explain it.

Q. Where are the checks? A. They have not been used.

Q. Where are they? A. Really, I could not tell you; if any checks of that kind have been used, we would have vouchers for it; I say now, positively, that no check has ever been drawn for any of those numbers specified there; and I take it for granted from that fact.

Q. I show you the next page, the same number, the same words, "All stubs on this page not used—2, 4, 5 checks? A. That account was marked closed, at some time before that; they would not draw any checks if the account had been closed.

Q. Let us see? A. That is in 1890.

Q. This is December 30, 1890? A. Yes, sir.

Q. From check No. 33,485, inclusive, to check No. 35,500, which make 2, 4, 5, 10, 15, 16 checks? A. Yes, sir.

Q. According to the numbers here? A. Yes, sir.

Q. What I want to know is, Mr. McClave, that, inasmuch as there were 16 checks in this book, unused, why were they not drawn in the ordinary way to some payee? A. Supposing the account had been closed, what would be the necessity of drawing them?

Q. If the account had been closed? A. The account had been closed.

Q. The account has been closed? A. Certainly; the Bank of North America account has been closed there; you have got your pass-book there; that explains that very fully, Mr. Goff; we would not draw any checks on an account that had been closed and there was no money in the bank.

By Senator Cantor:

Q. It was the end of the check-book, was it not? A. Yes; the end of the check-book.

By Mr. Goff:

Q. If the account had been closed, the last check being No. 33,484, in this check-book that I have shown you, how is it, that a new book, a new check-book, was opened in the same bank, commencing with 33,501? A. Well, is that after the date—

Q. I don't know about the date? A. If you will permit me to refer to the deposit-book, which shows just exactly; the account was closed in the Bank of North America, which, I think, is some three years ago, or about, that you will find that there is no check drawn after that time in that bank, and if there are some two or three checks in a book there, and it is marked down there that the checks were not used in that

book, and they opened more afterward; I can not understand, except the check-book was about out, and they got a new check-book, and may have commenced it.

Q. The last check was 33,484? A. And this 33,581?

Q. Yes; what has become of the blank checks? A. The have not been used; that is all; they are marked "not used," and your pass-book would show that.

Q. I want to know, Mr. McClave — you, as a treasurer of a public department, to explain how it is that blank checks should be allowed to disappear? A. Mr. Goff, I want to say to you that I hardly think that a business man, business men; that if, when they got to the tail end of the book, and then had their bank-book balanced, they might take the three or four checks and use them for waste paper, marking on the stub just what was done with them; it is marked on them they were not used; I would like to reiterate distinctly that neither directly nor indirectly have I ever used one penny of the police money in any way, shape or manner for any of my personal accouts; if you will permit me to make that statement over again; and I challenge you or any other man living to show any other fact; I am under bond for \$480,000 to the city for the payment of the police department; I am under direction to pay the policemen; the checks are drawn by the treasurer's bookkeeper, and when he signs those checks, and brings them to me, I sign them; he has charge of the detail work; and I would like to have you put them on the stand; I could not take a dollar, if I wanted to, without having all these other people join with me and aiding me.

Q. Do you know any of the checks belonging to the stub in question were destroyed? A. Personally, I have no knowledge of that; and I prefer that you ask the treasurer's bookkeeper about that; he would know more particularly about that; but if they have ever been used, Mr. Goff, you would have them in the return checks from the bank.

By Mr. Bradley:

Q. Did I understand that upon the ceasing of one account there, you opened a new account in another bank? A. No, sir.

Q. Or is that a continuation of the same account? A. Those appear all to be in the same bank, in the Bank of North America; the account in the Bank of North America was closed, I think, under the direction of the board, some four years ago; at that time, there were some rumors as to its financial position, and the board of commissioners directed the treasurer to take out the money there was there and put it into the Importers and Traders' Bank, which was done.

Q. And in opening this check-book, you started with a new even number? A. With new numbers.

By Mr. Goff:

Q. In the same bank; the only point I want to get light upon for the committee is, whether or no, it is a proper practice for a public department in this city that the blank checks should be allowed in the hands of any person excepting responsible officers of that department? A. No, sir; it is not; they would not —

Q. They might be? A. They would have to forge three or four signatures.

Q. Forgeries have been committed before? A. Yes; that is true; but we would get it back again; if a forged check went there, we would get it back among our vouchers.

Q. By the way, speaking of that department and treasury, I might as well touch upon that matter now; there is an annual appropriation made to that department every year? A. Yes, sir.

Q. By the board of estimate and apportionment? A. Yes, sir.

Q. Can you tell what the increase of that apportionment has been since your term of treasurer of the board? A. Well, it has not been very much; I have been treasurer there for about nine years, and I think that the appropriation last year was about \$5,000,000; about \$4,950,000 of that was amounts fixed by the statute law of the State; the balance of it was for supplies and alterations, and repairs, and such things as that; I would state this: I can get at that, I think, better; I have handled, as treasurer, since I have been in the department, nine years and four months, about \$56,400,000, if you divide that in that time; take about \$5,200,000 last year, it would about cover it.

Q. The disbursements of the department are not subject to any auditing officer, but some officer in that department? A. You mean now in reference to the supply —

Q. The whole fund? A. In reference to the whole fund, of course you understand that the great bulk of that fund goes for the payment of the uniformed members of the force, and we have what is known as time clerks and extension clerks, and sick-time clerks, and all that sort of thing, and each one has his different branches, and filling out the pay-roll, and certifies to the accuracy of that fact; and then there is a treasurer's bookkeeper, and he goes over all the accounts in detail, and puts his check on it, as to whether correct or not; after that is done, a check is made for that pay-roll, and the captain takes it away, and a duplicate copy is sent to the comptroller, and it balances with the comptroller on the 15th of each month.

Q. There are no accounts or claims submitted to the comptroller before they are paid? A. Yes; election accounts are paid by the comptroller.

Q. Outside of the election accounts? A. Well, there is nothing there, except alterations, and repairs, and horse feed.

Q. Whatever there is there, the department is its own auditing officer, so far as the disbursements are concerned? A. Will you permit me to explain, the chairman of the committee on supplies is an auditing officer.

Q. He is a member of the department? A. He is a member of the department; it is certified through him by the clerk, who is the clerk of the chairman of the committee on supplies, Mr. Gay; those bills are then brought before the board for final action; the statement is read to the board, the bills are examined by a member of the board, and then, upon resolution, the treasure is directed to pay the separate amounts, and it is approved and indorsed on the back of it, a duplicate copy for the comptroller, one for ourselves as our own voucher, one sent down to the comptroller, and one we keep for ourselves, and on the 15th of the month, we balance the accounts with the comptroller, to see whether both agree.

Q. What I wish you to state to the committee is this; if it be a fact, that outside of your own police department, there is no auditor to pass upon your claims or accounts before being paid? A. Well, the comptroller is virtually an auditor, because we have to send him —

Q. But you send to him after the payment is made? A. Yes, sir.

Q. I want to know if there is any auditing officer outside of your department, before the payment is made? A. I don't know, unless you call the commissioners of accounts; they keep examining the accounts all the time, and they have vouchers.

Q. They come from time to time to examine the accounts? A. Yes, sir; the comptroller having looked over the record, sends it to the commissioner of accounts; and the comptroller and commissioner of accounts keep in their books an account precisely the same, as we keep in our books at police headquarters; and on the 15th of each month, we transmit the accounts to each one and see if they agree.

Q. Are you aware there is, in the police department, an official called an auditor? A. Yes; an auditor.

Q. And that the auditor is instructed by the law as well as by the comptroller, to audit all accounts from the other departments of the city, before being paid, sent to him? A. I do not know, whether or not you could call him the auditor; the auditor sends

us up this money, and he charges up the money before it is sent to us.

Q. That is what I mean; the money is sent to you, and you disburse it, according to what you deem right and proper under your own rules? A. Yes, sir.

Q. What I want to get at is, there is no controlling officer outside of your department to interpose between yourself and the payment of whatever bills you think proper? A. Well, I should say that the comptroller himself was an auditor; I should say the commissioners of accounts were auditors in the case; and I should say the general system we have —

By Chairman Lexow:

Q. The question is, before the payment is made, whether there is anybody who examines your accounts and passes upon them before the payment is made? A. Excepting the members of the police department, the clerks, and chief clerks, and all those, I think not; but they go back to the comptroller afterward.

By Mr. Goff:

Q. So that practically speaking, your department has its own men, and for its own purposes disburse about \$5,000,000 a year, without any auditing officer interfering between or before the payments had been made? A. You may put it in that shape, if you chose.

Q. Is it not a fact? A. In the first place, I want to say that almost all this entire amount is fixed by law of the State; it is simply a mathematical calculation.

By Chairman Lexow:

Q. That is a fact, isn't it; there is no auditing officer before you make the payments? A. I think the treasurer's bookkeeper is an auditing officer.

Q. Outside of the department? A. No; not outside of the department, unless you call the comptroller an auditing officer.

By Mr. Goff:

Q. So far as the comptroller is concerned, he sends you every month one-twelfth of the appropriation? A. Yes, sir.

Q. He does not see the details of that one-twelfth before it is sent? A. No; it is charged to the committee appropriation.

Q. You draw for that one-twelfth every month? A. The comptroller has in his possession the amounts appropriated by the board of estimates and appropriation in detail; now, for

instance, say he has \$5,000,000 or \$5,200,000 appropriated to pay the members of the force, and he draws his check for one-twelfth of that amount, and we credit, and take it to pay our police; the same account —

Q. And you spend that one-twelfth yourself, as a department without any further parley with the comptroller? A. Yes, sir; in conformity with the law.

Q. I am not asking that question at all; I want to get the fact, without the law, as it stands? A. Yes.

Q. And that is pursued every month during the year? A. Yes; they took it some years ago, and put it in the hands of the chamberlain, and then put it back again.

By Senator Saxton:

Q. No officer has anything to do with the expenditure of money outside the police board? A. Yes.

Q. After the appropriation is once made by the board of apportionment, there is no officer, outside the police board, can control the expenditure of the money? A. No; nothing except the report that we have to send to the comptroller.

By Chairman Lexow:

Q. You send it after the expenditure? A. Yes.

Q. Before the expenditure are you accountable to anybody? A. No, sir; except we have to certify to the amount; I say that in the department that all the money that is expended, there are seven or eight different ones, connected with the department, to certify to the different branches that amount before it comes to the treasurer; you can call it an audit; the audit is kept by the treasurer's bookkeeper.

By Senator Saxton:

Q. The men in the department are under the charge of the police commissioners? A. Yes, sir.

Q. And so, as matter of fact, after the money is procured, no officer has the auditing of it, excepting members of the police board? A. That is right, sir.

By Mr. Goff:

Q. After you sent an account to the comptroller each month, do you send him details? A. Yes, sir.

Q. Duplicate vouchers? A. Yes, sir.

Q. And that ends that transaction? A. That ends that transaction; and he sends us back a balance according to his books, if they agree.

Q. That ends the transaction? A. Yes, sir.

Q. Now, in regard to the matter — we might as well speak of it now — will you please state to the committee how many sub-committees are in existence on the police board, and their duties? A. Yes, sir.

Mr. Nicoll.—We have got all that on the record.

Chairman Lexow.—I think Commissioner Martin testified to that, but if you want the facts out again —

Mr. Goff.—Of course, I had not the pleasure of being here; however, it will do no harm, I think.

The Witness.—Commissioner McLean is the chairman of pensions; he has been the chairman of the committee on pensions for six years. In other words, he examines all applicants for pensions, and recommends to the board as to whether or not a pension should be granted to that one.

By Senator O'Connor:

Q. Is he the sole member of that committee? A. He has absolute control of it.

Q. He is the only member of it? A. The others are members of that committee, but they don't take any part in it. He makes the report under the law; the board of police commissioners are a board of trustees of the pension fund, and all the reports in connection with that matter are made to Commissioner McLean as chairman of that committee.

By Senator Bradley:

Q. He is the whole committee himself? A. Substantially, yes; but he brings those reports before the board of police commissioners acting as a board of trustees and has it acted upon by the board of trustees; I think that is one case; and the next case is the chairman of the committee on supplies, which is Commissioner Sheehan, and he has the charge of the purchasing of the supplies, and the altering and repairing account; and there is the chairman of the committee on elections; I have been the chairman of the committee on elections ever since I have been in the department, for nine years.

By Mr. Goff:

Q. Any other committee of which you are chairman? A. No, sir; I think not.

Q. Some committee has control of contracts? A. All contracts under the law have to be given out by public letting.

Q. By publication? A. Yes, sir.

Q. Do you know of any contracts given out not by publication?
A. I do; for some expenses of election; under the law they were asked to allow expenditures, owing to shortness of time we had.

Q. Any other times? A. There may have been some; but I do not recall them.

Q. Some small things I suppose that the commissioners feel they have to have done in a hurry? A. Well, the question of election expenses is not very small.

Q. But it has to be done rapidly? A. Yes; it has to be done rapidly; in that case the law gives a permission to go before the board of aldermen and with the concurrence of three-fourths vote, approved by the mayor, the commissioners have the privilege of purchasing; and in that case the chairman of the committee on supplies writes and gets estimates from different parties dealing in that material and takes the least of them.

Q. You can say that the election matters are really the only matters that the commissioners ask the board of aldermen to award contracts without publication or without public competition? A. I think that is all; there might have been —

Q. How is the contract about the building of the steamboat Patrol? A. That was awarded by contract, sir; you mean the old Patrol, or the new one?

Q. I mean the new one. A. I think it was.

Q. Awarded how? A. By public letting.

Q. By competition? A. Yes, sir; \$52,000, I think, was the price.

Q. By competition? A. Yes; I think so.

Q. You say that contract was awarded by publication and by competition? A. That is my recollection of it; I know we had a number of bids.

Q. Will you give me the name of the person who bid on that contract — the building of the Patrol? A. I do not know that I can recall the names particularly.

Q. You can recall firms? A. The firm that built the General Meigs for the United States government was one of the parties; they put in a bid; I think that bid was \$68,000.

Q. For the building of the new steamboat Patrol? A. Yes, Patrol; there were three or four others besides them; and they ran along \$60,000 and \$62,000, and the Maryland Steel Works offered to build it for \$52,000, and they got it.

Q. Was that put in after competition? A. Yes, sir.

Q. How much did the Patrol cost? A. Fifty-two thousand dollars.

Q. Who built the Patrol? A. The Maryland Steel Works, at Sparrow Point.

Q. Don't you know that the contract was awarded without advertising or competition? A. That is not true, sir.

Q. Was there ever a resolution of the board of aldermen passed with reference to the steamboat Patrol, dispensing with the publication of the contract, and asking for bids? A. If there wasn't, what?

Q. Was there ever a resolution of the board of aldermen passed dispensing with the publication first, and competition of that contract? A. I said, Mr. Goff, to you, that my recollection of it is, that it did not require that, because it was given out and advertised for public letting.

Q. Will you answer my question? A. I am trying to answer it.

Q. Can you state if, to your knowledge, the board of aldermen passed a resolution under the law, as you have stated it, empowering the board of police commissioners to award that contract for the building of the steamboat Patrol without public competition or advertisement of that contract? A. I did not say that they did.

By Chairman Lexow:

Q. Will you answer yes or no; we will get through much quicker in the end? A. I am asking—

Q. Do you recollect whether they did or not? A. My recollection is that it was given out by public contract.

Q. Do you recollect, Mr. Commissioner, whether or not application was made to the board of aldermen to dispense with any public bidding? A. No, sir; I don't recollect about it.

Q. Have you any positive recollection on that subject? A. My recollection is that the bids and propositions were brought about by public letting; I may be mistaken about that.

Q. You may be mistaken about that? A. Yes, I may be; it may be the board of aldermen gave us privilege to purchase without; but we had four or five bids.

Q. Can you state that the board of police ever advertised that contract for competition for the building of that steamboat? A. I have stated that I don't recollect positively about that; but that is my recollection.

Q. You don't recollect? A. That is my recollection.

Q. Your recollection inclines to the belief that it was awarded by private letting; isn't that a fact? A. I remember that we had five or six different bids there in connection with it; the Maryland Steel Works was \$62,000 and they ran up to \$68,000; my recollection is that those bids were brought in by the fact that it was publicly advertised, but I may be mistaken about that;

it may be possible that the board of aldermen were requested to permit us to purchase without letting.

By Senator O'Connor:

Q. Do you remember whether there was a public advertising of the bid? A. I don't recall that.

Q. You remember there were several bids; but you don't know whether it was let or advertising? A. No, sir; I want to state things perfectly accurate.

By Mr. Goff:

Q. I ask you point blank if it is not a fact that the board of police requested the board of aldermen to pass a resolution dispensing with the advertisement of the contract? A. It is possible.

Q. Don't you know as a fact? A. No; but if that was so I was a party to it.

Q. How long is it ago? A. It is not very long; I think within a year.

Q. Don't you think an item of such importance as the expenditure of \$52,000 for the building of a steamboat would fasten itself on your memory somewhat? A. I tell you now what my recollection is about it.

Q. That is what I have been trying to get at? A. That we did advertise; if you have evidence of the fact that we did not advertise I am mistaken, that the board of aldermen had granted that permission.

Q. I want your recollection of it? A. I have given you my best recollection.

Q. Can you state to the committee if there was anything especial about the awarding of such contract that left it open in your recollection now to be awarded by private bid? A. No, sir; there wasn't anything irregular about it in any way.

Q. I did not say anything irregular? A. Was there anything special?

Q. That is, no special reason for awarding that contract? A. Excepting as a question of perhaps having received a number of bids in reference to the cost of it, and finding one was so much lower than any of the rest, it may have been possible that the board thought it wise to get permission to take that lowest bid.

Q. Will you state that those bids were received after advertisement? A. No, I would not say that; because there is a little doubt in my mind.

Q. If they were not to see after advertisement how did they come to be received privately? A. They were not received privately.

Q. If the public did not know that there was to be a competition for the building of the steamboat Patrol, how is it five or six persons put in bids? A. In cases of that kind, the chairman of the committee on supplies communicates with everybody almost in that line of business, and the commissioners went aboard the General Meigs, which seemed to be about the kind of boat we wanted, and examined it carefully, and had the builder of the Meigs, give an estimate what they would finish and alter that for, and that bid I think was \$68,000; the board of estimates had only appropriated \$55,000 for that purpose, and consequently we could not buy it, so got the very best bid, and got the American Steel people to bid \$52,000, and they claim that they lost \$10,000 on it.

Q. Is this the situation, that after the board of commissioners had private communications? A. No private communications at all; we did not have any private communications at all.

Q. That after the commissioners by private communications obtained private bids for the building of a steamboat that the board appealed to the board of aldermen for authority to award that to private contract without public competition is that the fact? A. I want to — there is nothing private about it; after the chairman of the committee on supplies brings to the board of police commissioners such a report, and a kind of record it made on the minutes, and it is published in the newspaper.

Q. I have used the term published for the great mass of people outside of the executive session of the police department commissioners; there are only four of you, and you are not the public; now, I ask the question to be repeated again?

By Senator O'Connor:

Q. Won't the record of the department show what was done; this seems to take up time? A. Well, with the understanding that Mr. Goff understands that I make the statement that there was nothing private about it; there was no private communication; it was of public and open board in the board meeting; it is possible the board of aldermen may have given us that privilege; the bid was \$10,000 lower than any other bid we could get.

Q. Now, speaking of contracts of election matters, what are those contracts? A. The contracts are for the stationery, or the necessary paraphernalia, in conducting the election, such as the books of registration, and the instructions to the inspectors,

what is known as the manual, and the circulars that are put up in German and Italian and English.

Q. You know just exactly what you have to furnish inspectors and other officials, don't you? A. Yes, sir; it is advertised and given out by public contract.

Q. I understand you to say that these matters were awarded by private contract—election matters? A. Oh, no; you don't understand me correctly; I did not make that statement; I say that the balance are usually purchased from private parties, without public letting, owing to the fact that we have only six days, under the law, after the filing of nominations to have from twelve to fifteen millions of ballots printed, and we have no time to advertise them.

Q. And the private letting has gone to one firm for several years? A. Yes; because he was the lowest bidder.

Q. Anything else connected with the election machinery that it awarded by private contract? A. I don't recall anything else.

Q. Who puts up the election booths? A. The small election booths?

Q. Yes. A. We have not bought in any since the year when the ballot law was passed; we had occasion to buy five or six thousand of them; Mr. Voorhees was the chairman of the committee on supplies, and he secured them.

Q. Who supplies those booths? A. Some man in Brooklyn made them; I don't remember his name; if I heard his name, I should remember it, but I don't recall it just at the moment.

Q. Did the American Lumber Company ever furnish any of those election machinery matters? A. No, sir.

Q. Did they ever furnish anything to the department for the election machinery? A. Yes, sir.

Q. Do you know anything about the American Lumber Company? A. Is that the company that a man of the name of Grant was in, from Philadelphia? I don't know them personally.

Q. It is the company of which Sam Cox, the son, is manager. A. I don't know.

Q. Do you know any lumber company around One Hundred and Twenty-third street and Avenue A that furnished any lumber or other material to the police department for anything? A. I don't think they furnished a dollar's worth; I make that statement that they never did; I think if they had I would have recollected it.

Q. Do you remember the building of these polling-booths in streets where quarters can not be obtained in private houses? A. That is what they call portable buildings?

Q. Yes? A. Yes, sir; I recollect those very well.

Q. Who built those? A. Well, I don't just recall his name; but I know about where his place is; it is on Eighth avenue, about Thirtieth street; he has been in the business there a great many years, and the price he charged is \$100 apiece for them.

Q. Do you know how much they cost to produce? A. I am a lumber dealer, and I have 30 odd years experience, and can make some calculation, and I don't think it is possible to make \$10 apiece on them; I don't think you could.

Q. What is his name — Lynch? A. No, sir; that is not his name; John Lynch is a lumber dealer right across the way from me.

Q. Do you use his trucks frequently? A. Never in my life.

Q. No furnishing of lumber to Mr. Crimmins' contract? Whose trucks carried the material out of the yards? A. My own.

Q. You furnished the lumber to the Crimmins' contract? A. Yes, sir; John D. Crimmins; I furnished the lumber to him.

Q. He buys quite frequently from you? A. Yes.

Q. And you also furnish lumber to the New York Elevated Railroad. A. I did for the time I was the lowest bidder; I have not sold them much for two or three years; they have got it down so low I can not touch them.

Q. Were you in the department when Jordan L. Mott furnished plumbing in the department? A. I don't know that he furnished much; he sells some to the department now.

Q. Does he sell them any now? A. Yes, sir.

Q. How much? A. We did not use very much; probably the whole amount don't amount to more than \$3,000 or \$4,000 a year.

Q. When did Jordan L. Mott have a three or four thousand dollar account with your department, during the last four or five years? A. I should think two or three times.

Q. Give every person furnishing plumbing work? A. Mr. Higgins furnished some.

Q. A good deal, didn't he? A. No.

Q. He put in all the stoves? A. He put in an estimate for them to the committee on supplies, and it amounted to \$140 or \$150.

Q. He never had anything to do with the department until he married your daughter? A. No, sir.

Q. He was a journeyman plumber, wasn't he? A. No; he had been in business on Fourth avenue; he has been in business for himself 15 years; he succeeded his father; he has been in business in Fourth avenue between Twenty-sixth and Twenty-seventh streets.

Q. And up to that time you did not know him as furnishing contract work for the city? A. No, sir.

Q. After he married your daughter he blossomed out as a contractor? A. He is not a contractor; he did not supply the department, I should not say over \$2,000; in the course of the year, and that is very largely made up around election time when they have these little stoves in the booths, and he put in an estimate, and he was lower, something like \$2.50; that didn't amount to enough for public competition.

Q. And you as treasurer of that board, you passed upon your son-in-law's vouchers and accounts? A. By recommendation of the chairman of the committee on supplies; I do not think there is any crime in it either, as long as it is fair.

Q. You regard it as entirely proper? A. Absolutely fair, sir.

Q. You recognize the existence of that law? A. He takes no advantage of the fact; he is a business man.

Q. You recognize the existence of the law prohibiting an officer being interested or when any of his family; you recognize the existence of that law prohibiting any city official or member of his family from being interested in city contracts? A. I do not think there is any such law as that; I think the law is —

Q. Would it surprise you to be told there is? A. I think you have got it a little wrong.

Q. Would it surprise you to be told there was such a law? A. Yes, sir.

Mr. Nicoll.—It would surprise everybody. The law is that no officer of the city government shall be interested in a city contract. There is nothing about his mother, or sister, or cousin, or his aunt.

By Mr. Goff:

Q. Then, if there be not anything about the sister, or cousin, or aunt in the law, there ought to be.

Mr. Nicoll.—Then appeal to this committee.

Mr. Goff.—That is what we are doing.

Mr. Nicoll.—It gives great scope for legislation.

By Mr. Goff:

Q. In May, 1887, how many years had you been police commissioner; I have forgotten the date? A. I was appointed first on the 24th of November, 1884.

Q. You had been three years then? A. Yes, sir.

Q. Where did you live then? A. I think I lived at 156 West Seventy-second street; that is my recollection of it.

Q. When you were appointed? A. I rather think so; it may have been I was at Forty-seventh street; it was about the time I moved to Seventy-second street.

Q. In 1887 you bought the house 156 West Seventy-second street for \$55,000? A. No; I did not.

Q. When did you buy it? A. No; I did not, either.

Q. When; you have got things a little mixed up? A. I bought it in 1883.

Q. For \$55,000? A. No; I paid \$44,000.

Q. You mean 156 West Seventy-second street? A. Yes; I told you what I got in the selling of it; I lived at 124 West Seventy-second street; you have got the selling time, I guess.

Q. Didn't you take a mortgage on that house for \$45,000 when you sold it? A. No.

Q. Didn't you take a mortgage on this? A. No, sir; I did not.

Q. Did you sell it outright? A. House 124 West Seventy-second street had a mortgage of \$45,000 on it, held by the New York Life Insurance Company.

Q. That is the one you are living in now? A. Yes.

Q. What is the price of that, altogether? A. Seventy-seven thousand dollars.

Q. And when did you buy your place up in Connecticut? A. I bought it a year ago last Friday.

Q. How much did you pay for that? A. That cost me between \$50,000 and \$55,000.

Q. Did you ever say that place cost you in the neighborhood of \$130,000 altogether? A. I never made any such statement to any living soul.

Q. Do you know Mr. Parks, of Hass Brothers? A. What is his business; William A. Park, do you mean?

Mr. Nicoll.—Spell it, please.

Mr. McClave.—I think I understand Mr. Goff. You say Mr. Park. You said Park Brothers. I do not know such people.

Q. I said Park, working with Haas Brothers? A. I don't know him; I have never seen him.

Q. You mean the party that decorated your house? A. It is D. S. Hess & Company; Mr. Park is with them.

Q. You know Park now? A. Yes, sir.

Q. And you bought that house for \$82,000? A. I don't say so.

Q. What is the figure? A. Seventy thousand dollars.

Q. And yet you bought that house for \$70,000 away in 1892, wasn't it? A. Yes; that is right; 1892.

Q. And what year did you buy your place in Connecticut? A. I bought it within about a year.

Q. In 1893, was it? A. Yes, sir.

Q. How was your business in 1894? A. The nature of my business?

Q. How much did you have in the lumber business? A. I had about \$500,000.

Q. That year? A. Yes.

Q. What was your loss that year? A. I don't think I had any loss at all.

Q. Hadn't you \$11,000 loss that year? A. Oh, no.

Q. You say your books will not show that? A. They will not show anything of the kind.

Q. You have a yearly balance I presume of your account? A. Yes, sir; I told you what I think about that; I think that if you could call upon the adjusters to examine the relics of the books which were left from the fire showing the profits of my business for the year 1892, you would find it was upwards of \$100,000, not a loss of \$11,000.

Q. That is, the relics of your books? A. Yes; from the fire of 1892.

Q. I understand when you were examined on the question to-day that they were all destroyed? A. Not all of them.

Q. The vouchers were destroyed? A. These books of 1892 were in the safe at the time of the fire in the back office; they were an old set of books that had been closed up in 1892; a new set of books were opened in September, and when they came to make an adjustment of that loss it was necessary to get those books to get their figures; according to their own statement at that time they showed my profit to be \$113,000.

Q. Was that the year you went to California? A. No, sir; I think that was only three years ago; I went to California about four or five years ago.

Q. In whose private car did you go? A. I never rode in one in my life.

Q. Did you go as a guest of any one? A. No, sir; bought my tickets, and paid my way.

Q. Who accompanied you? A. My wife and five children.

Q. Who conducted your business while you were away? A. I had three sons, one 37, another 26 and the other 23 years old in my office.

Q. Did they conduct your business? A. Yes, sir; they are fully competent to do it too.

Q. Do you know a man by the name of Joe Cohen? A. I have no recollection of such a name.

Q. Did you ever appoint a man of that name on the police

force? A. I would not like to say I have or have not; I do not remember a name of that kind.

Q. You can not remember the name of any one that you appointed by that name? A. I can not recall them; I suppose I have appointed a thousand men since I have been in the department.

Q. By the way, commissioner, as to the number of appointments, each commissioner has a share allotted to him, hasn't he? A. Under a sort of custom that has been in the department for a number of years they sort of rotate about making their appointments.

Q. Each commissioner is assigned a number of appointments? A. Suppose you had a vacancy of roundsman, we would have the same number.

Q. You divided up? A. There is no direct understanding, but it is informally understood; it is a matter of fairness that they simply rotate in making nominations.

Q. It is practically so is it? A. Practically so.

Q. You make your requisitions on the civil service commissioners for 100 men? A. That would give 150 names.

Q. You would make a requisition for a hundred men? A. I suppose so.

Q. How is that hundred disposed of? A. That would give 150 names to make the selection of 100 from.

Q. What system did you adopt in selecting the 100 from the 150? A. Well the system that I adopt as a rule, for instance, supposing there is a man upon that list, and he comes to me recommended by somebody I know, or by employers in business as being a worthy man and has reason to believe he would make a worthy officer I then take that man before the board of police commissioners, and state that he is on the eligible list, his percentage is so and so, and he is a candidate for appointment, and they examine him, and if there is no objection to him a vote is taken and he is appointed.

Q. Are you influenced by his percentage on the list, or by his recommendation? A. Well, there is that little variation on that list; for instance, suppose you take a hundred names, I do not think you will find a variation in a hundred names, of three per cent. according to their method.

Q. After you use 100 of the 150 names what do you do when the next requisition comes? A. We notify the civil service board of the fact of the appointment of the 100, and when we call for the other list that 50 comes back to us again.

Q. But you do not appoint out of that 50 until you get a new hundred with that 50? A. That is right, sir.

Q. If there be 150 eligible names sent to you by the civil service commissioners you appoint 100 out of that 150; why don't you exhaust the remaining 50 before you make the remaining requisition? A. Because they won't allow us to do it under the Civil Service Law.

Q. Will you point out a rule that would prevent your doing it? A. There is in the board of police department, and I recall it very distinctly because the question has arisen within three or four weeks; the civil service examiner has given us an official opinion that when the number required by the requisition had been filled, that we could take no further names from that requisition; that if we required anything additional to that we must make a new requisition, and they would send us a new list; that is the opinion of the civil service board.

By Chairman Lexow:

Q. Then Mr. McClave, those 50 that were not appointed out of the first requisition may be carried on from one requisition to another, and not a single one of those 50 at any time be appointed; is that a fact? A. Such a thing could not possibly be; it is hardly possible.

Q. It is possible? A. Yes, such a thing is possible; if you want my opinion of the Civil Service Law I do not hesitate to give it to you.

Q. To whom do applicants or appointments to the position of patrolman first apply? A. Some to the commissioners and some to the civil service examining board.

Q. Do they not apply to the individual commissioners? A. Some of them to individual commissioners with letters of introduction from one we know making application; last year I think all told there were 1,200 applied and got 200.

Q. Isn't that application addressed to some individual commissioner in the first place? A. Yes, sir.

Q. So that parties who had recommendations to you, their applications would be addressed to Hon. John McClave? A. Yes; I take it for granted it is so with the other commissioners.

Q. That is a fact so far as you know? A. So far as I know.

Q. What do you do with it when that application is received? A. Which, the letters?

Q. No, the application? A. The application is in the form of a letter, one or more letters coming to the commissioners asking that opportunity may be given to the applicant to enter into a competitive examination for the position of patrolman; the commissioner then examines him as to his age, height, general condition, and if he has reasons to believe that he would make a

proper applicant for the police force, he then has him write a letter in his own hand-writing, making application; he fills up a blank which is prepared by the department and then goes to the surgeons for physical examination; they meet every Monday for that purpose; the surgeons, after they examine him, they certify by certificate if he is all right or not; if he is not all right, they reject him; if he is all right, they make an affidavit to that effect; then he is certified to by five men who have known him for not less than five years; after that is done, these papers are filed with the civil service board, and we hear nothing from them unless they come upon the list.

Q. Did you ever receive a check from Captain Max Schmittberger? A. No, sir; why should I do that?

Q. Did you? A. No, sir; never in my life.

Q. You never received a check from him or any other person? A. No, sir, and I challenge you or any other person to prove it; I don't know why you throw out an insinuation in reference to that.

By Mr. Goff.—I do not see any reason for your becoming indignant about it.

Senator Saxton.—Do you regard that as an insinuation?

Mr. Nicoll.—Yes; the whole course of this counsel has been one long insinuation without an atom of proof.

Witness.—I will answer your question, however, by saying absolutely and unqualifiedly, no; I suppose that 's what you want?

Chairman Lexow.—We can not control the tone of the voice and the exact wording.

Mr. Nicoll.—Can not you control your own counsel?

Chairman Lexow.—Yes, but we can not tell him how to choose his words.

Witness.—I want to say that I never recommended Captain Schmittberger for appointment; he was not recommended by me.

Q. I know he wasn't; in other words you did not appoint him?

A. I had nothing to do with him excepting to vote for him, on the recommendation of Mr. Voorhis.

Q. Mr. Voorhis appointed him? A. Yes, sir; he recommended him, and I thought he was a very good man.

Q. You did appoint Captain Price? A. Yes, sir.

Q. And Captain Westervelt? A. Yes, sir; I think I did.

Q. And Captain Martens? A. Yes, sir.

Q. And Captain Straus? A. Yes, sir.

Q. And Captain Stephenson? A. Yes, sir.

Q. Five captains? A. That takes us back 10 years; yes, sir.

Q. Did you take into consideration the politics of the gentlemen named, in appointing the captains? A. Will you allow me to refer to memoranda?

Q. Yes, sir; certainly.

Mr. Nicoll.—Did you appoint Captain Westervelt, or Commissioner French? A. I don't remember exactly, it is a good while ago; must be eight or nine years ago; I don't just remember; I think I recommended him, but I am not sure about that; I am sorry to detain you, Mr. Goff; you asked me about who, Captain Price?

Q. Any of the captains I have mentioned? A. In the case of Captain Price, he was recommended to me first by 35 business men, in the nineteenth precinct, taking in such stores as Arnold Constable & Co., Stearns Brothers, and Park & Tilford, and all the hotels and theaters.

Q. Any other houses in the precinct that recommended his appointment? A. A very large number of business houses in the precinct, all large business men.

Q. What is the nature of the business generally? A. Dry-goods generally; no liquor saloons or anything of that kind.

Q. There were not? A. No, sir; then by Mr. McClellan, president of the Mutual Bank; Charles H. Taintor; also the president of the Garfield Bank; and Mr. Wannamaker.

Q. What is Mr. Wannamaker's business? A. In the lumber business; he is president of the Republican Association of the Seventeenth Assembly district, and Mr. Jacobus and Mr. Gresham, president of the Republican Association in the Fifteenth district; Judge Beach; Mr. Bellamy, secretary of the Republican committee.

Q. There are no liquor stores or any other kind of houses? A. No, sir.

Q. When did you make that memorandum? A. I say no liquor stores, no; I said business houses; they were all business houses; I would be very glad to show you the petition and letters; I have them.

Q. When did you make that? A. I made this along this winter sometime.

Q. In the appointment of Captain Price, did political considerations prevail? A. Well, I say the only possible way in which I could tell just what a man's political views were at all, if I was looking after that, would be guided by the nature of the letters, which came in reference to him.

Q. You mean to say, you did not know what his politics were before you appointed him? A. I had reason to believe that he was always a Republican; although he had never spoken to me about his politics.

Q. Do you know that he is a member of the Democratic club in his district? A. No, sir.

Q. Don't you know he is a member of the Pequod Club? A. No, sir.

Q. Didn't you hear it? A. I saw something in the paper about it.

Q. You appointed him as a Republican? A. Yes, and I guess he is one, without a doubt; I have understood that he claimed it was a social club and not a political club.

Q. Captain Price claimed—? A. In a general sense, Captain Price was known for a great many years as being a rabid, dyed in the wool Republican; Mr. Brookfield is one of the strongest indorsers for appointment.

Q. Captain Price, who is a member of the Pequod Club, a Tammany Hall organization of the Thirteenth district, is a Republican of the most pronounced and rabid stripe? A. He formerly was.

Q. Then he has been converted? A. I believe he votes the Republican ticket now; that is my honest conviction.

Q. Captain Westervelt? A. He is another old time Republican under Captain Williams.

Q. Do you know that he belongs to the Pequod Club? A. No, sir.

Q. Do you know that he is a member of a Democratic club of the Tammany organization? A. No, sir.

Q. This is the first time you heard it? A. Yes, sir.

By Mr. Nicoll:

Q. Have you his appointment there? A. I don't think so; I think there are 17 out of the 35 Republicans to-day; I believe half of the police captains of the city vote the Republican ticket; have done so in the past; what they may be in the future, I don't know.

Q. They are supposed to treat their Tammany conferees the same as you do yours in your department? A. In what respect do you mean?

Q. You said the other day you always voted with your Tammany commissioners? A. I said I did not believe it would be a part of my duty as a commissioner to go in that board as an obstructionist, without any ground for it; I had never known any of my colleagues to do an unfair thing.

Mr. Goff.—I would like to suspend the examination of the witness, at this point, if the committee please.

Chairman Lexow.—Very well; will Mr. McClave kindly step down for the present.

Granger, Gideon, being called as a witness, duly sworn and examined, testified as follows:

Q. You are a son-in-law of Mr. McClave? A. I was; I don't know whether I am yet.

Q. You are the man to whom he referred here to-day? A. I don't know; I did not hear him refer to anything.

Q. He referred to a man who had married his daughter, and who had marital difficulties in his family? A. I am that person; I am the only one whom I know of in that regard.

Q. He referred to a man by the name of Granger who married his daughter and then 30 days after his marriage showed himself to be a forger and scoundrel; are you that man? A. I am the only Granger who married into the McClave family.

Q. You draw a line at the forger and scoundrel part of it? A. Yes, sir.

Q. When did you marry Miss McClave? A. Married before Dr. Sanders on the 31st day of December, 1887.

Q. How old were you then? A. Twenty-four, I think.

Q. Were you a resident of the city of New York, at that time? A. Yes, sir.

Q. What was your business? A. At that time?

Q. Yes, sir. A. Produce commission business.

Q. Where employed? A. I was in business for myself, at 145 West street.

Q. Were you alone in business or connected with anybody else? A. I was alone, but had desk room with George W. Judd, who is still in business.

Q. How long did you remain in connection with Mr. Judd? A. Until 1889, I think.

Q. Mr. McClave has sworn here to-day that he never received a check signed by George H. Judd for the sum of \$250, payable to his order; do you know whether such statement is true or not? A. I know he received a check.

Q. From Judd? A. Yes, sir; but I don't know whether it was for \$250 or \$200; it was either one or the other.

Q. How do you know he received that check? A. Because I took it up to him.

Q. Did you see Mr. Judd write the check? A. Yes, sir — no, sir; Mr. Judd did not write the check; he signed it; the book-keeper, W. P. Dixon, wrote it.

Q. To whose order was that check made payable? A. John McClave.

Q. Do you know what that check was for? A. It was either \$250 or \$200.

Q. Do you know what the consideration was; what was the money paid for; did Mr. Judd owe Mr. McClave money? A. No; I don't think Mr. Judd did; I did.

Q. Was that check in payment of a debt that you owed to Mr. McClave? A. No, sir; because the check was from Mr. Judd.

Q. What was the check for? A. Well—

Senator O'Connor.—Do you know what it was for?

A. Well, it was for—

Q. Do you know? A. No, sir; I don't know.

Senator Bradley.—You were just going to say what it was for, and you drew back. A. No; I don't know what it was for.

Q. Had Mr. Judd and Mr. McClave any connection in relation to that check, or any other check? A. No, sir.

Q. What did you say to Mr. McClave, when you handed him that check? A. I said, "Here is the money that we promised to pay you."

Q. That who promised to pay? A. That "we;" I think I used the word.

Q. Whom do you mean by "we?" A. I meant myself, and a man by the name of Cooper.

Q. Who was Cooper? A. He was a man that was connected with us in business in a certain way.

Q. How did Cooper come to owe him any money? A. I don't think Cooper did owe him any money; in fact, I know he did not.

Q. Why did you include Cooper, as here is the money "we promised you?" A. Because I was indebted to Cooper, I think, more than anything else.

Q. You were indebted to Cooper? A. Yes, sir.

Q. Was Cooper connected with Judd? A. No, sir.

Q. Where did Cooper live? A. Whitehouse, New Jersey.

Q. Was Cooper an applicant to get on the police force? A. Yes, sir.

Q. Was that check which you handed to Mr. McClave in consideration of Cooper's getting on the police force? A. Yes, sir.

Q. The amount of money? A. No, sir; I don't think it was.

Q. Did he pay anything, as far as you know, to get on the police force? A. Yes, sir; I know that he did.

Q. How much did he pay? A. He paid \$250.

Q. To whom did he pay it? A. He gave me \$50 of it.

Q. To whom did he give the other portion? A. He gave the other part to W. P. Dixon, our bookkeeper.

Q. What did W. P. Dixon do with it? A. Deposited in the bank to the credit of George W. Judd.

Q. And then George W. Judd drew his check to Mr. McClave's order? A. Yes, sir.

Q. In equivalent of the money deposited by the bookkeeper? A. I don't know whether it was in equivalent to that or not.

Q. It was to represent it? A. It was the same amount.

Q. Don't you know that was the understanding? A. Yes, sir; I think it was.

Q. It was the understanding that the money should be paid in that way, was it not? A. That was the understanding.

Q. And you gave it to Mr. McClave, stating to him that "there is the money that he is to get according to arrangement? A. No, sir; I took the check up myself; I said to him that I was sorry I could not get the money before, but business was that way that I could not.

Q. Did Mr. Cooper get his appointment? A. Yes, sir; he is on the force now.

Q. Do you know what precinct he is in? A. No, sir.

Q. Did you ever see him after? A. Yes, sir.

Q. Do you know how soon his appointment was made after this money was paid? A. No; I could not say that.

Q. Did McClave say anything to you when you handed him the check? A. No, sir; I don't think he did; I know he did not.

Q. Do you know where that check is? A. Well, there are some men, I believe, looking for it at George W. Judd's store.

Senator Bradley.—Do you know where it is? A. No, sir.

By Mr. Goff:

Q. Where did you last see it? A. When I left Judd's.

Q. Had it returned from McClave when you last saw it? A. Yes, sir.

Q. As a voucher? A. Yes, sir.

Q. Did you see Mr. McClave's signature on the back of that check? A. Yes, sir.

Q. In Judd's possession? A. Yes, sir.

Q. Do you know whether Mr. McClave deposited that check in his bank or in any of his banks? A. Yes, sir; of course he deposited it in his bank.

Q. Do you know a man by the name of August Dux, a butcher? A. Yes, sir.

Q. Nine hundred and fifteen Eighth avenue? A. Yes, sir.

Q. Mr. McClave has sworn here to-day on the stand that he never received a check from August Dux; can you state whether that is true or untrue? A. I know the existence of a check from August Dux for \$300, and Mr. McClave's signature on it.

Q. Who delivered that check from August Dux to Mr. McClave? A. George Richards, now dead.

Q. Who was he? A. I think Mr. McClave will remember, himself, of Dux coming to his house one evening and inquiring about the check.

Q. After the check was given? A. Yes, sir.

Q. Mr. McClave has sworn here to-day that he did not know of such a man by the name of August Dux; is that true or untrue?

A. Well, he may have forgotten; I know that he knows the man, because I introduced him to him myself, in his front parlor.

Q. Do you know what bank that check was drawn upon? A. Fifth Avenue Bank.

Q. Do you know the date of it? A. May 17th.

Q. Do you know the date of it? A. May 17th; I don't know the year.

Q. Do you know the number of it? A. Two hundred and fifteen, blue letters.

Senator Lexow.—That is the number of the check?

A. Yes, sir.

By Mr. Goff:

Q. When did you last see it? A. Two weeks ago.

Q. In whose possession? A. A man by the name of Dorsey.

Q. Did you recognize Mr. McClave's signature on that check?

A. Yes, sir; I told him he better burn it up.

Q. Told who? A. Told Dorsey.

Q. You apprehended this investigation going on, didn't you?

A. Well, yes; I apprehended it, but then the amount of the check and what he told me it was for, I did not quite believe it was so.

Q. Did you recognize Mr. McClave's endorsement on the back of the check? A. Yes, sir; I did.

Q. Who handed that check to Mr. McClave? A. Well, that I can't tell who handed that to him.

Q. Did you have any conversation with Mr. McClave about the subject-matter of that check, about the \$300? A. Yes, sir; I told him that this man who had to pay this \$300 was either a brother or brother-in-law of Mr. Dux and he was a man who could ill-afford to loose the money.

Q. Was the man who put up the \$300 a candidate for appointment on the police force? A. Yes, sir.

Senator O'Connor.—The man who put up the money or Mr. Dux? A. It was Mr. Dux's check, and the man who was to be appointed was either Mr. Dux's brother or brother-in-law, which I don't know.

Q. He was an applicant for a place on the police force? A. Yes.

Senator Lexow.—Is it a man by the name of Phillips? A. I don't think it was.

Q. Who was the man who put up the money? A. I don't know, and I don't know that the man was put on the police force.

Q. What took place between you and Mr. McClave on this

matter? A. He said he didn't think the money had been put up; I said I am quite positive that it has been put up; it was put up in George Richards' hands; Mr. McClave said, "If Dux put up any money in George Richards' hands, he was a damn fool."

Q. Who was George Richards, at that time? A. George Richards, I think, was a roundsman or patrolman in the police department.

Q. Was he attached to headquarters or to any precinct? A. Well, at the time that I had the conversation with Mr. McClave about it, I think he was doing patrol duty, or was assigned as a ward detective, or something like that.

Q. Do you know anything about whether the man who put up the money was appointed or not? A. I don't think that he was.

Q. Was the name of that man from New Jersey, while I think of it, Frederick G. Cook? A. No, sir; Cooper.

Q. Frederick G. Cooper? A. Yes, sir.

Senator Saxton.—Did the witness state when that transaction was? A. In 1888, latter part of January, 1888.

Q. Soon after you were married? A. Yes, sir.

Senator Lexow.—How long after you were married? A. Within four weeks; I was married the last day of the month, 1887, the last day of the year.

By Mr. Goff:

Q. Did you ever hear this George Richards called McClave's orderly? A. Yes, sir; called frequently.

Q. He used to do duty at McClave's office at headquarters? A. Well, he did the same duty there that his other man does there now.

Q. Who is the man now? A. Barnes.

Q. Does he stand at the door? A. He has a desk outside at the entrance of Mr. Grant's office.

Q. Who is Mr. Grant? A. Mr. McClave's private secretary.

Q. What is his first name? A. Charles Grant.

Q. Do you know if that George Richards ever made a promissory note to Mr. McClave? A. Yes, sir; he did.

Q. Do you remember the amount? A. It is \$350, I think.

Q. What was that for? A. George Richards told me it was for an appointment, but I afterwards found it was for betting on horse races; I don't mean Mr. McClave's betting, I mean Richards' betting.

Q. But he gave the note; he got the money from Mr. McClave? A. Yes, sir.

Q. Who indorsed that note? A. This man Dorsey.

Q. Has he that note in his possession? A. Yes, sir; at 414 West Fifty-fourth street.

Q. Did you ever see a check from Max Schmittberger, in Mr. McClave's possession? A. No, sir; I did not see a check.

Q. Do you know anything about it? A. I heard there was one.

Q. Did you ever see one? A. No, sir.

Q. Did you ever hear that he made a check to the order of Richard Mott? A. Yes, sir.

Q. For what amount? A. Three thousand dollars.

Q. Do you remember when that was made? A. Eighteen hundred and eighty-nine, I think.

Q. Do you remember any particular occasion, was it when Schmittberger was appointed?

Mr. Nicoll objects to this line of inquiry, as not within the scope of the investigation or resolution.

Senator Lexow.—If that is the only objection, we will pass upon it very quickly by overruling it. We have a right to inquire into any question on corruption, and this comes within the general head of corruption, if it is true.

By Mr. Goff:

Q. Will you state all you know about that check of Captain Schmittberger? A. That is all I know; that day that he was appointed, or rather I don't know whether he was appointed that day or not; I know the day that he was assigned to the first precinct, steamboat squad, pier A; he passed by my store and I congratulated him; it was the following week that I heard rumors uptown.—

Mr. Nicoll objects.

Q. We do not want to hear rumors? A. That is all I know.

Senator Lexow.—Then the objection will be sustained.

Q. Did you ever see Mr. Mott in reference to the matter? A. No, sir.

Q. Did you ever talk with Mr. McClave in reference to the matter? A. No, sir.

Q. Do you mean to say that you did not hand that check to Mr. McClave? A. Yes, sir.

Q. You did not? A. No, sir; I did not.

Q. Do you know an officer by the name of Joe Cohn? A. No, sir.

Q. Did you know him? A. No, sir; I know his brother Sol Cohn.

Q. You know of his brother Joe? A. Yes, sir.

Q. Do you know of his application to get on the police force? A. Yes, sir.

Q. Will you state what you know about it? A. I know he was appointed.

Q. Anything else? A. I know it cost him \$205 to be appointed.

Q. To whom was that money paid? A. Well, \$30 of it went to the doctors' room; when he went up to the doctors, some way or other; he was half an inch too small.

By Mr. Nicoll:

Q. Did you see the \$30 paid? A. Yes, sir; it was paid to me and I sent it up to headquarters.

By Mr. Goff:

Q. It was not sent to Mr. McClave though, the \$30? A. No, sir.

Q. What was the balance of the sum? A. One hundred and seventy-five was the balance.

Q. Where did that go? A. That was left at police headquarters in an envelope.

Q. Who left it there? A. I did.

Q. With whom did you leave it? A. I left it on George Richards' desk.

Q. Were there any directions on the envelope? A. No, sir; only "important and valuable."

Q. Did George Richards know to whom to deliver that envelope? A. He told me afterward he gave it to Mr. McClave, whether he did or not, I do not know.

Q. Did you go there with your envelope with any understanding as to why you should take it to police headquarters? A. Well, this man was not up to the requirements of law to be made a policeman.

Q. You mean physical requirements, size? A. Yes, sir; he was under height, I think there was half an inch difference or something.

Q. Was he not rejected at first on that account? A. Yes.

Q. That was before the \$30 went up? A. Yes, sir.

Q. And after the \$30 went to the surgeon, he grew half an inch higher? A. Yes, sir.

Q. Did you converse with any person about the failure of Cohn to pass on account of his inability to reach the standard height? A. No, sir; only his brother; his brother said if it could be fixed, he was willing to pay the money.

Q. Was there anything said to you about your knowledge of police methods, or his knowledge of police methods that he ought to know better than to expect the surgeon to pass him when he was under size, except for a consideration? A. I don't know—I know that something was said about ought to know better than go before the doctors, if he was under size, but I don't think anything was said about fixing the business at all; in fact I know there was not.

Q. How did you come to get the \$175? A. His brother Joe Cohn gave it to me.

Q. What did he give it to you for? A. Because he had been appointed after he passed the doctors.

Q. Did he give it to you for your own use? A. No, sir.

Q. For whose use did he give it to you? A. I don't know whose use he gave it to me for; it was given as the money —

Senator Bradley.—Did he say when he gave it to you, what did he say? A. He said, "Here is the money that you say it will cost."

Q. Did he understand that you had relations with Commissioner McClave to secure the appointment.

Mr. Nicoll objects.

Q. Did you say anything to him, or he to you about to whom this money should go or your relations with Mr. McClave? A. No, sir; I told him that father had said that if he passed the doctors successfully, that he would appoint him.

Q. Was there anything said about money? A. Between McClave and myself?

Q. No, between yourself and Mr. Cohn, the brother? A. He said, "Whatever it costs, I will fix."

Q. Did you tell him that there would be a cost? A. No, sir.

Q. How did he know there would be a cost? A. It is a foregone conclusion, I guess.

Q. It is an established custom and practice, is that it?

Mr. Nicoll.—I move to strike out any such assertion by counsel as that.

Senator Lexow.—Does the witness know anything about the habits and customs of the police board or police department; can you speak with reference to the customs and habits pertaining there? A. No, I cannot speak; all I know is that it is an open fact; it is generally known through the community that it takes so much money to be a policeman.

By Mr. Goff:

Q. Do you remember the appointment of a man by the name of Edward McDonald, who was foreman of the Erie docks? A. I do not think he was appointed, he was not the last time I heard from him.

Q. Is there anything about his application for appointment? A. In money matters, you mean.

Q. Yes, sir. A. Yes, sir; United States Senator Lapham's son, Charley Lapham, of Canandaigua, was the backer for him, through John Raines, who was Congressman, who was at one time member of the Senate; I had several letters from them about him, and he also failed to pass the doctors, and finally did.

Q. Was Mr. McClave here in New York at that time, or in

California? A. When McDonald first made his application, he was in California; his son, Steve McClave, was the man who made the application for McDonald, but on that application McDonald did not pass.

Q. Was there any money accompanying that application?
A. No, sir.

Q. And he did not pass? A. No, sir; he did not pass on that application.

Q. Did he make any other application? A. Yes, sir.

Q. Was there any money accompanying the second application? A. There was a draft sent from Canandaigua for \$50.

Q. Who sent the draft? A. C. B. Lapham.

Q. This gentleman you have spoken of? A. Yes, sir.

Q. What was that to be used for? A. The doctors, as I understood it.

Q. What became of that draft — when you say doctors, you mean the police surgeon? A. Yes, sir.

Q. What became of the draft? A. I don't know what has become of that draft.

Q. When did you last see it? A. Well, I saw the draft once, and that was the day it came.

Q. In the letter? A. In the letter.

Q. What did you do with it? A. I sent it to, I think, a man by the name of Kelly.

Q. Was the draft made payable to you? A. Yes, sir; the draft was made payable to me.

Q. What did you send it to Kelly for? A. Kelly was understood to be the go-between in the Nineteenth Assembly district.

Q. Between him and the man who made the appointment? A. Between him and the alderman or commissioners or whoever it is who makes the appointment.

Q. Was that the first transaction you ever had with Kelly?
A. That was the first I ever had with Kelly.

Q. How do you know he was the go-between? A. Rumor.

Q. You sent him a draft made payable to your order on the strength of the rumor that he was the go-between? A. No; I met him and spoke to him.

Q. About this business of appointments? A. Yes, sir.

Q. So you knew to whom you were sending the draft? A. Yes, sir; I knew who it was going to all right.

Q. What became of it? A. I never saw the draft from that day to this.

Q. Do you know what became of McDonald? A. I don't know whether he is on the force or not.

Q. Who was the surgeon who first examined McDonald, do you remember the name? A. No, sir; I don't remember the names.

Q. If I mentioned it to you, do you think you would recognize it? A. No; I don't think I would; I never knew any of the names of the doctors or anything, excepting a very few.

By Senator Lexow:

Q. Were you, at that time, in the business of procuring appointments? A. No, sir.

Q. Were you, at that time, doing a good deal of that business? A. No, sir; I was not; any more than anybody else; occupying the position at that time that I did, the people knew I was connected with Mr. McClave, and they thought I might be able to help them, and more or less I did have applicants come to me, but when they spoke about money matters, I would refer them to Mr. McClave, and say he was not a man like that.

Senator Bradley.—I understood you to say that you gave \$50 draft to Kelly yourself? A. No, sir; I sent it to him by mail.

Senator O'Connor.—Did you have a talk with Mr. McClave about these appointments? A. I spoke to him in regard to his appointment.

Q. Did he give you to understand, at any time, that it would require money to appoint him? A. No; quite the contrary.

Senator Lexow.—Did you ever have any understanding with Mr. McClave on any question of that kind? A. No, sir.

By Mr. Goff:

Q. But you handed him these several amounts of money always, or checks or whatever came to you? A. I did not say that I handed Mr. McClave any money; I have not said so right along.

Q. Did you? A. No, sir.

Q. Did you ever hand him any money? A. Only money I owed him.

Q. You testified you handed him checks? A. I hardly think so, Mr. Goff.

Q. You put in an envelope \$175? A. Yes, sir; I left it on George Richards' desk in McClave's office.

Senator O'Connor.—What did you leave it there for; that \$175 on Richards' desk? A. Well, I left it there because I was told that was the proper place to leave it.

Q. Did you know where it was going to; who was going to finally receive it? A. I was told by Richards, as I said before, that it was for—

Mr. Nicoll.—I object to this testimony, especially as Mr. Richards is dead; it is not right.

Mr. Goff.—The main point of the Senator's question was why did he leave the money on Richards' desk?

Q. Why did you leave it on Richards' desk? A. Because I was told to.

Q. Who told you to? A. Richards, that is where it comes again —

By Senator Lexow:†

Q. You said you had given this check of \$250 or \$200 of Judd's to Mr. McClave? A. Yes, sir; that check I did give to him myself.

Q. You gave it to him for a certain and distinct purpose? A. Yes, sir; that check was given to Mr. McClave.

Q. Did you not, after that time, have any communication or conversation with Mr. McClave as to the appointments upon the force? A. I do not say that I did not have conversations with Mr. McClave in regard to appointments on the force; yes, sir; I did.

Q. You stated a few minutes ago as to the question of money when mentioned between you and Mr. McClave, that McClave expressed himself as being averse to money being used? A. Yes, sir; he did.

Q. Now, you knew that you had handed Mr. McClave a check for \$200; did you have any conversation, subsequent conversation on the subject of the money between you? A. No, sir.

By Mr. Goff:

Q. You have recently had considerable difficulty in your family relations? A. Unfortunately; yes, sir.

Q. You have three children? A. Yes, sir.

Q. And they are in the possession of your wife's father, or the lady who was your wife, if she be divorced? A. Yes, sir.

Q. You allowed the divorce to go by default? A. Yes, sir; I did.

Q. Now, I hand you a book and ask you to state if you ever saw that book before? A. Yes, sir.

Q. What is that book? A. Memorandum book of mine.

Q. There is on the fly-leaf of this book —

Mr. Nicoll.—I want to see that book.

Mr. Goff.—I deny you the right to see that book; it is not offered in evidence yet.

Senator Lexow.—Before it goes into evidence he has a right to to examine the book.

Mr. Nicoll.—I have the right to see it before he uses it.

Senator Lexow.—The court is against you Mr. Nicoll.

By Mr. Goff:

Q. I call your attention to the fly-leaf of this book, which says, "signature of the owner of this book, Gideon Granger," is that in your handwriting? A. Yes, sir; it was at that time, 1884.

Q. You started to keep this diary in 1884? A. Yes, sir.

Q. And is this here, on the other leaf of the book in your handwriting? A. Yes, sir; at that time.

Senator Bradley.—Isn't it yours now? A. I write a different hand from what I did at that time.

By Mr. Goff:

Q. I call your attention, I can not give the number of the page because it is not on it, I call your attention to the lower part of the page under the heading "cash account," to entries in lead pencil, are those your entries? A. Yes, sir.

Q. Did you make them at the time of the transactions they purport to narrate. A. Well, at that time or thereabouts.

Q. I will take the first of these entries under the name of "Little" \$250, what does that entry mean?

Mr. Nicoll.—May I not see that book now?

Senator Lexow.—I understand the counsel has the right to use any memorandum he pleases.

Mr. Goff.—Certainly.

Q. What does that entry mean? A. That it cost Little \$250 to get on the police force.

Q. Do you know his Christian name? A. No, sir.

Q. Had you anything to do with the payment of that money in any manner, shape or form? A. No, sir.

Q. How do you know that it cost him \$250? A. Kelly told me so.

Q. This go-between? A. Yes, sir.

Mr. Nicoll.—I object and move to strike out the testimony as hearsay.

Senator Lexow.—Does counsel expect to connect it?

Mr. Goff.—We will connect it.

Senator Lexow.—It may go in for the present, and if not connected it will be stricken out.

Mr. O'Connor.—I do not know Mr. Goff, by what rule of evidence you can give the hearsay testimony of anybody: what Kelly told this witness in my judgment, is not competent testimony. What John Jones told Paul Brown is not evidence against another party. It may be evidence against Paul Jones, it certainly can not be evidence against John Smith. As far as I am concerned, I am disposed to give the greatest latitude to counsel

in this investigation, as I apprehend the difficulties under which counsel labor, but at the same time we owe some duty to these men who are under this inquiry, and we owe them the duty of protecting them against rumor or hearsay of this man or that. I do not believe the evidence is competent.

Mr. Goff.—Senator, your views as a judge in a court of law would unquestionably be sound and indisputable, but we have not Kelly on trial, we have not Granger on trial nor have we Mr. McClave on trial. We have here an inquiry into the very matter alleged by Mr. McClave himself that common rumor stated that bribery was used to secure appointments on the police force, and in such an inquiry as this there must be a latitude, and the value of the testimony is for you to judge of or for the Senate to act upon. It may not be of very great value, but common rumor and common report in a community goes to make up your judgment and a verdict is not to be rendered by you upon this testimony that would send anybody to State's prison or subject anyone to a penalty; if that were so I would not rise here to offer a word in opposition to your remarks, but the point is here, if we stop at the line of strict legal testimony, I respectfully say that it will be an extremely difficult matter to get along with this investigation.

Senator O'Connor.—I agree with you in that respect, but we must keep ourselves reasonably within the bounds, but you say you may prove that common rumor exists in regard to the police department, that these rumors say so and so, but when you tend to fix upon any particular individual a charge of bribery by hearsay, I think it is going too far. We owe them a duty as well as we do the public, to protect them from a thing of that kind. Now, Kelly may have lied, he may not have told the truth. I do not think what Kelly said ought to impeach Mr. McClave's integrity, unless you follow it up by showing what Kelly said is true.

Senator Lexow.—I do not understand that this testimony is offered for any such purpose, but that it is offered for the purpose of showing that there was a go-between, between the police department and those who purchased their promotions or purchased their places upon the force. Mr. Goff means to show that a man by the name of Kelly made a statement to him that \$250 or \$300 was paid for the purpose of getting places; now, all the counsel has got to prove afterward is —

Mr. Goff.—A member of the bar has kindly handed me a memorandum that Greenleaf says that in matters of public and general import, neighborhood rumor is competent evidence. Here is a writing, made at the time, and it is competent evidence within

those rules, for this witness to state the reasons which prompted him to make that writing.

Senator O'Connor.—If you simply wish to prove the existence of rumors against this department, I think it is competent. In that view, as far as public rumor is concerned, it is proper and competent.

Mr. McClave.—Will you allow me to say just one word here?

Senator Lexow.—If the committee agree. We think counsel will look after you better.

Mr. McClave.—My counsel is better able to take care of me than I am myself, but I want to say to you that this man on the stand here is a drunkard, a liar, a thief, and a forger, and it is too bad that he should give testimony.

Senator Lexow.—You must not take advantage of the committee in this way, Mr. McClave; it will raise a prejudice against you; we propose to defend you as far as we can; if you force us into a position where we can not defend you, we must take some other course.

Senator O'Connor.—We must protect witnesses on the stand, also, and we can not afford to have anything of that kind happen here.

By Mr. Goff:

Q. The second entry on this memorandum book, Burns, \$280, what does that entry mean? A. Same thing as the first; cost that man \$280 to get on the force.

Q. I call your attention to the third entry, Cohn, \$175; is that the transaction to which you have already testified? A. Yes, sir.

Q. About the envelope? A. Yes, sir.

Q. I call your attention to the entry, Cahill, \$250, what is that transaction? A. Getting an appointment on the police force.

Q. Do you know anything about that transaction? A. No, sir; not as far as McClave is concerned; the least bit in the world.

Q. About anybody else; we don't care about McClave? A. I heard that that man there had been appointed through Commissioner Sheehan.

Mr. Nicoll objects. Stricken out.

Q. With whom did you talk; you needn't state what was said; with whom did you talk in reference to the Cahill entry? A. A man by the name of Sullivan, 111 West Twenty-third street.

Q. Do you know his first name? A. Thomas H.

Q. What is his business? A. Liquor business.

Q. Was it from information that he gave you that you made this entry? A. Yes, sir.

Q. What is that? A. McDonald.

Q. McDonald, \$370; what does that item mean? A. That is the McDonald that did not get appointed.

Q. There is an item here, how did you come to make the entry? A. Because the money was paid in; that is where the kick came.

Q. The money was paid in and he did not get appointed? A. He did not.

Q. Through whose hands was the money paid in? A. Through my hands; that is, \$320 of it was — the fifty —

Q. To whom did you give that? A. Direct to Mr. Kelly, Eighth avenue.

Senator Lexow.—The same Kelly spoken of before? A. Yes, sir.

By Mr. Goff:

Q. What understanding had you with Kelly as to what he should do with the money? A. That money he said —

Mr. Nicoll.—I object to this as hearsay.

Senator Lexow.—I think it leads up to something, the objection is overruled.

Q. What did you understand from your relations with Mr. Kelly or your conversations with him as to what he should do with money? A. He said, "The way you make appointments, your father-in-law ought to get rich pretty quick."

Q. I call your attention to Farnsworth, \$360; what does that item refer to? A. That means for an appointment.

Q. Do you know anything about that appointment? A. Yes, sir.

Q. State to the court what you know? A. That was done through Congressman Raines of Canandaigua.

Q. To whom was the money paid? A. Direct to Mr. McClave, I understood.

Q. From whom did you understand that? A. Congressman Raines himself.

Mr. Nicoll.—I object. Is it possible that the committee will listen to a thing like that.

Senator Lexow.—Inasmuch as Mr. Raines is a competent witness himself it seems to me that it is proper.

Mr. Goff.—How shall we get at this transaction unless we surround it with circumstances leading up?

Senator Lexow.—Why can not you call Mr. Raines, if he refuses or declines to answer, you can call this gentleman again in rebuttal.

Mr. Goff.—He is not within the jurisdiction now, possibly. You may see the difficulty we might have in calling Mr. Raines. How could we ever have discovered that Mr. Raines paid this

money, unless by such testimony as this leading up to the identification of the person. Bribery can only be traced through very many, many channels.

Senator Lexow.—Then you take chances that this testimony, if not connected, will be stricken out.

Mr. Goff.—We have to take our chances; we are investigating the thing and you are the judges of what you shall reject or what you shall receive.

Q. How did you understand that? A. I met Mr. Raines at the Morton House by appointment.

Mr. Nicoll.—Will your honor permit this conversation with Mr. Raines, it is purely hearsay; in the absence of the defendant.

Senator Lexow.—I think this committee will give you full latitude for cross-examination.

Mr. Nicoll.—I should be most false if I permitted such testimony as this which ought to be obnoxious to members of this committee, most of whom are lawyers, to go in without some objection.

Senator Lexow.—The committee will be able to sift this testimony and apply the proper rules to it.

Senator Cantor.—What good will it do by striking it all out afterward?

Mr. Goff.—The counsel states it is in the absence of the defendant; who is the defendant?

Mr. Nicoll.—In the absence of Mr. McClave; you are making the witness testify that Mr. Raines gave, or met him at the Morton House to give him a sum of money to give to Mr. McClave; I ask for the protection accorded to any man under such circumstances.

Mr. Goff.—I ask that Mr. Nicoll confine himself to the facts; nothing has been testified to here that Mr. Raines said that this money was to go to Mr. McClave, not a word, that is Mr. Nicoll's own assumption; whether it effects Smith, Brown, Jones or Robinson in this department, it is competent.

Senator Lexow.—I do not think I would go any further in that matter, Mr. Goff, I think you have all you want in that matter.

Mr. Goff.—Cannot we show a step in this direction where everybody covers up his tracks and smothers his transactions.

Senator Saxton.—Would you ask us to find anything against this police department on the strength of what this witness said Raines told him.

Mr. Goff.—Standing alone; no.

Senator Saxton.—How are you going to aid it or support it except by the testimony of Mr. Raines himself as to what took place with him, or what had taken place with reference to what he speaks of.

Mr. Goff.—I submit to you this question; how is it possible for us to discover names of persons who had direct transactions?

Senator Saxton.—This witness said that Mr. Raines told him something with reference to a corrupt bargain between him and the police department; that has led up to the point where you discover that Raines may know something about this matter.

Mr. Goff.—It is not my duty or power to infringe upon what you gentlemen may consider the proper line of examination, but I simply suggest to you the impracticability of our reaching a definite conclusion unless we follow it step by step.

By Senator O'Connor.—Would you consider this proper testimony; I have heard from the Metropole Hotel from a half dozen different people that Captain Schmittberger paid \$10,000 to be made captain to the police board; would that be evidence?

Mr. Goff.—No, sir; that forms public rumor.

Senator O'Connor.—The authority you refer to in Greenleaf, public rumor is one thing and particular conversations is quite another, that is not public rumor at all. I can convict by my testimony, swear that I have been told by a dozen different people that this captain paid \$10,000; would that be evidence against any of them?

Mr. Goff.—Would it not be proper for you after hearing that statement at the hotel—suppose some one said that Schmittberger paid \$15,000 for his appointment, would it not be proper to put him on the stand and ask him who told him so and then go to Smith and ask him who told him so and so on?

By Senator Lexow.—Yes, you have all that, you have got to this point where he says Mr. Raines told him so.

Mr. Goff.—That is all I want to do.

By Mr Goff:

Q. Did I understand you to say that that money went through your hands? A. No, sir; it did not.

Q. Now, I call your attention to the next item, Coleman, \$500; what does that mean? A. Coleman was a patrolman and he wanted to be made roundsman, and it cost him \$500 to be made a roundsman.

Q. State to the court your knowledge of that whole transaction?

Mr. Nicoll objects.

Mr. Goff.—You see, gentlemen, it will be simply a question of physical endurance.

Senator Lexow.—Go right on Mr. Goff.

Q. State to the committee your knowledge of the transaction?

A. Coleman called at the house one night, No. 124 West Seventy-second street.

Q. Whose house? A. Mr. McClave's house; I was living there at the time, and he asked to see Mr. McClave, he was busy I think upstairs; I went down into the billiard room with him and he told me what he wanted done.

Q. What did he say? A. He went into the billiard room and told me what he wanted done.

Mr. Nicoll.—I object to that.

Senator Lexow.—That is a statement of fact.

Mr. Nicoll.—I object to it.

Senator Lexow.—It is overruled.

Mr. Goff.—My learned friend is on the other side of the bar now; when he was counsel for commissioners of accounts in this city, investigating —

Senator Lexow.—The committee has ruled with you, Mr. Goff.

Mr. Goff.—It was a question of Phillip drunk or Phillip sober.

Q. Go on about Coleman. A. He told me what he wanted done, and I told him it would cost more than he said it would, he said, how much; I said, "Well, you ought to go seven hundred and fifty to a thousand dollars," he said he couldn't go that, but would cut it in half. I said all right, do that; I said, "Now, if you will agree to pay \$500, go down and see Mr. McClave and he will fix it for you;" he went down and saw him and he is a roundsman to-day.

By Senator O'Connor:

Q. Saw whom? A. McClave.

Q. Did you see McClave about it? A. Yes, sir.

Q. Did McClave agree to do it for \$500? A. I know he put up \$500 and he is a roundsman to-day.

By Mr. Goff:

Q. Into whose hands did it go? A. I don't know; not into mine.

Q. Do you know who received the money? A. Someone in the police department got the money or he wouldn't have been made roundsman if he hadn't.

By Senator O'Connor:

Q. How do you know it? A. He told me that he put up \$500 at headquarters; I don't say he put up any money in McClave's hands.

Q. Did you have any words with McClave at all on that matter? A. Yes, sir; I told him that he called there at the house to see him.

Q. Did you tell him what occurred between yourself and Coleman? A. I said he wanted to be made a roundsman; I said he was a very honest fellow — deserving chap — been on the force seven years; I think it was seven years, and that he was well connected, been a good officer and that things could be made all right.

Q. Did you say anything to Mr. McClave about Coleman's offer to put up money? A. No, sir.

Q. You said everything would be all right? A. Yes, sir.

Q. What did McClave say? A. He told me to send him down to him.

Q. Did you see Coleman after that? A. Yes, sir; I seen him within three weeks, and I told him to go down to McClave's; I didn't send him down.

Q. You told him you had conversed with McClave about his case? A. I said that I would speak to Mr. McClave in regard to him.

Q. And that you had spoken to him? A. That was the second time I saw Coleman after that.

Q. The second time, that is what I mean, did you tell Coleman then that you had seen McClave, and that Mr. McClave told you to send him down? A. Yes, sir.

Senator Lexow.—Did you use that expression, "Things would be made all right?"

A. Words to that effect; I don't know whether it was "Things would be made all right," or "Things could be fixed all right," or what words I did use, but substantially the same thing.

Q. Do you know whether it was those specific words? A. No, sir; I do not.

By Mr. Goff:

Q. But that was the substance of what you said? A. Yes, sir.

Q. I call your attention to an entry on the bottom of a leaf in your diary, February what, Saturday, 22d? A. Yes, sir; that is under 1884 year; it was on Saturday, whatever year it was; what year it was I don't know; I didn't put the year down on most of those memorandums; I have scratched down there that one there; that is 1890.

Q. In other words this memorandum was constructed to run one year only? A. Yes, sir; I got tired of keeping it.

Q. I call your attention to these entries, "Went to see Dr. Nesbitt for Mr. McClave about Monahan; o. k.;" — did you make that entry? A. Yes, sir.

Q. Did you go to see Mr. Nesbitt? A. Yes, sir; and asked him why it was that McDonald didn't pass, and, in fact, I knew why

he didn't pass, for two reasons; one was that he had disorder in the system and bleeding piles; that I knew, anyway; that was one of the reasons; I told Mr. McClave that, and he said, "You go down and see if Dr. Nesbitt can not fix it."

Q. You did go and see Dr. Nesbitt? A. Yes, sir.

Q. Did you tell Dr. Nesbitt what McClave had said to you?
A. Well, I don't know whether I did or not; I know that I told Dr. Nesbitt that I had heard that McDonald didn't pass, and I supposed it was on account of his bleeding piles and disordered system.

Q. What did Dr. Nesbitt say?

Mr. Nicoll objects.

By Senator Lexow:

Q. Who is that? A. The police surgeon.

By Mr. Goff:

Q. What did Dr. Nesbitt say? A. He was objected to on legitimate grounds; he did have a disordered system, and did have bleeding piles.

Q. What did Dr. Nesbitt say to you? A. Said he would do what he could for him; for me to send him down.

Q. Again? A. Yes, sir.

Q. Did he go down the second time? A. I think so; I told him to; I wrote him a letter of introduction to Dr. Nesbitt, and gave it to McDonald.

Q. About Monahan? A. Yes, sir; that fellow there, whatever his name is.

Q. Did you ever see Monahan afterward? A. Yes, sir; I saw him two or three times afterwards.

Q. Was Monahan appointed? A. No, sir.

Q. I call your attention to entry under date of Tuesday, 26th of February, 1891, the lower portion of that entry; state if it is in your handwriting? A. Yes, sir; that is that Coleman business I told you about.

Q. Had an interview with Coleman, arranged for his promotion for \$500, to be put in 20 per cent., is that it? A. No, sir; two parts, it is meant to be.

Q. That is the transaction you have testified to? A. Yes, sir, the only addition being the division of the money into two parts.

Q. What was that? A. I don't recall it now, any more than what is on the book there, that is all.

By Senator Lexow:

Q. You mean two installments? A. He couldn't pay the \$500, he said, at once, and he would pay some of it when he got the appointment, and within a few weeks after would try to raise the rest, I believe he lives in Sullivan county and his father owns quite a farm there if I am not mistaken about it, and it was through him that he intended to get the balance of this money.

Q. I call your attention to the entry the 6th of August, 1885? A. Couldn't have been 1885; I didn't know anything about it then.

Q. Whatever date it is, I don't know what date, I call your attention to that entry at the bottom of the page? A. That is that Joe Cohn business, 1888.

Q. That is in your handwriting? A. Yes, sir.

Q. Joe Cohn passed—? A. Drs., isn't it?

Q. XXX; what do they mean? A. Extra good.

Q. What does C. B. mean? A. I don't know; I was studying that yesterday.

Q. What does O. K. mean? A. That he passed the doctors.

Q. That is the one you have testified to? A. Yes, sir.

Senator Lexow.—We will adjourn now until half-past 10 to-morrow morning.

M. Nicoll.—I desire to ask this witness a few questions before adjourning. I hardly think it is consistent with the fairness and dignity of the servants of the State of New York to suddenly interrupt the examination of one of the police commissioners of this city by a witness of this character in the middle of the afternoon when you have his entire tale, without qualification, limitation, explanation, or knowledge to the public whatever, of its real character, to take an adjournment. If you think that is the way this proceeding ought to be conducted, as you have frequently reminded me that I have no rights here I will bow in submission.

Senator Lexow.—The character of the witness has been stated according to the impression made by Commissioner McClave in the strongest kind of terms.

Mr. Nicoll.—I will satisfy you of the character of the witness in 10 minutes if you will give me an opportunity.

Mr. O'Connor.—Mr. Goff has not got through with the witness yet, and it is passed the hour, we ought to take an adjournment until to-morrow morning.

Mr. Nicoll.—The thing is all printed in the morning papers and I am denied the right of cross-examination, 24 hours elapse before McClave has a right to be heard and before I have an opportunity to examine this witness. Impressions are created

which can never be recalled and in all respects it strikes me that it is not a fair thing to this man or to his family, that this man should be allowed to slink into court in the middle of the afternoon and then tell his tale as he has told it without any questions being put to him on cross-examination. The value of this investigation to the city and State is the conviction in the public mind that you have treated every one with fairness; that you have not put up men unworthy of belief or men of good character as unworthy of belief.

Mr. Lexow.—I do not see how we can violate every rule of evidence. Mr. McClave was satisfied to leave the stand; he did it and said he would leave with pleasure, and the last witness took his place; there was no objection made then. You will have all the opportunity you want.

Mr. Nicoll.—It is a perfect outrage.

Senator Lexow.—You cannot prove anything stronger than Mr. McClave has stated in reference to this witness.

Mr. Nicoll.—I can, because I have the documents in my hands.

Senator O'Connor.—Did not Mr. McClave characterize him as a thief, scoundrel and forger, and do you propose to make that good by his own confessions or documents.

Mr. Nicoll.—Not by his own confessions, I will prove it to the satisfaction of every reader to-morrow morning that this man is unworthy of belief.

Senator Lexow.—It is our bounden duty to protect the witnesses as well and until you have proved to the contrary this committee is going to believe he is a creditable witness.

Mr. Goff.—I think the demonstration of Mr. McClave was a very unseemly one on the floor of this committee.

Senator Lexow.—We will adjourn until half-past 10 to-morrow morning, May 22.

Proceedings of the fourteenth meeting of the committee, Monday, May 22, 1894, at 10:30 a. m.

Present.—All of the Senate committee, and counsel on both sides.

Mr. Goff.—Mr. Chairman, I am informed that the witness on the stand yesterday is not in court this morning, in compliance with your order. I saw the witness myself, after the session of the committee yesterday, and he informed me that he would be here sharp at half-past 10. I have had my messenger seek for him and I have been unable to see him or find him here in court. If your honor will please have him called, and if he is not here, have the sergeant-at-arms produce him in court; we have given the committee his business address and his residence; that is all that we can do,

Chairman Lexow.—Is Gideon Granger in court? The sergeant-at-arms has been instructed to produce him.

Mr. Nicoll.—I never expected this witness to come back; what has now happened, is not a surprise to me or to my clients. We talked it over last night, and we agreed that he would never appear here again; he would never again insult the seven gentlemen who represent the Senate of this State by impeaching the lies which he commenced yesterday afternoon. This man was a son-in-law of Mr. McClave, and only last Friday, in the interests of his family, Mr. McClave took the witness stand against him, before Judge Dugro, in the Superior Court —

Chairman Lexow.—Mr. Nicoll, you will have to come to order, if the witness is not produced, you will have your remedy, to move to strike out his testimony.

Mr. Nicoll.—I move to strike it out now.

Chairman Lexow.—No; he may be produced after a while.

Mr. Goff.—It is a most remarkable statement, that Mr. Nicoll and his client, should have come to an agreement last night, that the witness should not appear; most remarkable.

Mr. Nicoll.—I knew he would not come, and he never will come. How long before will the chairman entertain a motion to strike out the testimony of the witness?

Chairman Lexow.—We will first search the city of New York for him, and if we do not find him, we will see that the district attorney of the county, takes the matter in hand and get him here.

Mr. Nicoll.—You will never get him here.

Senator Saxton.—That is your opinion; you do not know anything about it, do you, Mr. Nicoll?

Mr. Nicoll.—Nothing but a writ of requisition will bring him here.

Senator Saxton.—He may be sick, or there may be some other reason; we can not tell why he is not here.

Mr. Nicoll.—The committee has been grossly imposed upon, and I should think that the committee would share my indignation, at the way it has been imposed upon.

Chairman Lexow.—We will be patient and ascertain the fact, whether we have been imposed upon, or not, and we will probably be just as indignant as you, if we have been so imposed upon.

Mr. Goff.—Mr. Nicoll means that his indignation is in a Pickwickian sense.

Mr. Nicoll.—I also call your honor's attention to the fact that this gentleman was Mr. Jerome's client at one time; Mr. Jerome appeared for him in this divorce proceeding.

Mr. Goff.—Up to a certain stage of the proceedings.

Mr. Nicoll.—Up to the time when he was satisfied as to the character of the man. He has greater knowledge of his habits and whereabouts than anyone else here.

Mr. Jerome.—I do not know where he is; I have given all the knowledge that I have in reference to him.

Mr. Goff.—I am frank to say here; I do not hesitate to say it, that I saw him at midnight last night myself, and spoke to him and then had his promise that he would be here faithfully this morning.

Chairman Lexow.—Let us proceed with the testimony.

John McClave, resumed the stand, for further direct examination:

By Mr. Goff:

Q. I do not know that you stated definitely, yesterday, when the account in the Bank of North America, was withdrawn, by the police board? A. My recollection of that is, that I stated it was closed about three years ago.

Q. Closed three years ago? A. Yes; and in reference to those blank memoranda, if you will permit me to make an explanation, I think I can convince you about those.

Q. Later on we will take that? A. There was.

Q. You mean the destroyed checks? A. Yes; what you claim were destroyed; I can convince you that you are in error.

Q. Are all the vouchers which were drawn by you upon the Bank of North America, at police headquarters? A. Yes, sir; all of them.

Q. Have you got all the vouchers which you drew upon the Bowery Bank, on your personal account, or business account? A. I have the vouchers, up to the time, I think, of my fire.

Q. What date was your fire? A. On the 12th of April, 1893.

Chairman Lexow.—You mean since the fire? A. Yes; since the fire; I think when the book was balanced, those little checks are not kept ordinarily.

By Mr. Goff:

Q. Have you got your bank-book or bank-books of all your accounts in the Bowery Bank, before 1893? A. Have I got them?

Q. Yes. A. Oh, no; I brought them down to 1889, I think, yesterday.

Q. You say your vouchers from that bank were destroyed by the fire? A. Yes, sir.

Q. And your check stubs? A. Well, I have brought to you yesterday some check stubs, as far as I had them.

Q. I am speaking of your own personal account? A. Yes, sir; as far as I had them.

Q. How far is that? A. I should think it was about a year or 18 months.

Q. I mean before the fire? A. Before the fire in 1893; I think I explained to you yesterday, that my books of account and business from 1860, up to the time of that fire, were pretty much all destroyed; they were in the office, which was burned at that time.

Q. You kept all matters connected with your business, and your personal account, at your office, at your lumber yard? A. Yes, sir.

Q. And they were destroyed? A. Yes, sir.

Q. Then how is it that the bank pass-books were not destroyed? A. The bank pass-book, running back to 1889, was inside of a small steel safe, inside of the larger safe, in the front office — the middle office — and the fire did not strike that on that account.

Q. Then that escaped destruction? A. That book; yes, sir.

Q. But your vouchers were destroyed? A. Yes, sir.

Q. And you did not keep your vouchers, then, along with your bank-book? A. Oh, no, sir; in the matter of those little checks, when a book is balanced, after the book is balanced as a rule, those checks are not kept.

Q. You mean to say you did not keep the return vouchers sent to you by your bank? A. Not after we balanced the book; not after the book is balanced; after they are balanced and charged off, they are of no earthly use.

Q. You stated yesterday that in a certain year, 1892, the year I have reference to, when I asked if you had not lost \$11,000 in your business, that you had made \$100,000 that year, is that true? A. That is true; yes, sir.

Q. Do your books show that? A. My books; I made a statement to you yesterday; if you will —

Q. Do your books show that? A. If you will recall the statement that I —

Q. No; answer the question; do your books show that you made \$100,000 in the year 1892? A. I told you, Mr. Goff —

Q. No; do your books show that? A. If you will permit me to explain as to whether I have got the books or not; my books did show that; I stated that to you yesterday; I likewise stated to you that if you would go get any of the adjusters of the fire insurance people, if you would go there and make an investigation of that fact, you would discover it.

Q. Is this the fact, that the books which you claim showed

that you made \$100,000 in that year, profit, on your lumber business, destroyed in that fire? A. They were so destroyed.

Q. Where was the balance of \$100,000 deposited? A. In my regular business account.

Q. In what bank? A. In the Bowery Bank; you mean carrying the regular balance?

Q. Where was the account in the bank, that showed that you had made \$100,000 that year? A. They were in my regular business account; my banking transactions in connection with my business, as a rule, ran about \$400,000 or \$500,000 a year, and the deposits that I received in connection with the sales of material in my business were deposited in that time.

Q. You had a lumber account, a business account, in the Garfield National Bank, did you not? A. Yes, sir.

Q. For many years? A. In the Garfield National Bank, did you say?

Q. Yes. A. No, sir.

Q. Of any description? A. No, sir.

Chairman Lexow.—That was the building or repair account.

Q. Then all the accounts that you had for yourself, that you call personal or private, and in relation to your business, were in the Bowery Bank? A. Yes, sir.

Q. And not in the Garfield or any other bank? A. No other bank.

Q. And there were how many accounts there? A. There were two only.

Q. Two accounts? A. Yes, sir.

Q. In making deposits in the business account, in the Bowery bank, from the proceeds of your business, in what shape did they generally come into your hands for deposit? A. They were always in check, as a rule; there may be isolated cases where I got a few bills, but they were generally check or notes.

Q. Bills, very seldom? A. Not very often.

Q. And of course, you wrote out your deposit slips with all your deposits? A. I never kept those.

Q. No, but the bank possesses them? A. I fancy they do.

Q. Did you ever deposit in that bank large sums of money in bills? A. No, sir.

Q. You are clear about that? A. Yes, sir.

Q. And you are clear that the deposits and slips will not show that? A. I do not think they can.

Q. Have you got any doubt about it? A. I should doubt it very much indeed.

Q. Don't you know whether they did or not? A. I should not think that there was any—

Q. Never mind about your thoughts; I want an answer to the question? A. I have no recollection at this time.

Q. Refresh your recollection; it is a very important matter; will you swear that the slips of deposit in the Bowery bank, will not show that large sums of money were deposited by you in bills? A. What do you call large sums of money; give me some idea about it, and I will be better able to know what you mean?

Q. Well, say \$1,000? A. I would not like to say that I have never deposited a thousand dollars in bills in a bank; that is very possible.

Q. Will you say you never deposited a thousand dollars in bills in the Bowery bank, in your business account? A. No.

Q. Can you state from what firm or contractor or individual that you have ever received \$1,000 in bills in business, for lumber? A. I can, yes.

Q. Tell me one? A. As a rule —

Q. No, not as a rule, tell me one such firm or individual? A. From the circus people, for a number of years, they gave me \$5,000 or \$6,000, or \$7,000 in bills.

Q. When did you receive money from the circus people in bills? A. I think the last was about two years ago.

Q. From whom did you receive the money? A. From the Bailey & Barnum people.

Q. What individual handed it to you? A. I do not know whether the clerk or treasurer; whoever he may be.

Q. To whom was the money handed? A. Generally to our collector.

Q. In this case with a large sum of money in bills, do you know to whom it was handed? A. I do not know, either my collector or one of my sons, or a man by the name of Pat.

Q. That is Pat, your messenger, Pat McLaughlin? A. Yes, sir; Pat McLaughlin.

Q. How much in bills were handed to you? A. It is an absolute impossibility for me to recollect particularly in reference to these matters, running along during a period of years; if you will take the aggregate amount of my transactions there, I can explain them to you fully.

Q. I know you can, but this is only a few years ago, and the fact of receiving such a large sum in bills, from a circus company, must have impressed itself upon your mind, must it not?

A. Well, I have been doing a lumber trade of about \$500,000 a year, and it is absolutely impossible for me to recollect particularly each of those transactions, and a man might come in — I may have no idea of what exactly comes in, for I am only there two hours a day at my office.

Q. You spend two hours every morning at your office? A. About two hours every morning.

Q. And if there was a large sum of money in bills paid into your office, it would be out of the ordinary run of business, would it not? A. Ordinarily, it would be; such a thing might be possible.

Q. Would it not be so extraordinary, that it would impress itself upon your memory? A. If my attention was particularly called to it.

Q. But your attention was particularly called to it, when you remember you got the money from the circus people? A. I remember that fact.

Q. Was it true or not, that you received \$1,000 in bills from Bailey & Barnum circus, in bills? A. Yes; more than that.

Q. In bills? A. Yes, sir; they have never paid to my recollection other than in bills; no checks; they paid in bills; they paid all their bills in the bills which they took in at the office, and ordinarily their bills ran from five to six thousand dollars per year, and they generally paid them all at once.

Q. During the season? A. When they were repairing and fixing up for their circus, they would buy lumber for that purpose.

Q. That would be during the winter, would it? A. Well, whatever their season would be.

Q. Whenever they prepared for their circus season? A. Yes, sir.

Q. And their place is at Bridgeport, Connecticut? A. Yes, sir; but they fixed up their circus here at Madison Square Garden.

Q. And they bought lumber of you? A. Yes, sir.

Q. Name me one season when that occurred? A. My recollection of that is, that we have had that trade right along, for a number of years, up to about two years ago; I think it is two years ago, when they commenced to do their work by contract.

Q. Take the year 1890; did you supply material to them in that year? A. Yes, sir; I am very sure that I did.

Q. To what amount? A. I stated generally that the bills run along from about five to eight thousand dollars.

Q. For that season? A. Yes, sir; I think so.

Q. What was the largest amount that they paid you in bills? A. Well, I could not tell you positively about that.

Q. What was the largest amount of a bill that was ever collected during that year from them? A. I think their bills never ran larger than \$8,000.

Q. You say that year six or seven thousand dollars for the whole year; was the whole bill paid at once? A. I mean the entire transaction was made within a month or two; just while they were fitting up.

Q. Was the whole of their bill paid at once? A. Yes, sir.

Q. And all in cash? A. Yes, sir.

Q. And always in bills? A. Yes, sir.

Q. So it would appear from your bank-books, and your deposit slips that sometime during the winter of 1889 or 1890, there were six or seven or eight thousand dollars in bills paid by the Barnum & Bailey circus people, which you deposited in the Bowery bank? A. Yes, I think so.

Q. Do you know it? A. Do I know, as matter of fact, that they gave us those bills?

Q. Yes? A. Oh, yes; they gave us bills whenever we sold them lumber.

Q. I am asking about this particular transaction in 1890; did they pay you in bills in 1890? A. If I sold them any lumber that year, and I am very confident that I did, they paid me in bills.

Q. Do not say "if;" you have said that that they did pay your bills in bills? A. I have stated to you that we sold lumber to the circus people there for a number of years, and that my recollection particularly is, that about two years ago, they commenced to have their work done by contract; they—whenever we sold any lumber they always paid their accounts in the bills, which they took in at their office.

Q. That is very general and very vague? A. And theatre people generally do the same thing.

Q. Yes; but that is very general and very vague; what the committee would like to know, is for you to get down to a certain year; you have selected 1890, and you have stated that that year you sold these circus people lumber to the extent of six or seven thousand dollars; now, I ask you if they paid whatever sum they owed you for lumber, that year in bills? A. Yes, sir; whatever they may have owed me that year, they paid me in bills.

Q. And it was around six or seven thousand dollars? A. I should think it was about that.

Q. And they paid you that all at once? A. Yes, sir; they always paid it all at one time.

Q. Six or seven thousand dollars in bills at one time? A. Yes, sir.

Q. And you remember making out a deposit slip for six or seven thousand dollars? A. No; I have no recollection of that at all.

Q. You do make out a deposit slip, do you not? A. No; I never did.

Q. Who does make out your deposit slip? A. My bookkeepers.

Q. Who are your bookkeepers? A. My sons.

Mr. Nicoll.—I do not know whether or not the air in this court-room is oppressive to you vigorous and healthy gentlemen,

as it is to me, but with this multitude standing back here, which is very unusual in our court, with all the windows closed, there are some of us who suffer from this bad air, and it would be a very great advantage to us, if the windows could be opened.

Q. After having had a little time for reflection, can you give us any more definitely any information touching that transaction with the circus people? A. I want to say to you, that I have not given it a thought or reflection; I was not thinking of that while I was sitting here, while Mr. Nicoll was speaking; I simply say to you, that as matter of fact, that my business as a rule, ran from four to five hundred thousand dollars a year, and that I have handled since I have been treasurer of the police department, and in my business about \$70,000,000, and it is impossible for me to tell you in particular detail any transaction in connection with that.

Q. Is it not a circumstance of such unusual occurrence to have six or seven thousand dollars in bills—? A. I should think—

Q. Will you please wait until I have asked my question; I have been patient with you; is it not a circumstance of such unusual occurrence, to have a bill of \$6,000 or \$7,000 paid in paper money by a customer of yours, for lumber, that it would not escape your recollection? A. I would not be very apt to recollect it.

Q. Were they so numerous as that? A. Well, no; they were not particularly numerous, but where you are doing a business to that extent, transactions in which more or less money are coming in all the time, you are not apt to remember.

Q. And the transaction of your receiving bills in so large an amount— A. Not in proportion to the entire business; I should not think a matter of six or seven thousand dollars was a very large proportion.

Q. I am asking you about this particular matter, and if you can give us any light upon that transaction of Barnum & Bailey, having paid you six or seven thousand dollars in bills, during the winter of 1889 or 1890, for lumber furnished by you, to their circus—is that a fact? A. I have stated to you that it was a general rule—

Q. Is that a fact, or is it not? A. I told you that during the time that we were dealing with them, during those years, that their bills ranged, as a rule, from \$5,000 upwards, and that they always paid the bills for them.

Q. Is it a fact that during the winter of 1889 and 1890, that Barnum and Bailey paid you a debt that they owed you for lumber, to the amount of \$6,000 or \$7,000 in bills; please answer that question? A. I can not say positively as to the amount, or the particular year; I simply swear as to the general fact

Q. Then, will you swear that at any one transaction that you have received from Barnum & Bailey a sum in gross, to the amount of \$6,000 or \$7,000 in bills? A. I should think that was true; that is to the best of my recollection.

Q. Have you any doubt about it? A. I have no doubt about it in my own mind.

Q. If you have any doubt about it, express it now? A. I have none; I feel confident that that is a fact.

Q. You feel sure that that is the fact? A. I feel very confident, for that is my best recollection of it.

Q. It is not a recollection; it is a positive statement of fact, is it not? A. I think I have explained to you that it is absolutely impossible for me to go back a long number of years and remember a particular item or a particular amount; I think I have made that statement to you, and I have said it over and over again, and I do not think anybody else could remember items in that way.

Q. You have given the winter of 1889 and 1890; did you supply them with lumber in the season of 1890 and 1891? A. I stated to you that my recollection is that we supplied them up to about 1892.

Q. And at that time they commenced to make contracts? A. Yes, sir.

Q. And you supplied them in the winter of 1890 and 1891? A. I think so.

Q. What was the amount of your transaction with them in the winter of 1890 and 1891? A. My recollection of the transaction with them is about as I have stated to you that that is the way they ran.

Q. About that amount? A. Yes, sir.

Q. Six or seven thousand dollars? A. Yes, sir.

Q. And did you receive that amount in 1890 and 1891, in bills from them? A. I should think so.

Q. Have you any doubt about it? A. Whatever the amount of their account was, was paid in bills.

Q. And the amount was \$6,000 or \$7,000? A. That is my recollection.

Q. Was the fact that you received \$6,000 or \$7,000 in bills? A. Oh, no; I have stated that.

Q. It was unusual, was it not? A. We were getting, of course, more or less bills into the office on various accounts, but as a rule not in such large sums.

Q. It was unusual to receive such large sums as \$6,000 or \$7,000 in bills? A. As a rule, it was.

Q. Did not that fix itself, then, upon your memory? A. No; I would not be apt to remember that at all.

Q. Your memory would be apt to slide over that? A. No; I would not be apt to remember it.

Q. Was there a bill rendered to them by you for that amount? A. Always; whatever the bill was.

Q. Is there anything on your records in existence that will show that transaction? A. I can show back, I think, to the commencement of 1892; I think we have our books from 1892 up.

Q. I am asking before 1892, when you performed the work or supplied the lumber? A. I have stated to you that all those books were destroyed in the fire, on April 12, 1893.

Q. Then, so far as you know, there is no book in existence, or under your control, that will show that you received, during the year 1890, or 1891, \$6,000 or \$7,000 in bills from Barnum & Bailey's circus? A. No; we have no books back of that date.

Q. They were all destroyed? A. All destroyed in the fire.

Q. And your testimony here now is, from your recollection? A. Yes, sir.

Q. But you did sign whatever deposit slips were made, when you sent that money to the bank, whatever deposit slips accompanied that money when you sent it to the bank?

Chairman Lexow.—They are never signed, the deposit slips are not.

Q. I mean wrote out; you wrote out the deposit slips, did you not? A. I do not know whether I did or not, because I am not in the habit of doing that; I might do it.

Q. Do you know who took that money to the bank? A. No, I could not recollect that at all.

Q. You know that a deposit slip showing six or seven thousand dollars in bills, was made? A. Showing that or more or less; there might be a lot of other money coming in, in connection with the business, which would go in with that; I do not think I have made a deposit myself personally in ten years.

Q. I am not asking what you did personally; do you not know, as a business man that a deposit slip accompanying the deposit, showing the amount of coin or checks or bills? A. Yes; I know, that.

Q. You understand that? A. Yes, sir.

Q. So the deposit slips made out there by or on your behalf, must show on the face, that there were so many thousand dollars in bills? A. Yes, sir.

Q. Will you name another concern, besides the Barnum & Bailey circus, from which you received large sums of money in green backs? A. I would not undertake to state anything in connec-

tion with that; I simply mention the name of the circus, because as matter of fact, when they came in with their account, it was a large package, made up of one and two dollar bills, and I would be very apt to notice that fact in that connection, but necessarily we got in more or less bills from other concerns.

Q. So now, you are getting to have a positive recollection, inasmuch as you remember the denomination of the bills that Barnum & Bailey gave you? A. No; that is not more positive on that account.

Q. You have just stated it was? A. I have stated that my attention would be more apt to be called to it, if I saw a large package of one and two dollar bills.

Q. Was there a large package of one and two dollar bills? A. Always; that is the way they always paid their bills; they paid the bills to us, that they got in at the box-office.

Q. How could they take in the bills in the winter season? A. They never paid their bills until after the circus opened, and in the course of a week or two, after they had opened the circus, they commenced paying their bills.

Q. You mean to say that that is the mode of business pursued by a large concern like that of Barnum & Bailey? A. Yes, sir.

Q. That they paid out the bills which they received? A. That is the way in which they paid all their bills; they used to pay their bills in that way.

Q. That is, so far as you are concerned? A. Well, I was informed that they paid all their bills in that way, working off their small bills that way.

Q. It was the small bills that they worked off upon you? A. Yes, sir.

Q. Who informed you of that? A. The collectors; my son, or the manager, or whoever collected the money.

Q. Your collectors told you that? A. Yes, sir.

Q. You said yesterday, speaking of your sons, that your three sons were in New York, while you were in California, were you correct or incorrect in that statement? A. My sons, John and Alfred, were with me, and my other son was here.

Q. There was only one son here? A. Yes, sir.

Q. Did you depute to him the performance of any official work while you were away? A. Yes, sir; you mean in connection with my public duties?

Q. Yes? A. Yes, sir.

Q. What did you have him do? A. The law gives the power to the treasurer of the police department, to appoint a deputy treasurer by and with the consent of the board of police commissioners; the object of that is —

Q. Never mind the object; did you do that? A. When I went away for 40 or 50 days, it was the first time I had been away, and it was thought necessary that somebody should be left to sign the checks or make the deposits at police headquarters, and my son was appointed by the board, for that purpose; there is no salary attached to it, and he just performed such duties during the time that I was away that were necessary.

Q. He did not file any bond, did he? A. No, sir; the treasurer was responsible for his actions.

Q. You spoke something about some man over in Brooklyn, doing the election-box business; having a contract; do you remember his name now? A. If you have the name, and will call my attention to it, I will tell you; I should know it on the instant if I heard it, but I do not remember it.

Q. You do not remember it? A. No, sir; I do not remember it.

Q. Was it an individual or a company? A. An individual, I think, it was.

Q. Your engineer, Cox, lives on Long Island, or in the outskirts of Brooklyn, does he not? A. He lives somewhere at a place called —

Q. Well, a little distance outside of Brooklyn? A. Yes, sir; two or three miles outside.

Q. Had you him in your mind when you said it was some man in Brooklyn? A. No; I said to you positively, neither directly nor indirectly, have I ever been interested in furnishing any supplies to the police department from any source whatever.

Q. I did not ask you that just now; I asked you about your engineer? A. I suppose that was the inference that you brought up; I will answer the question, if you will put it.

Q. Do you know whether Sam Cox, your engineer, or his son, had anything to do with the furnishing of the lumber and manufacture of the election booths in this city for the year 1890? A. 1890 — that is four years ago.

Q. Yes; in 1890? A. I want to say right here —

Q. Do you know; answer that question? A. I do not know; I do not think he did; I do not believe he did; because I do not know anything about it; I have not seen him, I do not think in seven or eight years; I do not know where he is, or what his business is.

Q. You have not seen whom? A. My engineer's son that you are talking about.

Q. I am asking you about the engineer? A. My engineer?

Q. Yes? A. Why, no; certainly not.

Q. You swear to that? A. Positively.

Q. And if the engineer has made a statement to the contrary, he has stated what is not true? A. That I was interested in the manufacture of them?

Q. Yes? A. I do not believe he made that statement; I have no knowledge that he was ever interested in that in any shape or manner.

Q. Can you state the name of any other concern or individual, who paid your bills in paper money? A. I would not like to undertake to try to make such a statement as that; I could not; it would be impossible.

Q. You can not name any other person who paid you in bills? A. I would not say there was not, because we do to a greater or less extent, get in some bills, but the great bulk of our business is paid by checks and notes.

Q. The great bulk of transactions are with corporations, are they not? A. Not particularly so; no, sir.

Q. Let us see; you supply the Manhattan Elevated railroad with some timber, do you not? A. I have, whenever I have been the lowest bidder.

Q. You are holders of the Manhattan Elevated Railroad Company stock? A. No, sir.

Q. Or any member of your family? A. No, sir.

Mr. Nicoll.—The thought has just occurred to me which the chairman may or may not think is a happy one, but which will perhaps relieve the committee from some of its difficulty in reference to this missing witness. I read from the New York World—

Mr. Goff.—I object to that.

Mr. Nicoll.—The committee has always accorded to me the right to make useful suggestions here.

Mr. Goff.—I object to counsel reading from newspapers.

Chairman Lexow.—I do not see the relevancy of it.

Mr. Nicoll.—You have sent your sergeant-at-arms scouring around this city for the purpose of finding the witness. I find here by the paper that Mr. Granger departed yesterday—

Senator Saxton.—Do you want to give us any information by which we can find him; never mind about reading from the paper.

Mr. Nicoll.—I find, without reading from the paper, that the witness departed highly pleased with himself and surrounded by admiring friends yesterday and I now suggest that the committee inquire whether any of his admiring friends are in court.

Mr. Lexow.—Mr. Goff, you will continue with the examination.

Mr. Goff.—Of course, if it is the counsel's purpose to ridicule this committee, and turn this matter into burlesque, it is for the committee to say whether they will permit him to do it or not.

Chairman Lexow.—We will try to stand it, if you will go on.

Mr. Goff.—I think it is unworthy of my friend; I know he is always ready to perpetrate a joke, but I think it is unworthy of the dignity of the committee that we should be interrupted in this manner.

Chairman Lexow.—Continue the examination.

Q. Can you name any other person who paid you any large sums of money in bills, but the Barnum & Bailey circus people?

A. I would not like to make a statement about that, either one way or the other.

Q. To your knowledge, have any of your deposits been made in the Bowery bank or any other place on your behalf, any large sums of money in bills, except those that you have described as coming from Barnum & Bailey's circus? A. I do not know about that.

Q. Will you swear that there have not been such deposits made? A. That there has not been such deposits?

Q. Yes. A. I will not make that statement.

Q. Will you explain, if you cannot deny that —? A. You are going back now, into my personal account, are you?

Q. I am talking about that all the time. A. If you will permit me to say, that in the aggregate amount of deposit in my personal account in the Bowery bank from 1889 was about \$64,000, outside of \$58,000 which I received for the sale of my home in Seventy-second street, and a \$25,000 mortgage which I placed on the home in which I am now living, and the aggregate —

Q. Sixty-eight thousand dollars, do you say, exclusive of those two items? A. No, \$64,000, and that takes in my salary and investments which I have made during the entire ten years that I have been a police commissioner, because that account always contained that, and it often happened that in my business, whenever my sons were temporarily off for a day or two, or three days or a week, and a little short in their business accounts, that I would furnish them my check on my personal account and they would deposit it in the business account and give me a business check back and I would deposit that in my personal account.

Q. I am unable to grasp the problem as stated between your personal and business account, and I will not attempt to do it. A. Well, I think that is plain enough.

Q. What I want to know is, does the \$68,000, which you have described, include all the deposits in what you call your personal account? A. Yes, sir.

Q. Exclusive of the money which you obtained for the purchase of your house and some other items? A. And \$25,000 that I received for a mortgage.

Q. That is \$64,000 in your personal account? A. Yes, sir.

Q. That you have no reference to now, to your business account?

A. No, sir.

Q. Now, I ask you, if either in your personal account or in your business account your deposit slips will show the deposit of large sums of money in bills, other than the the sums of money you have described as coming from Barnum & Bailey's circus?

A. I have stated to you that I could not answer that question; that the deposit slips themselves would show that fact.

Q. Do you know whether or not you received large sums of money in greenbacks from other business concerns? A. I say to you that we did receive to a greater or less extent, but a small proportion in bills in connection with the entire business; but they were coming in more or less all the time.

Q. I am speaking of large sums, \$1,000 say? A. I would not call that a very large amount.

Q. Did you ever receive from any other source, except from the circus people, \$1,000 in bills? A. There is no doubt about that at all.

Q. Did you ever receive from any other concern than the Barnum & Bailey circus people, the sum of \$1,000, at any one time, in bills, in payment of an account for lumber? A. I think there is no doubt about that at all.

Q. You have no doubt about that? A. No, sir.

Q. Will you name me a person or a concern that has paid you that amount of money in bills, except the circus people? A. No; it would be impossible for me to do that.

Q. The bulk of your business is naturally here in New York, in connection with corporate interests, is it not? A. What do you mean when you say corporate interests?

Q. I mean exactly what I say? A. Do you mean in reference to my public duties?

Q. I say the bulk of your lumber business is carried on with special corporate interests in this city? A. You mean railroads and such things?

Q. Take it that way; yes? A. I have got a trade among the railroad people, and steamship people, and the theatres and hotels, and the building trade, and with cabinet makers.

Q. You supply the Manhattan Elevated Railway Company with material, do you not? A. I have supplied them with a great deal of lumber for the last 25 years.

Q. I ask you if you were a stockholder in the Manhattan company? A. No, sir.

Q. You are not? A. No, sir.

Q. Or any of your family? A. No, sir.

Q. Did you ever receive any dividends from them? A. Yes;

once; twice, I think, I did; I had a few shares of the stock which I had bought for an investment, and received two dividends upon it before I sold out.

Q. You were then a stockholder? A. I owned that stock; I purchased it for an investment; I purchased 100 shares outright, and the other I purchased upon a margin and held it about six months altogether, and then I disposed of it, and during the time that I held it, I think I collected one dividend; perhaps, two; I bought it about 1889 or 1890, and I sold it at 115.

Q. You and Colonel Hain, of the elevated railroad, are very intimate friends, are you not? A. No, sir; not particularly so, except in a business way.

Q. You visit at his office frequently, do you not? A. Not very frequently.

Q. You do visit at his office? A. I drop in there two or three times in the course of a year, perhaps.

Q. You supply the Broadway Railroad Company, do you not? A. The Broadway, and the Third Avenue Cable Company, when they made their alterations on the road.

Q. And you are supplying the cable road on the west side now, are you not? A. I am supplying a portion of it.

Q. The Fifty-third street portion, I mean? A. It runs all along Ninth avenue there; they are buying from different lumber dealers.

Q. How many steamship companies do you supply with lumber? A. I supply the Atlas line, and the Cunard line, and the White Star line, with material.

Mr. Nicoll.—I would like to note an objection. This seems to be an utterly irrelevant inquiry, into his private business.

Senator O'Connor.—The objection will be overruled, because we have held that the nature of this inquiry is such that the private affairs of the officers of the police department may be gone into to any extent for the purpose of proving the amount of property that they have now. The charge is, that these men have become wealthy by illegitimate means, and we think they ought to be glad of this opportunity to show that the charge is false. It is not necessary to repeat that.

Mr. Nicoll.—No, it is not necessary to repeat it when it is stated in wholesale language as that, but at the same time, apart from the desire of the witness to refute the imputation of dishonesty upon him, it seems that the inquiry is going too far into one's private affairs.

Senator O'Connor.—The inquiry into the private affairs will only be permitted, so far as tending to show his connection

in the public capacity—it may be disagreeable, but that is one of the instances a man assumes when he takes a public office.

Mr. Nicoll.—How can his dealings with Colonel Hain and the elevated road or his dealings with the Third avenue road have any reference to his position as a police commissioner?

Senator O'Connor.—Only to show the nature of the business and the means that he had in accumulating this large private wealth that he is charged with now having, and it is also charged that a portion of this private wealth is the result of illegitimate property by reason of his position as police commissioner.

The Witness.—I am not worth any more to-day than I was when I went into public life.

Mr. Goff.—We know of a gentleman of great prominence who stated that he was only worth \$5,000. And in a few years he was reputed to be worth millions.

A. I claim to be worth \$400,000, and I was worth that before I went into the police department; I am worth to-day that amount, no more and no less, and I have had an income from my real estate of \$25,000 for the last 15 or 20 years, but I cannot remember every little particular item in a business where I handled sixty or seventy million of dollars.

Q. So you are no richer to-day than you were before you were appointed police commissioner? A. No, sir; I do not think I am worth a dollar more than I was when I went into the police department.

Q. Where did you live when you went into the police department? A. My recollection is that I lived at 146 West Seventy-second street.

Q. Are you not gravely mistaken in reference to that? A. I do not think I am; I bought the house in Seventy-second street, I think it was in 1883, and I went into the police department in 1884; I might have bought it just about the time I went into the department; it may have been within a month or two.

Q. When were you appointed to the department? A. I was first appointed on the 24th of November, 1884.

Q. Where were you living in 1884? A. That is where I think I was living, 156 West Seventy-second street; it may have been that I did not get up there until the spring of 1885, but I think I went there in 1883 or 1884, the spring of 1884.

Q. Were not you living at 427 West Forty-seventh street, when you were appointed police commissioner? A. I lived there for 18 years; I bought that house in 1868, and my recollection is, that I sold that and bought in Seventy-second street, I think it was in 1883; it may possibly have been in 1884; it may have been within a month or two after I went into the department, but it

was just about that time; if you have the record, I will admit the record of the date, whatever that may be.

Q. Is it not a fact that you actually lived with your family at 429 West Forty-second street, when you were appointed police commissioner? A. I have given you my very best recollection of that now; it may be possible that I lived there; I bought that house in 1868 for \$18,750 and I lived there until I bought the house in Seventy-second street.

Q. And then when you lived there and when you were appointed commissioner of the police department, you were worth \$400,000? A. Yes, I think I was.

Q. And you were as rich then as you are now? A. Yes, sir.

Q. And you bought that house for \$18,000? A. Eighteen thousand seven hundred and fifty dollars.

Q. What real property did you own at that time? A. My business property — do you mean that?

Q. I mean when you were appointed commissioner? A. I owned my business property.

Q. That is your lumber yard? A. It amounts to over \$200,000; my buildings and machinery there.

Q. And you own that to-day? A. Yes, sir; I owned that much then and since; it cost me about \$200,000.

Q. What else did you own? A. In 1884, then I owned a house in Newark and several lots which I have owned for 16 years.

Q. In Newark? A. Yes, sir.

Q. Did you give that away to anyone? A. No, sir.

Q. Is it your property yet? A. Yes, sir.

Q. Was that house rented in Newark? A. No; my mother lives in it.

Q. It is in your name? A. Yes, sir.

Q. She lives there yet? A. Yes, sir; she is 90 years old.

Q. What other real property did you own in 1884? A. I think that will cover pretty nearly all about that I own; \$250,000 in my business; the house in New York and the Brooklyn property — or the Newark property, I mean.

Q. What do you value that at? A. The Newark property?

Q. Yes? A. It cost me about \$17,000.

Q. Seventeen thousand dollars, and your house in Forty-seventh street was how much? A. I gave \$18,750 for it.

Q. Is that all the real property that you own? A. I had a house, 114 Forty-seventh street, which I bought in 1862.

Q. How much was that worth? A. I sold that for \$10,000.

Q. You sold that before you were appointed police commissioner? A. Yes, sir.

Q. I want to know the property that you had when you were

appointed police commissioner? A. I gave you all except the lumber account.

Q. You have given that at \$200,000? A. That is only my business and machinery — that is only my plant.

Q. Your lumber and plant and business machinery and property, altogether, what did you value it at, at that time? A. I have valued it at pretty nearly \$300,000 altogether.

Q. Now we have had it at the time you were appointed, you were the owner of your business plant, stock and the property in your lumber yard, which you value at \$300,000, and you own property in Newark, which you value at \$17,000, and you own property in New York, the house you live in, at \$18,000; is that all? A. I should think that was about all.

Q. That makes \$335,000.

Senator O'Connor.— Three hundred and thirty-five thousand seven hundred and fifty dollars.

Q. Well, the house in Forty-seventh street was \$18,750; we will say in round numbers that it was \$335,000? A. Yes, sir.

Q. What money had you then? A. I had the money in my business necessary to carry it on.

Q. Then you include that in your estimate? A. Yes, sir; when I think of that I estimate it at about that.

Q. Outside of the estimate you have mentioned, what money had you? A. I do not know; of course I always had money in my business.

Q. Can you tell us what money you had? A. Not particularly in 1884.

Q. Had you a deposit in bank in 1884? A. Yes, sir.

Q. How much? A. We were depositing right along; carrying along our balance.

Q. How much can you say in money did you carry in 1884? A. You mean an average balance?

Q. I want to know; you have stated that you had so much property? A. I can not tell you; it may be up to-day and down to-morrow the way the account ran.

Q. You have stated voluntarily of your own motion; you were not asked; you stated voluntarily, that you were as rich at the time you were appointed police commissioner as you are to-day; having made that voluntary statement, the committee would be interested in your showing the figures that make up your wealth? A. I will be very glad to give any information that I can.

Q. I ask you, outside of the valuation which you have put upon your real property and your business interest, amounting to \$335,000, what other property, real or personal, did you

possess? A. There is no doubt but that I had some personal property of some kind, but I can not recall now exactly what it was; I had three lots in Greenwood cemetery at that time, which I have not included.

Q. You have those three lots yet? A. Yes, sir.

Q. We can exclude those then? A. I did not include anything of that kind in my estimate.

Q. Outside of your lots in Greenwood cemetery, will you give us any other property, real or personal, that you owned, when you were appointed police commissioner, outside of what you have given here? A. It is impossible, absolutely impossible, for me tell you what personal property I may have had in 1884; I may have had some little investments in stock or something of that kind; I can not recollect everything that I owned.

Q. Did you have stock? A. I think, more or less; I have had some little stock for 20 years or more.

Q. What stock did you have? A. In 1884?

Q. Yes? A. If I should make a statement at all in connection with that, I should think that I had some Consolidated Gas stock at that time.

Q. Don't say that you think; I want the fact? A. I had a little of that.

Q. I want you to state, if you can give this committee a description of any property, real or personal, of any kind or description whatever, that you were the owner of in 1884, outside of the property that you have described? A. I have given you to the best of my recollection; I have given my recollection.

Q. I find, from the record here, that you purchased the house in Seventy-second street, 222 east of Tenth avenue, 20 by 100 feet, on July 1st, 1886; that is two years after you were appointed police commissioner? A. I did not know that it was so long after my appointment.

Q. And you paid \$46,000 for that property? A. I think \$44,000 was the price of it; the deed was \$46,000, but the agreement was \$44,000.

Q. Did you pay that in cash? A. No, sir.

Q. How did you pay it? A. I gave the money—I did not wish to draw it all out of my business at that time; I think I paid \$5,000 down and gave a second mortgage, payable \$2,500 every six months, and that left a first mortgage which I paid off in three or four years afterwards; I sold my other house in Forty-seventh street in the meantime.

Q. The person from whom you bought your house was Mr. Hamilton, the builder, was he not? A. Yes, sir.

Q. My attention was diverted when you spoke of the terms of the purchase? A. I said that my recollection was of the terms of purchase that I gave \$5,000 down, and that I gave a second mortgage, payable \$2,500 each six months, until the second mortgage was completed and the first mortgage of \$25,000 was held by some institution; I think it was paid about five years afterwards.

Q. When did you pay off that second mortgage? A. I think I paid that off running through a period of a year or a year and a half.

Q. Did you get a satisfaction piece? A. It left about \$14,000 and I think it took about two years to pay it off.

Q. Did you get a satisfaction piece I asked you? A. Yes, sir; I must have; it must be on record.

Q. And that was recorded you say? A. I should think it was.

Q. You know that the second mortgage that you gave to Mr. Hamilton was recorded, do you not? A. It must have been I suppose; I did not attend to that.

Q. You got back the bond did you not? A. I must have; I suppose.

Q. Did you get it in your hand? A. No, sir; when I sold that property to Mr.—his lawyer may have got the paper; I am willing to accept the record, whatever it may be.

Q. I find by the record that on the date of purchase, July 1, 1886, that you gave a purchase-money mortgage to George C. Hamilton for \$16,000 on that house; how do you explain that? A. Then the consideration is \$46,000.

Q. Forty-six thousand dollars? A. If I give \$5,000 in money and \$16,000 on a second mortgage, the first mortgage was \$25,000 and that makes it \$46,000.

Q. Twenty-one thousand dollars and \$25,000 makes \$46,000? A. Yes, sir.

Q. Then you were mistaken when you said that you gave a mortgage in a different amount? A. No, I did not state that; I said the second mortgage was made so that I could pay it off at the rate of about \$2,500 every six months.

Q. How shortly after, was that \$16,000 mortgage paid? A. I could not recall particularly about that.

Q. Has it been paid at all? A. Yes, sir; it has been paid.

Q. You paid that next year, did you not? A. I should think not.

Q. The record shows that you paid it on June 29, 1889, less than one year after? A. Then I must have paid it then.

Q. So you cleared off \$16,000, the second mortgage, just in one year? A. I think I can give a reason for that; I sold the house

429 West Forty-seventh street, that I had purchased in 1868 and gave \$18,750 for, I sold that for \$16,000 after I had purchased the house in Seventy-second street and the money received from the sale of that house, was applied to the payment of the mortgage upon this other house and I think as to the \$25,000, that I paid that off about in the neighborhood of five years afterwards.

Q. When did you sell the Forty-seventh street house? A. I should think it was sold along eight or ten months after I moved in Seventy-second street.

Q. Who did you sell it to? A. I do not remember his name; he is some tailor on Eighth avenue.

Q. How much did he pay you for it? A. I think he paid me \$15,000 or \$16,000; it might have been \$14,500 or \$14,700; but it was in that neighborhood.

Q. Was the property in your name? A. No, sir; I think it was in Mrs. McClave's name — my wife's name at that time.

Q. And that is part of the property that you have given us as your assets when you were appointed police commissioner? A. I think that is true.

Q. So that may be struck out; the \$18,000 may be struck out of that estimate of yours? A. Yes, I think that is true.

Q. Strike out then the \$18,000; is there anything else to be stricken out of your estimate that you have given us? A. No, sir; whatever money I got from it I used in the payment of the Seventy-second street house.

Q. I am talking about your own property? A. Let me say this to you, please, about that; that that house had a mortgage of \$6,000 on it, which was on at the time that I purchased it, and it was on at the time that I sold it, so that the equity in that property —

Q. Do you swear here that Mrs. McClave conveyed that house to this alleged purchaser? A. I am not so sure of that.

Q. Are you sure of anything at all? A. Yes, sir; I am sure there is no such — I think I am pretty clear; you are carrying me back so many years —

Q. Can you not pin yourself down to a matter of this kind? A. I can not recollect positively whether — that was our home — whether it was in Mrs. McClave's name or not; I have a sort of a slight recollection that it was; that I had given it to her as a home for my family back in 1868, but it may have been in my own name; I may be mistaken about that.

Q. Will you swear that you executed a conveyance of the Forty-seventh street house to any person? A. I will stand by the record, whatever that may be.

Mr. Nicoll.— Is not that a fair statement to the committee; I

appeal to the committee for the protection of this witness; is not that fair. Let us see the record.

A. I will stand by the record, whatever it is.

Q. No; this is my private memorandum and I do not propose to furnish the witness with information? A. When I say that I am ready to stand by the record, I do not see that I can do anything more than that.

Q. I want to get your knowledge of the matter at the present time? A. I am giving you the very best knowledge that I have in reference to it.

Senator O'Connor.—The idea of the committee is this; the material inquiry is how much was Mr. McClave worth when he was appointed police commissioner and how much is he worth now. He may be mistaken about the details that make up his property, whether it was owned by his wife or himself or whether he conveyed it or his wife conveyed it, but the record will show. We simply want the facts and we think that will do.

A. My wife never had any property or anything of that kind in her possession, except it may have been that house.

Q. I will act upon the Senator's suggestion; give us a statement in reference to that property? A. There was a \$6,000 mortgage upon the house at the time it was bought and at the time it was sold.

Q. There is a search that I have here against John McClave and Charlotte McClave and up to April 18, 1894, there was not one conveyance found having been made by your wife? A. Then in that case that appears conclusively that the house was in my own name.

Q. Then we will see about that? A. I certainly know that I bought it in 1868 and I paid for it and lived in it for 18 years.

Senator O'Connor.—Then perhaps you are better off than you thought you were, if you own it yet.

The Witness.—I only know that in carrying my memory back, it occurred to me that in those days, I was dealing extensively with speculators in the lumber business and that it was a risky business, and it ruined me once, and I put the little capital that I had in Mrs. McClave's name, but I may be mistaken about that. At the time of my difficulty there was turned over everything that we had in the world for the benefit of our creditors, and we left ourselves completely stripped. We did not keep anything.

Q. When was that failure? A. That was the failure of the firm of my brother and myself.

Q. When was that? A. In 1870, about 24 years ago.

Q. Well, from 1870 up to 1884 — A. I think I was about 21 years of age at that time.

Q. From 1870 up to 1884, the time of your appointment, as police commissioner, you had overcome your difficulties and accumulated a property of about \$300,000 or \$330,000 in value?

A. That is correct; I was entitled to it, considering the business that I did.

Q. This house in Forty-seventh street — I want to be perfectly fair with you — A. Well, I want to be the same way with you.

Q. The record shows that Mrs. McClave had not title to the house and that she did not convey it; now, can you tell this committee, of your own knowledge, whether you had title to that house? A. I must have had it then.

Q. We will see (referring to memoranda)? A. If she did not have it, I must have had it.

Q. Let us see; here is a search from John McClave from November 24th to date, the date being April 12th, 1894, when were you appointed police commissioner? A. November 24th, 1884.

Q. You lived in the house in Forty-seventh street when you were appointed, did you not? A. I do not say that I did; I had an idea that I did, but you corrected that.

Q. You had that house, as you think you had, when you were appointed police commissioner, in Forty-seventh street?

A. I certainly did not move out of one, until I had the other one to go into.

Q. I call your attention to the search against you, up to date, including that time, and see if you see any conveyance from you to any person, of that house in Forty-seventh street — you can commence here? A. Then your search is not complete; that is all.

Chairman Lexow.—It may have been held in the name of some other person.

The Witness.—No; it was not; I never had any property in the name of any other person.

Q. To whom did you sell it? A. I sold it to a tailor, No. 429; if you will send up there — he is still living in the house and you will get his name; I had never met him until then; it was sold through the brokerage office of George W. Decuner, real estate agent at Broadway and Forty-second street; I certainly do not own it now.

Q. You remember that either you or Mrs. McClave sold that house? A. The house is sold, certainly.

Mr. Nicoll.—Does it not appear in your slip — that is, the second time we have caught you.

Q. What is this place that you executed a lease of a house in Forty-seventh street; that has nothing to do with this house, has it? A. No; that was some business arrangement.

Q. You got a lease of that, did you? A. Yes; he has a tenant of mine for 10 years.

Q. So that this record, this search of the Lawyers' Title Insurance Company of New York shows that there has been no conveyance from you or from Mrs. McClave of that house in Forty-seventh street? A. Well, I still say that I do not own it now; I did own it in 1868, and I sold it.

Q. Sold it in 1868? A. I bought it in 1868, and I sold it at the time I bought the house in Seventy-second street, and if your records do not show that; it is not my fault.

Mr. Nicoll.—He may have lived in it as a tenant.

The Witness.—No; I lived in it while I owned it only, and when I bought the house in Seventy-second street, I sold that house, and the money that I got from it was put or used in part payment for the house that I purchased in Seventy-second street.

Q. How near together were those two transactions? A. They were very close together—that is to say, within a year.

Mr. Nicoll.—The deed was never recorded, then?

Mr. Goff.—As we show here and as you have recognized you purchased the house in 1886 in Seventy-second street.

The Witness.—Your record shows that—what part of 1886 was that?

Q. July 1, 1886; two years after your appointment as police commissioner. A. Then I moved from Forty-seventh street.

Q. Yes; up to Seventy-second street? A. Yes, sir; then the house in Forty-seventh street was sold within a year after the house in Seventy-second street.

Q. Was it purchased directly or within a year? A. Within a year say.

Q. And you can not give us the name of the man who purchased it? A. I had never seen the man up to the time that the title was passed.

Q. Did you rent the house at all? A. No, sir.

Q. Did it remain vacant? A. It remained vacant until I sold it; I could not get as much for it as I thought I ought to have, and it remained vacant for a number of months.

Q. And the man to whom you sold it lives in the house now, do you say? A. I understand that he does; I have never seen him from that time to this; could it be possible that he could take a title and not put it on record?

Chairman Lexow.—It is sometimes done.

The Witness.—Could he hold his deed—that was not my business, was it? I will tell you a thing that will help you; that title was searched and passed by the law firm of Stickney, Spencer & Ordway, and they will give you the information about it that they have.

Q. I find a memorandum on the book of another search which shows that your wife sold that house—I want to be just with you—on December 17, 1886? A. Well, I thought so.

Q. Subsequent to the purchase of the house in Seventy-second street? A. Yes, sir.

Senator Saxton.—Is the consideration stated?

Mr. Goff.—No.

Q. Your recollection is that the consideration was \$16,000? A. Yes, sir.

Q. Do you know how that was paid? A. There was a mortgage of \$6,000 on it, and they gave me bills for the difference, excepting they gave me a little second mortgage of \$2,000.

Q. Then there was a difference of about \$11,000 paid to you at that time? A. Yes, sir; at the time of the sale; I remember that they paid it in the office of Stickney, Spencer & Ordway, and they gave me a mortgage of \$2,000.

Q. Then the amount actually paid to you was \$9,000? A. Yes, sir; about that.

Q. Then we were correct in striking that item, the value of that house, \$16,000 or \$18,000, out of your assets? A. Yes, sir; less that mortgage.

Q. No; the value of the house? A. Well, there was a \$6,000 mortgage on it.

Q. So the sale of the house in Forty-seventh street had nothing whatever to do with the purchase of the house in Seventy-second street? A. Except the fact that I told you, that when that house was sold, I used the proceeds of it for the purpose of paying off the second mortgage on the Seventy-second street house.

Q. That is the only element that it had? A. Yes, sir; about \$9,000.

Q. When did you sell that house in Seventy-second street? A. I sold it when I bought the one that I am living in at the present time.

Q. How much did you sell it for? A. Fifty-eight thousand dollars.

Q. It is \$56,000 on the record? A. I think it was \$58,000, and I think they gave me \$3,000 when they signed the contract and \$55,000 when they took the title.

Q. A \$55,000 check? A. Yes, sir; the house I calculated that I made about \$14,000 on.

Q. When did you buy the house in which you are now living?

A. About the same time that I sold that.

Q. How much did you pay for that? A. Seventy thousand dollars; there was \$45,000 mortgage upon it, and I took \$45,000 of the \$55,000 that I received from the other house, to pay that mortgage off.

Q. When did you buy the property that you have in the country? A. I purchased that about a year ago.

Q. How much did you pay for the ground? A. Twenty-five thousand dollars.

Q. There are eleven acres in that? A. No; five acres.

Q. How much an acre did you pay? A. I gave a little less than \$4,000 an acre for it.

Q. How much did it cost you to build the house? A. I think about \$28,000 to \$30,000.

Q. So that property stands you in \$50,000 or \$60,000? A. Yes, sir; \$25,000 of that I placed a mortgage on the house that I live in now.

Q. You have a house now valued at how much in Seventy-second street? A. According to what I gave for it the equity is —

Q. Give us the price? A. I have \$45,000 equity in it.

Q. And there is a mortgage on that of \$25,000? A. Yes, sir.

Q. Is the property in the country free and clear? A. Yes, sir.

Q. That makes about \$100,000? A. About \$53,000.

Q. The equity in the city property and your country property is about \$100,000, is it not? A. Yes, sir; about that.

Q. Did you buy any other property then that you have described for any person? A. No.

Q. In any State outside of New York? A. No, sir.

Q. Do you own any property in any State outside of New York?

A. No, sir.

Q. Where does your son-in-law, Mr. Higgins, live? A. In New Rochelle.

Q. Who owns the property that he lives in? A. He has got a little home there costing him \$6,000 or \$7,000.

Q. Is it in your name? A. No, sir.

Q. Was it ever in your name? A. No; he bought it himself, and I have nothing to do with it.

Q. How much money have you got in bank? A. At present?

Q. Yes. A. I do not think that I have very much; it has been very dull the past year, since my fire.

Q. You got over \$30,000 insurance on your fire, have you not?

A. That does not last long in my business; it is going in and out all the time.

Q. You say you have had a dull year in your business? A.

Yes, sir; the last year I was almost standing still for three or four months; I had my stock and office and stables burned out.

Q. Well, your business was standing still and your deposits in the bank must have necessarily been very few? A. No; we were doing some business all the time, but it was not so much.

Q. How could you do business if you were burned out? A. We were getting in stock and disposing of it all the time.

Q. You have sent for your bank passbooks, have you? A. Yes, sir; did you send me to send for my office bankbooks, too?

Q. No. A. I have sent for my private bank passbook.

Q. Did you ever collect any other sum of insurance than the \$30,000 that you have spoken of? A. You mean fire insurance?

Q. Yes; fire insurance. A. I have been insured, as a rule, for a long period of years for about \$250,000.

Q. In various companies? A. Yes, sir.

Q. How many fires have you had? A. I have had during that time—I have paid about \$220,000 for premiums, and I have received about \$50,000 fire losses.

Q. How many fires have you had? A. Two.

Q. Within what period of time? A. Since 1864; neither one broke out on my own premises.

Q. I asked you before to name the corporations to which you supplied lumber in this city? A. I can name them in a general way, running back over a period of years.

Q. Give us the names of such corporations for the last five years? A. Several steamship companies; I will answer right here, if you think that my position as commissioner has ever had anything to do in my lumber business that you are very much mistaken; it has never had anything of the kind whatever to do with my business; I have got it simply because I was entitled to it, and for no other reason; and the question of my position as commissioner has had nothing to do with it.

Q. Did you ever supply a tie of timber to Mr. Crimmins as a contractor before you were commissioner? A. I don't know whether he ever used any before that time.

Q. That is not answering my question; did you ever supply him with a tie of timber before you were appointed a police commissioner? A. I never supplied any tie; no, sir.

Q. Or any lumber of any description whatever; did you ever supply to Mr. Crimmins any lumber before you were commissioner—did you or not? A. I don't know whether I did or not; I can not tell how long I have been supplying him with lumber.

Q. Will you swear he did get lumber out of you before that? A. I can not tell how long he has been upon my books, but I think I did.

Q. Will you swear that you ever had any transaction before that with Mr. Crimmins as a contractor, in furnishing him with lumber, before you were police commissioner? A. You want to make me answer something that is not fair; how can I swear to a thing running back 10 years; I do not recollect; but my best recollection is that John D. Crimmins has been upon my books for 12 or 15 years; he bought very little lumber, probably not more than a couple of thousand dollars worth a year; and in reference to this question about the cable roads; they were not charged to Mr. Crimmins; they were charged to the Third Avenue Railroad Company and the Broadway Railroad Company; I was only one of half a dozen lumber dealers who sold them material.

Q. It is very easy for you to say what your books show, when your books are destroyed? A. You can put Mr. Crimmins on the stand, and I will be very glad to have you do so.

Chairman Lexow.—Do not make those remarks; if you will answer the questions categorically, there will be no trouble and we will get to the point much more rapidly.

Q. Will you swear that you have supplied a foot of lumber to the elevated railroads, before you were appointed police commissioner? A. Yes, sir; a great deal more than since I was appointed.

Q. Are you clear about that? A. Yes, sir.

Q. Have you a record of that? A. No; but you can go to the railroad people for a record.

Q. You are clear about that? A. I told you my books were destroyed, and I am perfectly willing to have you put them on the stand and let them produce their books; I will be glad to have you do that.

Chairman Lexow.—Do you not see that these remarks simply lengthen out this matter. If you will answer yes or no, we will get through more rapidly. If you do not know, just say so.

The Witness.—I am trying to be as truthful as I can.

Q. Name the steamship companies to which you have furnished lumber? A. The Cunard, the Atlas, the Anchor, the National and the White Star; I think that is about all.

Q. The amount of lumber that you supplied to those companies is not very great, is it? A. Some of them run from \$25,000 to \$30,000 a year.

Q. Name to us one of the companies that runs up to that amount? A. The Atlas and the National; I should think the National would run about \$30,000 or \$35,000 a year.

Q. When did you first commence to supply the National line with lumber? A. I do not know, but a good many years ago.

Q. Before you were a police commissioner? A. I do not think they were in existence then.

Q. The National line not in existence before you were police commissioner? A. No; they run a line of business—there may have been passenger steamers, but this that I furnish you is for cattle steamers.

Q. Then you did not supply the National line of steamers with lumber before you were a commissioner? A. I think not for the cattle trade.

Q. When did you first commence to supply the Atlas line with lumber? A. When they moved up to Twenty-fourth street, near my yard.

Q. When was that? A. That was six or seven years ago.

Q. That was after you were appointed police commissioner, then? A. Yes, sir; those lines that I supplied, moved from down town up close to where my yard is.

Q. I understand the location. What other lines did you mention? A. I mentioned the Cunard.

Q. When did you commence to supply them? A. That is divided up between two or three dealers.

Q. When did you commence to supply them is my question? A. I should think a couple of years ago.

Q. After you were appointed police commissioner? A. Yes, sir.

Q. What is the next steamship line that you supplied? A. What lines have you got—you have the National—

Q. We have got the Netherlands? A. I did not say the Netherlands; I said the National.

Q. We have the Atlas, the Cunard, the National? A. The White Star and the Anchor Line.

Q. When did you commence to supply the Anchor Line? A. They moved up there about two years ago near my place.

Q. After you were appointed police commissioner? A. Yes, sir; I have been commissioner over eight years.

Q. And the White Star, was that after you were appointed police commissioner? A. Yes, sir.

Q. All of these companies, you commenced to supply them with material after you were appointed police commissioner, A. Yes, sir; most of them; just after I was appointed a commissioner, moved up town in the neighborhood of my yard.

Q. They moved to your location, so as to be near you? A. They moved up to Twenty-fourth, Twenty-fifth and Twenty-sixth streets and my yards are Twenty-first street.

Q. It is not often that corporations are so accomodating as that? A. They did not move there for my accommodation at all.

Q. Will you name any firm of builders in this city to whom you supply lumber? A. You mean in the construction of buildings?

Q. Yes. A. We are supplying more or less of them all the time.

Q. Will you give me the name of a single firm? A. I do not have much of a building trade now, because I went out of it after 1872; I have some; I am supplying some houses in One Hundred and Forty-fifth street; we do not solicit that sort of trade.

Q. The truth of it is, the great bulk of your business is done with corporations; is not that the fact? A. After 1870, I tried to get clear of everything that I could in the building line and my trade has been with cabinet makers and others of that kind.

Q. Is not this the fact since you have been police commissioner that the great bulk of your trade has been with corporations? A. I think that is true; I am willing to admit that if it will be of any service to you, but my position of police commissioner has not been used in that connection.

Q. Have you any further voluntary statements to make? A. No, sir; I think not.

Q. Did you make out any checks to Acker, Merrill & Condit? A. Yes, sir; I have made them out; not very large ones; we buy a little in there once in a while; I do not think we have bought anything of them for a year.

Q. Before the last year did not they supply your house with groceries and so on? A. Mrs. McClave ordinarily attended to the household expenses, sometimes I sent a check.

Q. Did not they supply you largely in the way of groceries and cigars? A. Not very largely.

Q. But they supplied you? A. They did somewhat.

Q. Didn't they supply you exclusively? A. No, sir.

Q. Will you say that you did not pay into the firm of Acker, Merrill & Condit for one year, a sum more than your salary as police commissioner? A. Yes, sir I do, absolutely, not one-fifth of it I do not think.

Q. You say you did not? A. I did not, no, sir.

Q. You did not send to them a check or checks in one year aggregating an amount greater than your salary as police commissioner? A. No, sir; I never did.

Q. Are you clear about that? A. Yes, sir; absolutely clear.

Q. In any one year? A. No, sir.

Q. You have an account of all the moneys that you sent them? A. Yes, sir.

Q. Have you got their bills? A. Whatever may be left of them, but I would be very glad to have you produce them as witnesses.

Q. They were destroyed also, were they? A. I will tell you that I do not believe ever in our lives that we have had \$1,000 a year from Acker, Merrill & Condit; Mrs. McClave pays her own bills for goods for household expenses.

Q. I do not wish to try her, but if you wish to bring her in—

Mr. Nicoll.—I think a man's grocery bills should be left where they are; is there any value at all in finding out how much a man pays his butcher or his grocer?

Chairman Lexow.—Mr. Goff has finished, I think, in that line.

Mr. Goff.—I asked a question and he answered it; that has settled it.

Senator O'Connor.—The purpose is to show, I suppose, that he lived at a very extravagant figure.

Mr. Nicoll.—He has got thirteen children.

The Witness.—I am willing to state generally what my living expenses have been.

By Mr. Nicoll:

Q. You have a very large family have you not? A. Yes, sir.

Chairman Lexow.—Will you continue with your examination, Mr. Goff?

Mr. Goff.—If you wish to follow that up we will do so, if the committee want that.

Mr. Nicoll.—Yes, let us have it all.

Mr. Goff.—We will follow it up if there is no objection.

Senator O'Connor.—You claim in a general way, Mr. Goff, that Mr. McClave's expenses for living has increased very materially now from what they were before he was a police commissioner.

Mr. Goff.—Yes, and the number of the family has not materially increased since he has been appointed a police commissioner.

The Witness.—No, sir; I had the last of my fourteen children sixteen years ago.

By Mr. Goff:

Q. The family you had then, you have now? A. That is what I have had to take care of through my life.

Q. But you did not have half a dozen more servants, before you were police commissioner? A. No; I had three or four though, always.

Q. And you have six now, have you not? A. I should have to count them up.

Q. So numerous that you can not tell? A. Whatever is necessary for the purpose of conducting my household I have; I think we have in the house five servants; we have a cook, a laundress

and a chambermaid; I guess four, and one for Mrs. Granger's little children.

Q. But you did not keep a coachman before you were a police commissioner, did you? A. Yes, sir.

Q. A coachman in livery and a carriage? A. Yes, sir.

Q. And a carriage and four horses? A. Four horses? I don't drive four horses.

Q. Haven't you four horses in the city? A. No, sir.

Q. Have you not four horses in your stable? A. I have got altogether in my business, thirty horses.

Q. I mean your family horses? A. No, sir; I have two horses and my daughter has a little saddle horse—three horses.

Q. How many horses have you in the country? A. I have an old team that I left there.

Q. Now we pick up as we go along, the different horses? A. I left an old team; I bought that team twelve years ago, and they were old and I used them in the country.

Q. They were old when you bought them twelve years ago? A. No; but they are old now; when I left the country last fall, there wanted to be some little ploughing done and I left them for that purpose.

Chairman Lexow.—We do not care, Mr. Goff, to go into all of these little matters.

Q. Have you got a yacht? A. No, sir—I have got a rowboat.

Q. You have rented yachts, have you not? A. I had one one year, five or six years ago; I gave \$200 for it for my boys.

Q. The years that you used Inspector Williams' yacht, you did not pay for it, did you? A. I didn't use his yacht; I never was aboard of it.

Q. Did not your family use Inspector Williams' yacht? A. No, sir; I think one of my sons took a little sail on it once.

Q. Did you ever spend a year at Manhasset, Long Island? A. I spent three years there.

Q. Did you ever have Inspector Williams' yacht there? A. No, sir.

Q. Did your family have Inspector Williams' yacht Elenora there? A. No, sir; my family never did have it.

Q. Wait one moment; we will get along quicker; will you swear that Inspector Williams' yacht was not sent to Long Island where you were for the accommodation of you or your family? A. One of my boys went with Inspector Williams' yacht and took a sail for a day or two that was sent there or was there.

Q. It was sent there because you were living there; is not that the fact? A. I think not; it was a little catboat.

Q. Never mind about the cat or the boat; was Inspector Wil-

liams there? A. You are trying—no, he was not—you are trying to make it appear that he sent some great big yacht there for my family to get aboard of, and there is no truth in it.

Q. Was Inspector Williams there? A. He never owned anything in the shape of a boat over 40 or 45 feet long; he had a catboat that cost him \$200 or \$300, and the papers have tried to make out that he had a great steam yacht.

Q. You start in as a defender of Inspector Williams, do you? A. No; I do not; I think he is able to take care of himself.

Q. The summer you were at Manhasset—I want to know if Inspector Williams was stopping there at that time? A. No, sir.

Q. Or his family? A. No, sir.

Q. Did his yacht go there? A. I think he stayed over one day; he stopped a day or two there.

Q. Was he aboard of that yacht? A. I think he was.

Q. You swear to that? A. Yes; I remember that he was, because he came over on the island where I was and saw me.

Q. And that was the only time that you or your family or any member of it was upon Inspector Williams' yacht? A. Yes, sir.

Q. The only time? A. Yes, sir; I never took a sail on it myself.

Q. You have stated that you did not go upon it; you are not very fond of the water, are you? A. Yes, sir; I like it very much, but I did not get a chance to take time to go.

Q. You are perfectly familiar and intimate with Inspector Williams? A. No more than anybody else.

Q. You are an officer over him? A. Yes, sir.

Q. He has been on trial before you? A. Yes, sir.

Q. How many times? A. I think that during the ten years that I have been in the department that Inspector Williams has been on trial twice or three times.

Q. You voted every time for his acquittal, did you not? A. I think very likely

Q. Do you not know? A. I should be inclined to say that I did.

Q. You know it as a fact, do you not? A. I exercised the discretion allowed me by law.

Q. Do you not know it as a fact? A. I do not think that Inspector Williams has ever been found guilty of any charge against him since I have been in the police department.

Q. We all recognize that? A. I cast my vote at those dates, and I would be willing to cast it right over again in the same way as I did then; I stand upon the record.

Q. You say you would? A. Yes; and I think any fair-minded man who would read the testimony would do the same.

Q. You voted for his acquittal every time? A. I think likely I did; not guilty, I think, that is the way I voted.

Q. He was not acquitted on that trial, was he? A. Found not guilty — which trial have you reference to?

Q. The first trial. A. I think the first trial the charge was made by one of the Society for the Prevention of Crime; that was the trial that the papers made such a fuss over.

Q. Never mind about the papers; answer my questions; was he acquitted on the first trial at which you presided? A. Elihu Root and George Bliss and Joel Erhart were his counsel and they —

Q. There is no necessity of saying who were his counsel; answer my question; was Inspector Williams acquitted or convicted? A. I think he was acquitted, and I think he —

Chairman Lexow.—You must not interject these statements. The simple question was whether he was convicted or acquitted? You can answer that. A. He was not convicted, and their statement was —

Chairman Lexow.—Do not say anything more; you were asked a simple question and you can answer that.

Mr. Nicoll.—I will bring all that out on cross-examination.

Q. You say you think he was acquitted? A. I think he was and —

Q. Can not you understand that you must not trifle in this way; answer the question only. A. I say no; he was found not guilty.

Q. I ask the question now, if the commissioners, four in number, then rendered their judgment of not guilty on that trial? A. Yes, sir.

Q. I read to you from the opinion of one of your brother commissioners on that trial, Commissioner Porter? A. That was Mr. Moss' brief that he had —

Q. I am reading from Commissioner Porter's opinion, not Mr. Moss' brief. A. I think General Porter stated —

Chairman Lexow.—There is no necessity of your answering in that way.

Q. Here is the finding of your brother commissioner on that trial that you say Police Inspector Williams, at that time captain, was acquitted — A. That is General Porter's —

Q. Well, yes — “Fourth. The fact that these houses of ill repute — houses of assignation, houses of prostitution, gambling houses, policy and bunco shops — do exist, and have existed, in various parts of the precinct, and that Captain Williams and his force have long known that they existed, and have rarely interfered with them, is sufficient to warrant the conclusion that they are permitted to carry on their nefarious business, if not protected in it. The failure to suppress them, or, at least, to pre-

vent their obnoxious obtrusion upon the eyes of the public, coupled with the fact that when trespassers from them are arrested, the evidence against the offenders is insufficient to hold them for trial, justly leads to the conclusion that the police of the nineteenth precinct are either ignorant of their duty or indifferent to its performance, or that, knowing it, they are restrained from some cause or influence from executing it, except under the pressure of public complaint and exposure. Let the matter be considered that this failure is either the result of ignorance, willful neglect or willful blindness or silence, there is, in my mind, but one conclusion to be derived from the evidence in this trial, that Captain Williams is, and has been, negligent of his duty to the extent as charged of 'conduct unbecoming an officer.'” And after the rendition of that opinion of a brother commissioner you say that Captain Williams was found not guilty? A. I would like to read the brief submitted by Joel Whart and Colonel Bliss and Elihu Root — you have it there.

Chairman Lexow.— You have a counsel there to attend to that matter.

The Witness.— Very well; I voted not guilty.

Q. Then he was not acquitted, was he? A. I considered that acquitted him.

Q. You considered that acquitted him? A. The motion was made to find the man guilty, and it was not carried; I think he was acquitted.

Q. Your official record shows from your trial books that the vote stood for conviction, Commissioners Porter and Vorhees — A. Commissioner Voorhees wanted to give him a day's fine —

Q. And for acquittal, Commissioners French and McClave; is not that the way it stood? A. Yes.

Q. Then when you said he was acquitted, are you correct in that? A. I considered that an acquittal.

Q. That when two commissioners of the police board give their solemn judgment that a man is guilty and vote for a conviction, you consider because two others say no, that that is an acquittal? A. The motion was on the question of guilt, and it was lost.

Q. Two voted for guilty? A. Yes, sir; and two not; it was not carried.

Q. Do you consider that an acquittal? A. Yes, sir.

Q. That is your idea? A. I think that is the parliamentary rule.

Chairman Lexow.— We can understand that, Mr. Goff.

Q. That complaint to-day is in the police department just as it was; it has never been disposed of? A. No; it is all there.

Q. And you voted for Inspector Williams' promotion to the

inspectorship, notwithstanding the existence of this complaint?

A. Yes, sir; that is right.

Mr. Nicoll.— We have a new police commissioner now and he may take the matter up.

Q. Speaking of the new commissioner, you are reported in the newspapers as saying that you were always glad to vote with your Tammany colleagues in the board, and that you always found them right; is that so? A. I did not make it in that shape at all; I am not responsible for what the newspapers state; I have not seen it but I will state about what I said, that I did not consider it as a part of my duty as a Republican, to be an obstructionist for the purpose of obstructing the business, as long as there was no cause for it.

Q. I will get just what you did say? A. I said I had never known them to offer to do anything wrong.

Q. It was in relation to a charge of unfair treatment in the disposition of appointments to Mr. McLean; do you remember that— do you remember a charge having been made of unfairness in dealing with Mr. McLean, in the matter of apportioning to him the number of appointments? A. I think the Post newspaper made that statement.

Q. Was it true? A. It was not true; I said it was a lie.

Q. You said what was a lie? A. The statement in the Post.

Q. That there was no unfairness to Commissioner McLean? A. They claimed there was unfairness, and I claimed there was no truth in it; he was treated just the same as the rest.

Q. At that time you were reported as saying that you were in the habit of voting with your Tammany colleagues on the board? A. I made that statement publicly; I said that because I never knew them to offer to do anything wrong, and Mr. McLean has always voted with them, too, except on little trifling matters; except on minor matters, there has been no material difference.

Q. You say there has been no material difference between the commissioners? A. No material difference to amount to anything; on the whole, we were pretty nearly unanimous.

Q. On the trial of the last captain that took place; what captain was that? A. Captain O'Connor was tried last; there has been no decision in that case; there were 1,700 pages of testimony.

Q. Do you remember the trial of Captain Price and Captain Martens? A. Yes, sir; very well.

Q. Can you tell us the result of that trial? A. Yes, sir; in the case of Captain Price, five days was the penalty and in the case of Captain Martens it was 30 days.

Q. And you signed the judgment in each case? A. I voted for it; in the case of Captain Price, Commissioner MacLean agreed

with us and made the motion for five days' penalty, and in the case of Captain Martens, it was a question in his mind whether he should be broken or not, and he moved to break him.

Q. Did you hold an executive session before you announced your decision? A. The commissioners did meet in Commissioner Martin's room and went over the testimony.

Q. Did you take a vote in executive session before you took a vote in public? A. No, sir.

Q. Did you express your opinion in executive session? A. We discussed the testimony in there.

Q. And expressed your opinion as to how you would find and vote? A. We all thought there should be a penalty.

Q. Did you express an opinion that you would vote not guilty in each case in executive session? A. No, sir.

Q. Did any commissioner express that opinion? A. No, sir.

Q. Did any commissioner express the opinion that he would vote guilty in each case? A. I think they did.

Q. What commissioner was that? A. Said it publicly—no, I don't think so.

Q. Do you know it? A. I do not remember.

Q. You were present, were you not? A. Yes, sir—you mean to say that one man said, "I move to find them guilty," or "I believe him to be guilty?"

Q. Yes. A. No; there was no such statement.

Q. You are sure of that? A. I think so; I do not remember of anything of the kind.

Q. Does your memory fail you in such a recent occurrence? A. No, sir; but I do not see the necessity of such a statement.

Q. I do not ask you for the necessity; I ask you for the fact? A. I do not remember.

Q. Will you swear there was no expression of that kind? A. I have no recollection of it.

Q. Never mind your recollection; do you swear there was no such expression? A. That is the best that I can do.

Q. It is a handy thing for you, your recollection; will you swear as a fact that, in executive session or secret session of the board, before the vote was announced in public, that one commissioner in that board, did not announce his intention and his opinion of voting guilty, and that the defendants were guilty? A. No, sir; I do not think so.

Q. Will you swear that such expression was not made? A. I have no such recollection; that is the best I can swear to.

By Senator Bradley:

Q. Would you remember if it occurred? A. I think I would remember if it occurred.

By Mr. Goff:

Q. If it occurred, you think you would have remembered it?

A. Yes, sir.

Q. Will you say that a commissioner did not say that they were each guilty and should be dismissed from the force? A. No, sir; no commissioner made any such statement.

Q. And Commissioner MacLean said that Captain Price should have five days—did any commissioner at the secret session say that each of the captains were not guilty and should not be fined? A. No, sir.

Q. That was not said? A. No, sir.

Q. Was not the judgment of the commissioners in that case the result of a compromise? A. I think not.

Q. Will you swear it was not? A. Yes, sir.

Q. Positively? A. Yes, sir.

Q. It was not the result of a compromise of conflicting opinion had in secret session? A. No, sir; I think there was no compromise.

Q. Never mind what you think; what is the fact? A. I say positively there was no compromise, if you will permit me to tell the whole matter.

Recess.

AFTERNOON SESSION.

May 22, 1894.

* Present.—The complete Senate committee and counsel as before.

Mr. Nicoll.—Before the committee proceeds with the examination of Commissioner McClave, I wish to very briefly make a statement to correct what must have been an unintentional misrepresentation of remarks that I made to the committee at the opening session of the morning in certain of the public journals. I am reported as having said, with some presumed knowledge of his whereabouts, that the witness Granger would never again appear before the committee. I believe the committee will accept my declaration that I know nothing about the witness Granger, nor do my clients. He was with Mr. Goff, as Mr. Goff stated, until a late hour last night, and that he was confidently expected by him, as he was by me, to appear before the committee here this morning. Now, that I wanted him to appear, that I was most anxious to have him appear, that I am most anxious to have him appear, there is no matter of doubt. I went over with Mr. McClave last night, and had in my possession the proofs of 20 forgeries.

Mr. Goff.—Is that proper?

Chairman Lexow.—No, that is not. That is not right, Mr. Nicoll; it is not right for the reason that it is a species of incrimination as against our witnesses. We are bound to protect him. We expect him here. We have no reason to believe he won't appear at some time; and it is not right that any statement be made that will notify the witness that there are either criminal prosecutions intended, or anything of that kind. It must have the effect of making the witness appear against his will, or not at all.

Senator Cantor.—But he has not appeared.

Mr. Nicoll.—He is now in contempt of the committee.

Chairman Lexow.—We will attend to the committee part of it.

Mr. Nicoll.—He is now guilty of a crime towards the committee.

Chairman Lexow.—We understand this, that every man that goes on the stand here before this committee, takes his reputation and almost his life in his hands, and we are bound to protect him, if we can.

Mr. Nicoll.—Will you not permit me to at least state I myself have reasons for desiring the appearance of the witness.

Senator O'Connor.—No, it is not necessary. If you state you desire it, that is enough. There is no reason for your stating your reasons for desiring it. I think it is entirely out of order. If you are misrepresented it is proper that you should correct the misrepresentation, but otherwise, it is improper that you should say what you did say.

Chairman Lexow.—Let us continue.

John McClave, again takes the stand.

Direct examination by Mr. Goff:

Q. Before you left the court room last evening, you threatened to have Granger arrested, did you not? A. I don't about that; I may have said he ought to have been.

Q. Answer the question, sir; did you not threaten to have him arrested, if he appeared here in the morning? A. I said that he ought to be arrested.

Q. Didn't you say you would arrest him? A. No, I did not.

Q. Will you swear, Mr. McClave, that you did not say you would have him arrested and sent to States prison? A. Not this morning.

Q. Didn't you say last evening in the courtroom, and with clenched fist, leaning across that table, while Granger was passing, to hear that you would have him arrested and sent to State's prison, by God; didn't you say that? A. No; I did not use such language at all.

Q. Will you swear you did not? A. Yes, sir; I will swear I did not make that statement in the way you are putting it.

Q. Will you swear you did not state in his hearing? A. In whose hearing?

Q. In Granger's hearing, while he passed this table last evening, that you would send him to State's prison, where he ought to be? A. I did not speak to him.

Q. Didn't you speak to me while Granger stood at this side of the table, and with clenched fist say, I will send that fellow to State's prison; didn't you say that? A. I don't think I did.

Q. Will you swear you did not? A. No, I won't.

Q. No, you will not? A. No.

Q. Now, Mr. McClave, yourself and your counsel here have spoken of this witness Granger, whom, I may ask the committee's pardon to say, that within 48 hours, was the first time I ever saw the man in my life — you and your counsel have stated here something about foregries in connection with this man Granger, haven't you?

Mr. Nicoll.— I have.

Q. You have? A. Mr. Nicoll has made that statement.

Q. Haven't you said he was a forger; you said yesterday in court, and addressed the committee, and called him a forger? A. Yes; that is what I called him.

Q. And your counsel stood up here in court yesterday evening and shook a number of papers in his hand at the witness, did he not; you saw that? A. I did; yes, sir.

Q. And did you not state to a gentleman here in the courtroom that those were the forged instruments; the forged papers you had reference to? A. I do not remember whether I did or not.

Q. Will you swear you did not? A. No.

Q. How long have you had those forged papers, if they are forged, in your possession? A. Well, they have been in the possession of Messrs. Parsons, Shepard & Ogden.

Q. How long have they been in the possession of you or your counsel, or anybody connected with you in any manner without criminal proceedings? A. Some have run along a year and some a week or two.

Q. You testified you found he was a forger within thirty days of his marriage? A. Yes, sir; that is true.

Q. Did you get the forged instrument in your possession? A. It is the note he claimed Mr. Judd gave him.

Q. You have had that note for six years? A. I have his statement.

Q. You were convinced of his truth, were you? A. According to his own statements —

Q. You were convinced of his truth? A. I was satisfied he was telling me the truth; and it was when he told me that that —

Q. You kept that forged instrument in your possession for six years, did you not? A. I do not know where it was during those years, but possibly it was in the hands of counsel.

Q. It was either in your hands or the hands of your counsel? A. Yes, sir.

By Senator O'Connor:

Q. Did you ever say anything to Mr. Judd about that note? A. No, sir.

Q. Or about the forgery? A. No, sir.

Q. Did you ever say anything to him, or communicate with him in any way in reference to that alleged forgery? A. No, sir.

By Chairman Lexow:

Q. Did you present the note for payment? A. No, sir; Mr. Judd sent word to me last night, and he was here this morning.

By Mr. Goff:

Q. Were there any other papers alleged to be forged by Granger? A. Well, there are a whole lot of checks.

Q. And in whose possession have these checks been; yourself or your counsel? A. They have been in my own hands, or my counsel's.

Q. And covering a period of some three or four years? A. I should think so; yes.

Q. When did Granger leave your house? A. The 22d of February.

Q. Of this year? A. Yes, sir.

Q. And for six years, this man whom you believed to be a forger, and of whose forgery you had what you considered written evidence in your possession, was a member of your family for six years? A. I so stated; I was trying to reform for a member of my family.

Q. He was a member of your family for six years? A. Yes, sir.

Q. And he ate at the same table with you? A. Yes, sir.

Q. And he went to the country with you, to your country house? A. Yes, sir.

Q. And he partook in all the pleasures and relaxations of your family? A. Yes, sir.

Q. And this forger, you kept by you in your house, a member of your family for about six years? A. Substantially so, yes, sir.

Q. And you never threatened to send him to State's prison, until last night, until he testified against you? A. I told him a number of times he either properly belonged in the State's prison, or in the lunatic asylum; and he said he would go to either place, it didn't make any difference.

Q. Did you take any steps last night to initiate proceedings against him? A. I have not.

Q. Have you authorized them? A. No, sir.

Q. Have you authorized anyone to take proceedings against him criminally? A. Mr. Nicoll talked with me last night, and what he has done about it, I do not know.

Q. Haven't you advised about taking criminal proceedings against Granger? A. No; but on the contrary, I have tried to avoid it.

Q. Didn't you last night? A. I did not advise such a thing.

Q. Were you advised? A. I am inclined to think Mr. Nicoll said that was the proper course to pursue.

Q. Was he ever in your business? A. No, sir.

Q. This Granger? A. No, sir.

Q. Did he ever represent you in any business? A. No, sir.

Q. In any capacity? A. No, sir; you mean my regular lumber business, don't you?

Q. I am asking you in any business? A. I put him in a small business, to try and let him have a chance to make some living.

Q. That is the Yankee White Manufacturing Company, that business which you expected—well, the man is dead, I do not wish to mention his name—to go in with you? A. A man to go in with me?

Q. Yes, to put stock in? A. No, there is no truth in that.

Q. Did you expect Martin B. Brown to go into that? A. No.

Q. Did anybody go into the company with you? A. No, sir; I never started it for that purpose.

Q. You filed a certificate of incorporation? A. Yes, I signed it.

Q. You put Mr. Granger in as secretary? A. Yes.

Q. And you swore to the certificate of incorporation? A. Yes, sir.

Q. And you put in as an incorporator, under the laws of the United States, and swore to it, the name of a man you believed to be a forger, is that so? A. I know he was there named.

Q. Answer my question, sir? A. And I told you that I was trying to redeem him, and see if I could not help him get along.

Q. Will you please answer my question; did you, with the alleged forged instruments in your possession for a period of four years, with a knowledge that this man was a forger, as you

claim, did you insert his name or cause it to be inserted as the secretary of the Yankee White Manufacturing Company, a corporation under the laws of this State; did you or did you not? A. I presume that will speak for itself; I do not recall it; I know he was in it.

Q. Don't you know he was secretary? A. He was secretary; yes, sir.

Q. Don't you know you signed that certificate? A. I presume I did; I do not remember it.

Q. And don't you know that at the time that this forger, and this scoundrel, and this thief, as you call him, was employed in the house of Messrs. Blumenthal Brothers, the dry goods merchants? A. At that time?

Q. Yes? A. No, sir.

Q. Didn't you get him to leave Blumenthal & Company's to attend to the Yankee White Manufacturing Company? A. No, sir; that is not true.

Q. Was he there in Blumenthal — A. About two weeks, I think.

Q. Didn't you recommend him to appointment in the post-office? A. I asked for his appointment.

Q. Did you recommend him to Van Cott? A. Yes; that is right.

Q. Into the post-office? A. Yes, sir.

Q. And you recommended into the Federal service of this country your son-in-law, who was a forger, a thief and a scoundrel; is that so? A. I had at that time the impression that he had reformed; I had a very serious talk with him, and he had promised absolutely and positively that he would never do anything wrong again; and, as I told you, I was trying to correct him; I tried to give him a chance.

Q. That was before you got him to be secretary of this Yankee White Manufacturing Company? A. I do not remember the year.

Q. It was before? A. Perhaps it was.

Q. Did he backslide again after that? A. Oh, yes.

Q. And notwithstanding his additional backsliding, you then put him in as secretary of this manufacturing company? A. I will make a long story short by saying to you that he has been guilty of every crime under the calendar, and I have tried to redeem him, and do my best; that is all; he is a member of my family and my daughter's husband; I tried to correct him.

Q. We understand your situation; have you got those bank-books? A. Mr. Gott. (Mr. Gott produces bankbooks.)

Q. Will you be good enough to tell me the first summer that you take up your residence at Greenwich, Connecticut, or up in that neighborhood? A. Only last year, sir.

Q. Did you ever reside in that place, or in that neighborhood or locality for the summer? A. No, sir; I resided at Black Rock, Connecticut, two years.

Q. Well, Black Rock? A. Yes, sir; that is this side of Bridgeport.

Q. What is the first summer you went to reside at Black Rock? A. I think it is four years ago.

Q. Four years ago; that would be in the summer of 1890? A. That would be about it, I think; yes, sir.

Q. Did you become acquainted with your brokers, Dominick & Dickman, up there? A. No, sir; I knew them long before that.

Q. They resided up there? A. No, sir.

Q. In that neighborhood? A. No, sir; I never knew them to reside up there; I never saw them at all.

Q. Or any of the firm? A. No, sir; not to my knowledge; if they were living up there, I did not know of it.

Q. Were you in the habit of meeting anyone of the firm on the train coming down? A. No, sir; last summer when I was going up to Greenwich Point, once in a while I would meet one of them on the train; perhaps two or three times during the summer.

Q. Do you remember having a conversation with any of the members of the firm in relation to this lead stock? A. I do not recall any, sir.

Q. In the train? A. No, sir; I do not recall any at all.

Q. You remember one morning going down in the train, that portion of it that was called the Club car; you frequented that portion, didn't you? A. I was in there, perhaps twice during the summer.

Q. Not last summer, but in 1890? A. That was the only time I was in it.

Q. You never was in that car in 1890? A. That car did not run at that time, nothing but the ordinary traveling cars; I did not meet Mr. Dickman on a traveling car.

Q. Did you meet Mr. Dominick, his partner? A. Dominick & Dickman is the firm.

Q. Did you ever meet either of those gentlemen in 1890? A. I don't think that I did, sir; I might possibly have met them on the car, but I don't recall it; they did not live where I was living at all.

Q. Up in that locality on the line of that railroad? A. We did not go on the same train; if they lived up in that neighborhood, we did not go in the same train.

Q. Did you meet either of them? A. I think not, sir.

Q. You are clear on that? A. I am quite clear.

Q. I refresh your recollection by asking you if you did not discuss with them, in the morning coming down in the car, relating to the prospect of a rise in the lead stock? A. I have no recollection of it; I might have done so, if I met them.

Q. At that time in 1890, you were carrying the account of the police pension fund, in the Bank of North America, were you not? A. The book shows that, does it? If the book shows that, that is correct.

Q. The last balance I see is October 22, 1890, and then there are items, up to December 31st, 1890? A. Well, that is correct, then.

Q. That is correct? A. Yes.

Q. It runs up to 1891? A. Well, whatever it shows, Mr. Goff, is correct.

Q. Now, the checks upon this account, the police pension fund, are signed by you? A. By myself and the treasurer's bookkeeper; yes, sir; it is first signed by the treasurer's bookkeeper, and brought to me for my signature.

Q. Where does he sign it? A. He signed across the face of them.

Q. What does he sign? A. George B. Gott, treasurer's bookkeeper; his signature is in the bank in connection with the treasurer.

Q. Does he fill out the name of the payee on the check? A. Yes, sir; he fills out the payee's name on the check always.

Q. Do you instruct him who to fill out to? A. No, sir.

Q. How does he know who to fill out to? A. He has his records before him in the books.

Q. So you have nothing to do but sign the check he prepared? A. Yes, sir; that is all.

Q. Can you tell where the bank was situated—the Bank of North America? A. The Bank of North America was somewhere in Wall street, near William and Nassau, I think; Mr. Dowd was the president of it, if I remember.

Q. Can you state if it was in 1890, the first summer you went to reside at Black Rock, that you then drew your check for the purchase of these hundred shares of lead stock? A. Well, I don't just remember the year, Mr. Goff.

Q. I call your attention to the year, to the coincidence of your residence for the first season at Black Rock, and the drawing of this check to the order of Dominick & Dickman? A. If you tell me about the year that the National Lead Trust was formed, I can tell you that, better; but I do not recollect the date; I can not recollect four or five years.

Q. I ask you, if you can not locate that as the summer you drew that check to purchase that stock? A. No; I could not locate it in that way.

Q. Can you locate the year? A. The only way I tell you I can locate the time I first bought the National lead stock was somewhere about the time the company was organized, and I bought some of it, and I kept it for an investment until they reorganized the company, and gave so much of this preferred stock, and so much of common stock for it.

Q. Have you got your private bankbook here on the Bowery bank? A. You had it yesterday; you told me if you wanted it, you would let me know.

Q. I understood you, you would bring it down? A. I understood you last evening, if you wanted it, you would let me know.

Q. Is the book here? A. No, sir; I will get it for you.

Q. You can state to me if your bank-book upon the Bowery bank at that time contained an entry of the returned voucher, or the amount of the returned voucher, for the check you drew for that lead stock? A. Well, that I can not tell you.

Q. Is it not the usual course of business of that bank to do so? A. If I give a check on that account on that bank, it will show on the opposite side of the deposit book.

Q. You swore you did give a check yesterday for that purpose on that bank? A. On that bank, because I hadn't any other bank account.

Q. In either one of the two accounts the return on that voucher will be shown? A. Yes, sir.

Q. Can you tell the committee where that voucher is that you sent to Dominick & Dickman? A. Well, if it is back to the date you are stating, in 1890, it was destroyed by fire.

Q. Can you tell this committee how it was that your vouchers, checkbooks and account-books, and all other books were destroyed by that fire, and that your bankbook was not destroyed by that fire? A. The personal bankbook, which I handed you yesterday, goes back to 1889; that is the personal bankbook; now, any stubs, or anything of that kind, that we might have at that time were simply piled upon the shelves in the office, and when the fire took place they were all destroyed; there were fully a truckload of them destroyed; the checkbook, however, was in the little steel safe, in the middle office, and the fire did not get to it.

By Senator O'Connor:

Q. You mean the blankbook? A. Yes, sir; I stated that was two years' transaction of a personal account.

Q. Was the checkbook that you then had in use destroyed by the fire? A. All those books were destroyed.

Q. All destroyed? A. Yes, sir.

Q. Have you any objection to an examination by a representative of this committee any person that they should designate?

A. No, sir; not the slightest.

Q. To examine the vouchers of the police pension fund, together with your stubs, and such other accounts in connection with that matter? A. I would be very glad indeed to have you do it, and will aid you in any way I possibly can at any time.

Q. Have you been able to arrive at any more definite conclusion touching the amount of the check that you drew to the brokerage? A. Which one do you mean?

By Senator Bradley:

Q. The lead stock?

By Mr. Goff:

Q. The lead stock? A. I can not positively as to that amount.

Q. You estimated yesterday about \$6,800? A. I was calculating — \$6,800 — I think I estimated the 100 shares of the preferred, didn't I, at \$6,800; I think there was 200 shares of the common; I think that was 34, making a count of about \$12,000 or \$13,000; I tell you how I can get at that better; that stock was sold by Dominick & Dickman when I bought the property at Greenwich last February; the result of the sale was about, I think, \$14,000.

Q. You made on the stock? A. No; that is the whole value of it.

Q. You made on the stock? A. No; that is the whole value of

Q. Give about the aggregate amount of that check that you drew to them? A. That stock may have been bought at different times; it may not have been all bought at once.

Q. On all your purchases which you made you sent down your check? A. I fancy I did; that would be the natural way to do it.

Q. You say that is the way? A. Yes; I think so.

Q. You sent down your check? A. That is my best recollection of it.

By Chairman Lexow:

Q. Didn't you say before you drew a check on your business account, and paid for the stock by that check, and afterwards replaced that amount in your business account by a check on your private account? A. At different times, as a rule, I did that.

Q. Didn't your recollection extend to this particular transac-

tion of lead stock; didn't you say that was the way? A. I think I calculated or estimated the amount was about so much; the whole amount of the lead stock was about \$14,000 when it was sold; it had been bought at different times, but it was sold all at once; I had been buying it for three or four years. {

By Mr. Goff.

Q. What the chairman wants to know, if you can recollect the particular transactions, touching the purchase of this lead stock that you drew a check upon your private account, and deposited in your general or business account, to make up for the draft on your business account? A. The only way I could get at that at all, would be to say that along about \$6,000 or \$6,500, somewhere in that neighborhood, that that amount of stock would cost; that I must have drawn a check for that amount.

By Senator O'Connor:

Q. I understood you stated yesterday that that private account consisted of matters connected with your salary as police commissioner, and also matters connected with your speculations in stock and other matters? A. Yes, sir; and the aggregate amount shows \$64,000 there.

Q. You intended to put in your private account all matters connected with your salary and outside speculations? A. Yes, sir; I never used any of my salary for living purposes at all; never during my experience in public life; I never used any for that purpose.

By Mr. Goff:

Q. Now, are you clear upon which of the accounts you drew the check the private or the business account? A. I would not say positively about that, Mr. Goff; but if you have any idea that it is in any book connected with the police department, I am very clear about that.

Q. I did not ask that question at all; you stated yesterday that you drew the check upon your business account in the Bowery National? A. That is my impression in reference to it; I think the chances are I drew a check on the Bowery bank on the business account, and drew a check on my private account.

Q. Has any thought since refreshed your memory, concerning the transaction; do you wish to modify it? A. I have not thought of it since, sir, except as you are putting the questions now.

Q. Have you any desire or reason to modify that answer? A. I think I have given my answer to the best of my recollection.

Q. By the way, at the time you were appointed police commissioner, was there a mortgage on the lumber-yard property? A. No, sir.

Q. Free and clear? A. Yes, sir.

Q. Never was mortgaged? A. Excepting in 1874 or 1875, when I bought out my brother's interest; I gave him a mortgage at that time, running for two years.

Q. Is the first signature on that paper your signature? A. Yes, sir.

Q. Whose is the second last signature on that paper? A. Next to the last?

Q. Yes? A. Gideon Granger.

Q. What are the others? A. John McClave, Steve McClave, Gideon Granger and Albert McClave.

Q. That Granger is your son-in-law, who was on the stand here to-day? A. Yes, sir.

Q. You were the promoter of that company? A. Yes, sir.

Q. You put in all the money? A. Yes, sir.

Q. Nobody else put in a dollar? A. Nobody,

Q. Notwithstanding the law, you were the only one that put any money in that concern? A. I think that was drawn by the law firm of, and they issued the stock required by law.

Q. They did not put in any money? A. I gave them some stock.

Q. And this is the Granger we have reference to, and this is the company you organized with him as incorporator? A. Yes; that is right.

Q. And the date of this was on the 11th of aMrch, 1891? A. Well, whatever the date is is correct.

Q. And he was married into your family when? A. Eighteen hundred and eighty-seven.

Q. So that four years after your discovery that he was a forger, you signed this certificate of incorporation with him as an incorporator? A. Well, Mr. Hoff —

Q. Is that so or not? A. You are putting the question down as to my actual discovery of his being a forger; I had only, as I stated before, his own acknowledgment of the fact; beyond that I made no inquiry at all.

Patrick J. Daly, called as a witness on behalf of the State, being duly sworn, testified as follows:

Direct examination by Mr. Goff: {

Q. You are a marine? A. Yes, sir.

Q. And where are you stationed? A. In the Brooklyn marine barracks.

Q. Brooklyn? A. Yes, sir.

Q. You have been on escort duty to Boston recently, have you not? A. No; I have not.

Q. Didn't you go to Boston at the time you wrote? A. No, sir; I did not go.

Q. The orders were countermanded? A. Yes; the orders were countermanded for me to go; another man took my place.

Q. I wish you to tell this committee of your experience on the Bowery about a month or six weeks ago; just tell them in your own way anything that — just speak up? A. On the 19th day of April last, between 3 and 4 o'clock in the evening, I visited New York city and went on the Bowery, and I went into a saloon on the right hand side going toward Third avenue; when I entered this saloon I —

Q. Can you give the number of it? A. That is one particular flaw in my evidence that I can not positively identify the number of the saloon.

Q. Do you know between what streets it was? A. No, sir; I can only give a very hazy idea of the location of the saloon.

Q. Was it near Chatham Square? A. It was five or six blocks above Chatham square.

Q. On which side of the way up, as you went up? A. On the right-hand side of the way facing towards Third avenue; I went into a saloon, and see there was a back room in it; I entered this back room and see a female in the back room; I sat down at a table, of which there were a number in the room; tables with chairs around them, and a woman immediately came there from another table and sat down beside me; I called for a round of drinks; I believe I took beer myself and the woman had port wine; the drink amounted to 20 cents; I paid for it in some loose change I had in my pocket and I called for another round; after an interval, about half an hour, I called for a third round, and I tendered a two-dollar bill in payment of it.

Q. For the last round? A. For the last round, the third round; the bartender took the two dollars from me and went out, and as he was some time absent without returning any change — the drink in question was a glass of beer and another glass of port wine — about 10 minutes afterwards I began to be uneasy for the change, and I reminded him about it, and he came in, with two 10-cent pieces and placed them on the table before me; it appeared to me like an outrageous piece of robbery that he was about to contemplate, so I was very indignant, and remonstrated with him, and demanded the exact change of him, the two-dollar bill; he only laughed at me; he went out behind the bar, and brought the two 10-cent pieces and put them on the bar and said,

“Give me the proper change,” and when he laughed at me again, I took the two dimes and threw them behind the bar, and I said “They are useless to me, I want my proper change; you can make as exorbitant a demand as you like, but that is carrying too far — \$2 for two drinks;” as soon as I threw the two 10-cent pieces behind the bar, he gave a signal and two men knocked me down and proceeded to beat me, and I thought discretion was the better part of valor, and I beat an ignominious retreat; I went down the Bowery about one block and met a policeman, and I told the policeman of the incident and requested him to accompany me back to the saloon in order to get my redress; the policeman said to me, “Have you got any witnesses?” I was forced to admit I had no witness; the policeman told me that in a case like that there was no use unless you had witnesses, and I thought — I did not believe what he said, and I thought I would test it further; I went to the Eldridge Street police station and there was an officer there; I was not bound on taking details; I guess he was a very prominent officer in the police department; he might possibly be a captain of the precinct.

Q. He was behind the desk? A. He was behind the desk.

Q. And had gold lace on his hat, do you remember? A. I did not take in those details.

Q. Well, go on. A. I recounted the circumstances to him, and he asked me the same question the policeman did, did I have witnesses; I was forced to admit I had no witness, and he thereupon said there was no use, I hadn't a ghost of a chance to obtain any redress; I then went to the police headquarters in Mulberry street, and determined to carry the matter up, because I was justly indignant at the way I was treated; a police officer received me there and spoke to me very civilly.

Q. Do you know what room you were shown into there? A. I do not.

Q. Do you know the officer or the grade of the officer which you spoke to? A. No, sir; I do not; I do not know the grade.

Q. You saw no official there? A. I saw an official there.

Q. He was in uniform? A. He was in uniform; he spoke to me in a very civil manner, and when I told him the circumstances of the case, he told me, as I had no witnesses, I had no chance of obtaining any redress; he made no promise to me; he would investigate it; and I thereupon left.

Q. Did you tell the officer at the police headquarters what the officer on the beat had said to you? A. Yes, sir.

Q. And what the officer in the station-house had said to you? A. Yes, sir.

Q. Did the officer at police headquarters say anything about those fellows down there getting a lot of witnesses to swear

against you, if you took any proceedings? A. Yes, sir; he made use of one remark of that nature.

Q. State to the committee what he said? A. He said to me, "boy, you had better not push this matter any further, because for one witness you would bring up, these people would bring ten."

Q. And that was the end of your pilgrimage to the Bowery? A. It had a very sad ending.

Cross-examination by Mr. Nicoll;

Q. What is your name? A. My name is Patrick John Daly.

Q. Patrick John David? A. Daly.

Q. When did you write a letter to Mr. Goff, retailing your grievances? A. I don't know the date, sir.

Q. About when? A. I guess it would be about two weeks ago.

Q. About two weeks ago? A. Yes.

Q. Had you a personal acquaintance with Mr. Goff? A. No, sir; I did not.

Q. You wrote to him because you saw he was counsel for the Senate investigating committee, was that it? A. No, sir; I was not aware that he was acting in that capacity at all.

Q. Did you write to him as a lawyer to take up your case? A. No, sir; because a certain person told me to go to his office and they would meet there in order to push the case; so I didn't want—

Q. You wrote to him then in order to get him to take up your case against the people, whom you thought had defrauded you? A. No, I wrote to him for a reverse reason, to ask him to drop the case, to say I thought I hadn't sufficient grounds to go on with the case.

Q. You wrote to Mr. Goff to drop the case? A. Yes, sir.

Q. Had you asked him previously to take up the case? A. No, I heard the Society for the Prevention of Crime were going to take it up, and for that reason I wrote to Mr. Goff.

Q. Who did you hear that from, that the Society for the Prevention of Crime was going to take up the case? A. An agent called at the barracks, and told me that he was negotiating with Mr. Goff to push it.

Q. What was his name? A. I don't know what his name was.

Q. He said he was negotiating with Mr. Goff? A. To carry the matter through.

Q. To push the matter through? A. Yes.

Q. Up to that time, you did not know Mr. Goff, did you? A. No, sir.

Q. Then you went to his office to ask him to drop the case?
A. No; I wrote a letter to his office, to ask him to drop the case.

Q. Have you ever seen him before? A. No, sir.

Q. Until to-day? A. No, sir.

Q. What was the day of the month when this excursion in the Bowery occurred? A. It was on the 19th day of April, sir.

Q. And at what hour of the day, did it take place? A. To the best of my knowledge, sir, it was between 3 and 4 o'clock in the evening.

Q. To the best of your knowledge? A. Yes.

Q. Have you any doubt about the time? A. Well, when I am on an excursion on pleasure bent, I do not keep an account of the time.

Q. When you are on an excursion on pleasure bent, you don't take any note of time? A. No.

Q. Well, are you able to give us within a few hours of the time? A. Yes, sir; I have already given you between one hour; it was between half-past 3 and half-past 4, or between 3 and half-past 4.

Q. You speak of being upon an excursion on pleasure bent; was that your purpose in going to the Bowery? A. My purpose was to enjoy myself; I had a day off.

Q. You went to the Bowery to enjoy yourself? A. Yes, sir.

Q. How? A. Well, taking in the sights, as it is commonly called.

Q. What sights? A. Well, the theatres, the dime museums, probably, although they are — and I might —

Q. What? A. It would be quite a change from playing prosaic in Brooklyn.

Q. It is quite a change from Brooklyn, you say? A. Yes, sir; to walk the streets in New York.

Q. You say it was quite a change from it A. Yes, sir; I consider it pleasure to walk the streets in New York.

Q. Won't you accommodate me by speaking a little louder; you say you thought it would be a pleasant thing to go from prosaic Brooklyn to spend an afternoon in the Bowery? A. Yes, sir.

Q. And you wanted to see the theatres? A. Yes, sir.

Q. And the dime museums? A. Yes, sir.

Q. And the bearded lady? A. Well, that is rather old.

Q. What else besides the bearded lady and the museums did you expect to see in the Bowery? A. Well —

Q. What were the strange things you see in the Bowery? A. Well, I think the stock of Bowery attractions would be exhausted when the dime museums and theatres and saloons were gone through.

Q. You think it would be exhausted? A. The stock attractions would be exhausted.

Q. The stock attractions would be exhausted with the theatres, the museums and the saloons? A. Yes.

Q. Well, there are ladies, too, in the Bowery, aren't there?
A. Oh, undoubtedly.

Q. What? A. Most undoubtedly.

Q. Did you think of those, too, in the stock of attractions?
A. I did not think very deeply upon them.

Q. You did not dwell upon them very closely? A. No; I did not dwell upon them very ardently.

Chairman Lexow.—Haven't we exhausted this subject, Mr. Nicoll; time is valuable?

Mr. Nicoll.—We seem to have exhausted the stock of the amusements. Mr. Goff says there is no more in this. At the time you went into the saloon—by the way, where was the saloon? A. The best idea I can give of the location of the saloon was, it was possibly four or five blocks above Chatham square, on the right hand side going towards Third avenue.

Q. You have not a very clear idea of the time when you went to the Bowery, and you have not a very clear idea of the place?
A. No, sir.

Q. Where this thing occurred, have you? A. I have not.

Q. What? A. I have not a very clear idea of the time or place; no, that is the very reason they urged me to drop the subject.

Mr. Nicoll.—Well, I guess we will drop it, too.

By Mr. Goff:

Q. Did you ever hear the name of the proprietor of the saloon?
A. Since that time?

Q. Yes. A. I have been told that the proprietor of that saloon—

Mr. Nicoll.—I object to this.

Q. Did you describe that place to any persons after you left there; described the saloon? A. I did.

Q. And were you told the number of the saloon, and the name of the saloon? A. No; I was not told the number of the saloon.

Q. Were you told the name? A. I was told the name.

Q. What was the name?

Mr. Nicoll.—Objected to.

Mr. Goff.—I think it is proper, because it is connected with another matter.

By Senator O'Connor:

Q. When was he told this?

Mr. Goff.—After this incident took place.

Chairman Lexow.—How long after it took place?

Mr. Goff.—The next day. I think it is proper, your honors.

Q. Will you please state the name of the saloon? A. The name of the saloon as told to me was McGirk's.

Q. Was there any other concert saloon, as you observed, on that block? A. Yes; there were quite a number of them.

By Senator O'Connor:

Q. When you met the policeman first, could you have returned to that saloon? A. I could.

Q. And could you inform him where the place was? A. Yes; I did.

Q. When you went to the station-house, the precinct station, did you inform them that you could point out the saloon to them? A. Well, I did not, because it was not necessary; the officer in the police station told me if I did not have the witnesses, there was no use of going any further in the matter.

Q. Could you at any time have found the saloon again when you went there? A. I could not possibly say I could have found the saloon again, unless I could have identified the people in it; at the time I went to the Eldridge street station, I could certainly have found the saloon, at the time I met the policeman first.

Q. You so informed me you could tell where the saloon was? A. I did.

By Chairman Lexow:

Q. Did you take the number of the policeman? A. I did not; will you allow me to make a remark, sir?

Chairman Lexow.—Certainly.

The Witness.—I wish to make a remark that in this matter that I did not consider the evidence in the case sufficient to—I did not consider I had sufficient cause of complaint anyhow; I think that the loss of the two-dollar bill was certainly an experienced loss, and would like to inform the members of the committee that I am an involuntary witness.

Q. An involuntary witness, certainly; you are under subpoena here? A. Yes, sir.

John McClave resumes the stand.

Direct-examination continued by Mr. Goff:

Q. I notice on this book of the police pension fund that there is not detailed statement of the returned vouchers on the fund drawn? A. Well, you see the bank has put the aggregate amount there; we have the vouchers.

Q. There is no detailed statement of the drafts upon the bank in a pass book? A. That would seem to have been the system

of the bank in putting down the aggregate; there was probably about 1,200 there, and that is probably the reason they aggregated it; the number of pensioners is about 1,200, and they have put down the aggregate there; but the vouchers can be got at.

Q. What provision do you make for ascertaining the deaths of members who are drawing from the pension fund? A. There is a general order out instructing the captains of the various precincts that so far as it lays in their power to keep track of all pensioners, and in case of their removal, or in case of their death to notify the central office at once; now it sometimes happens that they move out of the city; and it sometimes happens that they draw a check, that the checks are drawn quarterly, dated on the first of each month; it sometimes happens they draw a check for a particular person, say for \$75, and when the first of the month rolls around the party does not appear for it, three, or four, or five, or six days roll around and he don't appear, and we make inquiries, and perhaps find he has been dead four or five days; the few checks you speak of in the back of the book of the Bank of North America — 16 different checks that you speak of — I have received a letter this morning from the treasurer's bookkeeper in which he states to me that those checks —

Q. Wait awhile; we will have the treasurer's bookkeeper here himself? A. Very well, sir; I will give you the letter, if you want it.

Q. You require every pensioner to go to headquarters to receive his pension? A. Excepting those who live out of the city, and in cases of that character it is the general custom to first mail them a receipt and after they sign a receipt and after that is received, to them forward the check.

Q. Excepting that they are living out of the city you require them to present themselves in person? A. Yes, sir.

Q. Before what officer? A. They go to the treasurer's office and go to the treasurer's book, and receive their checks and make their receipts there.

Q. What is the average amount of those checks — I mean the amount of each check; not the aggregate amount? A. The checks range all the way from \$25 up; the larger number of them is probably about \$150, being a quarter of \$600; the patrolmen are retired under the law on a pension of one-half of their salary, and there is a larger proportion of patrolmen retired than any other rank, and therefore, \$150 was amount of the larger number.

Q. Have you any knowledge of frauds committed on the pension fund? A. I have never heard of any such thing.

Q. Has it ever occurred in the department that the pension has been drawn for men that have died? A. I never heard of such a thing.

Q. Such a thing has never been alleged or stated in the department? A. I never heard of it, sir.

Q. Is such a thing likely to occur under your system of book-keeping? A. I don't think it is possible; I don't think it possibly could occur.

Q. Do you make a report to the City Record to whom you pay a pension? A. Yes, sir; an itemized statement goes to the City Record; and in addition to that an annual statement is published, showing the sources of income to the pension fund, and the disbursements, each item in detail; the law provides for that.

Q. You keep a record, of course, of all the deaths, you say? A. Yes, sir.

Q. How do you get that record? A. The report of the deaths is made to the chairman of the committee on pensions by the treasurer's bookkeeper, as well as the report of those that are retired during each of the three months; that report is brought by the chairman of the committee on pensions before the board of police commissioners, and is read before the full board, and the chairman of the committee on pensions acts as the chairman of the board of trustees for that purpose; it is then made a record of in the secretary's book? A. Yes.

Q. The record of death? A. Yes, sir.

Q. Will you please direct your secretary to produce here the record of the death of Officer John Murray? A. How do you spell that name.

Q. M-u-r-r-a-y — Murray. A. Can you give me the date of the death?

Q. That is what I want. A. Is Mr. Charles P. Gott in the room — will you take a memorandum of that, and call your father's attention to it.

Q. Did you keep any book or memorandum of your private or business transactions outside of the bank book that you have presented here? A. No, sir.

Q. So that you kept no account of moneys that you invested or what you invested them for, or anything of that kind? A. My investments, I think that I can briefly state them, have been outside of the houses that I have spoken to you of that I have bought, very light indeed, have not amounted to anything; running through a period of years, I could not tell you positively, but I should say running along through a period of years, 1886 or 1887, I think, I bought back and forth a little consolidated gas,

and during that time a couple of shares, off and on a couple of hundred shares of the Manhattan shares.

Q. What would be the highest amount of any check you would draw on the pension fund? A. The largest check?

Q. The largest check at one time? A. The largest amount would be the pension that would be drawn by the superintendent of police — \$750.

Q. That would be the pension — \$750? A. A pension of \$3,000 a year.

Q. Did you receive the stock from Dominick when you purchased? A. Oh, yes.

Q. You received the stock? A. Yes.

Q. And a memorandum? A. I think I did; but I had the stock in my safe at my home, and Dominick & Dickman sold it when I bought a year ago the property in Connecticut.

Q. Where did you have the stock? A. In my safe at my office.

Q. What office? A. Twenty-second street, the lumber office.

Q. When did the fire occur? A. The fire occurred April 12, 1893.

Q. How is it that the stock was not destroyed with the other books and other papers? A. The lead stock?

Q. Yes; if you had it in the safe and all the other books in the safe were destroyed, how is it that the stock escaped? A. I presume that it was inside the steel safe; I think that would allow for it.

Q. Anything inside the steel safe? A. I think — I do not recall it for a moment; naturally that is where it would be, inside the small steel safe; it would naturally be in there, and that accounts for it.

Q. Do you remember what you put inside the little steel safe inside the regular safe? A. Nothing except bills receivable and money; they were kept in there for safekeeping.

Q. How much money do you say you had paid for premiums for insurance; you stated \$25,000? A. During that period of thirty odd years; yes, sir.

Q. You carried how much insurance? A. My insurance ranged from \$150,000 to \$300,000 principal; on my mill property it ranged pretty high.

Q. Did I understand you to say that after 1892 you made in your business \$115,000? A. Yes, sir; I said about \$113,000; I make ordinarily in my business about \$50,000 or \$60,000 a year.

Q. About \$50,000 or \$60,000 a year? A. Yes; that is including my rents.

Q. Fifty thousand dollars or \$60,000 a year? A. Yes, sir!

Q. And then you had your police salary? A. Yes, sir.

Q. And at the rate you made in your business, how many years have you made that; since you have been police commissioner?

A. I made it for quite a number of years; we make that ordinarily; some year it may be above, some years below; I should think on the average about \$50,000 a year, including the rents, the rents running along from \$20,000 to \$25,000.

Q. Are the rents to be excluded from your \$50,000 or included?

A. I should include them.

Q. Tell me how much you made net? A. I should think about \$50,000.

Q. And for about the last 10 years you have made \$50,000 a year? A. Yes, sir; but some years I might have a loss that would wipe the whole out.

Q. One year you made \$113,000? A. Yes.

Q. You made an average of \$50,000 a year? A. I think so.

Q. For 10 years you made \$500,000 in your business? A. Less my living, yes.

Q. You lived at about that rate? A. No; I lived at the rate, if you want me to state that—

Q. No; I only want to know; you say you are as rich to-day as you were when you went on the police board? A. Yes; I should think so.

Q. And in the meantime you made \$500,000 in your business?

A. If I made \$50,000.

Q. You have made then \$500,000 and you are as poor as when you went on the police force? A. In substantially the same position.

By Senator O'Connor:

Q. Does that include the salary.

Mr. Goff.—No; that does not include the salary.

The Witness.—I think there may be an error on that average.

Q. I want to put one or two questions to you concerning these trust accounts, and then I will quit that subject; at the time in 1890 I assume now that you drew the check for this lead stock; how many trust accounts had you on behalf of the police department of this city? A. In 1890?

Q. Yes. A. Well, about the same number that we have now, sir.

Q. State them to me now, if you please? A. The North America bankbook, does that go back to that date?

Q. Yes. A. Then it would be North America, the Importers and Traders' and Garfield Bank, four of them.

Q. And how the account in the Bowery designated? A. The account in the Bowery up to about, I think, two years ago, was a general police account; at that time the accounts were changed so as to keep the pension funds in one bank, the salary account in another, and the alteration and supplies in another; the Garfield Bank keeps the alteration and supplies and repair account; and the Importers and Traders' keeps the salary account of the uniform members of the force; and the Bowery keeps the pension account.

Q. Isn't it the rule of the police department that the captain is responsible for the good order of his precinct? A. Yes, sir.

Q. And if in that precinct, there being houses of ill-fame or gambling-houses, or disorderly houses of any description, he is responsible for that, is he not? A. Well, I want to say right in connection —

Q. Well, please now — A. Well, you may put it in that way if you choose.

Q. You put it? A. I will make that statement.

Q. Is that the fact? A. That is the rule; he is held for the general enforcement of the law in his precinct; it is a question whether or not the houses of prostitution can ever be kept down strictly speaking; he is supposed to do the best he can.

Q. He is only supposed to do the best he can? A. The very best possible anybody can do.

Q. Isn't there a positive rule in the department — A. That he shall enforce the law in his precinct; that is the rule.

Q. Is it not also the rule in the department that if the existence of houses of the character that I have described be proven to exist in a captain's precinct, that that is of itself neglect of duty? A. I believe, sir, if that was literally enforced —

Q. That is the rule? A. Yes, if literally enforced.

Q. In the recent case of Captain Martens that was presented to the board, are you acquainted with the facts in the case? A. I remember them substantially; yes, sir.

Q. Do you remember that Superintendent Byrnes prepared charges against Captain Martens? A. Yes.

Q. Do you remember the nature of the charges? A. The nature of the charge was substantially that a house of prostitution existed on Lexington avenue somewhere.

Q. Do you remember the name of the house? A. No, sir; I do not recall that.

Q. If I mention it would you know it? A. I think it was called by a number, but I do not think it was called by name.

Q. Was there more than one house alleged? A. I think there was two or three.

Q. There were five. A. I don't remember.

Q. The board directed Superintendent Byrnes to present charges? A. No; the superintendent presented them without instructions.

Q. And it is the rule of the board when the superintendent prefers a charge they must take cognizance of those charges? A. They have the discretion, but they always approve of the charges and put the officer on trial; I have known of an instance to the contrary.

Q. They must know of the charges to such an extent as to approve of them and call them to trial? A. Yes, sir; they have such a discretion but they do not exercise it.

Q. When Superintendent Byrnes preferred charges against Captain Martens did the commissioners approve of the charges? A. Yes, sir; he was placed on trial.

Q. I do not mean the time he was tried; I wish to make myself plain; I have reference to the charges that were presented by Superintendent Byrnes recently against Captain Martens? A. Yes.

Q. Within 30 days? A. I do not recollect that that was a charge, Mr. Goff; was it?

Q. Don't you remember Superintendent Byrnes put in writing the charges against Captain Martens? A. Well, now, I think, perhaps you are correct about that. I did not recall it.

Q. And don't you remember the commissioners refused to approve of those charges? A. I remember that the case was before the board; it was discussed, and in view of that fact that the statement had been made that Inspector Williams had visited the place and knew about it, the law directed that Inspector Williams make a report as well as Captain Martens, he made a report back to the board; after those reports were both received it would seem as if the captain really had not been guilty of neglect of duty sufficient to put him on his trial, and that he had done about all that could have been expected of him.

Q. So that the commissioners put aside the charges of Superintendent Byrnes, and referred them first, to Inspector Williams, and, secondly, the man who was accused, Captain Martens; is that so? A. I think, Mr. Goff —

Q. Isn't that so? A. One moment; I prefer to state this —

Q. I am informed, Mr. Commissioner, that I have been in error and that you have been in error? A. I think likely; there was no charges made was there?

Q. Suppose we go to the fact that instead of Superintendent

Byrnes making the charges, that Commissioner McLean made the charges? A. In that case the superintendent was ordered to make the report.

Q. I think you said Inspector Williams? A. The superintendent was first ordered to make the report; he made a report back to the commissioners; accompanying that report was a report from Captain Martens in reference to it.

Q. The officer accused? A. Yes; and when they came before the board it had been stated in the newspapers that Inspector Williams had been at that place; the law directed he should also make a report; after that Orr came in and after examining them they concluded there was not sufficient to place him on trial; but I am trying to think Commissioner McLean was of the same opinion because he did not press it.

Q. Are the commissioners in the exercise of their official and judicial conviction taking into consideration of what the newspapers said about Inspector Williams about this place? A. Except as to the fact that it was true that he had been there after the report had come in from the captain; the papers stated that he was there with the captain.

Q. Were you not aware that at that time, before you dismissed and refused to consider these charges, that the man who kept the place, charged at a place of evil resort, was convicted in the police court of this city, and fined \$250? A. I think that Captain Martens' report said he had arrested him on three different occasions, and I guess he was convicted on them.

Q. And that in the face of the conviction by a competent court of this man for keeping a disorderly house, you refused to entertain your brother commissioner's charges? A. That was a violation of the excise law.

Q. It was a disorderly house, if the excise law was violated? A. It was not.

Q. You claim a house where the excise law is violated is not a disorderly house? A. Not in the sense you are using it; if there be a violation of the excise law and the court has inflicted a penalty, I rather look on a disorderly house as a house of prostitution or a gambling place; this was an ordinary liquor saloon.

Q. What liquor saloon are you speaking about? A. The one you are speaking about.

Q. Did I mention the name? A. No; but I presume it was the one mentioned.

Q. If you know of the liquor saloon, tell us the one you was talking about? A. I am talking about the man that he reported came in with Captain Martens, and Commissioner McLean asked he be placed on trial.

Q. I will show you you are mistaken; the conviction in that case was for a disorderly house; Billy Fowler's; do you remember now? A. I do not remember the name.

Q. As a disorderly house; not for the violation of the excise law? A. I think you refresh my memory to this extent; I think it was stated by the proprietor of the place —

Q. Never mind about those. A. That somebody had been robbed in that place of \$50 or \$60, and the captain had made the arrest and had also made an arrest of the proprietor of the place for violation of the excise law; that was the conviction, but I think that the report shows that the place was an ordinary liquor saloon, but frequented by the lower classes — the humbler class of men and women of that neighborhood.

Q. When you spoke about what the newspapers said in regard to that place, don't you remember that the newspapers reported a captain going in and ordering the little partitions and boxes where loose women of the town used to go, to be pulled down? A. I do not remember about those being the loose; I recollect the report shows that that was not so.

Q. The report of the captain? A. The report of the captain and inspector both.

Q. You have referred to what the inspector read in the newspapers, and on that reading you referred the matter to Inspector Williams? A. It referred to the fact that he had gone with Captain Martens to inspect it, and on the strength of that I think I made the suggestion myself that Inspector Williams be required to report back to the board the result of that investigation.

Q. I ask you if you did not read at that time, or it was not read in the board, that Inspector Williams and Captain Martens had gone there, ordering the proprietor to tear down the wooden boxes in the place? A. Yes; and Inspector Williams ordered them; they were about two or three feet high; you could look over them.

Q. And do you remember the next day the proprietor, under the advice of the captain, refused to tear them down, on the ground that there was no violation of the law? A. I do not recall that.

Q. In the face of that and with the knowledge that the courts had convicted the proprietor of that place of keeping a disorderly house and fined him \$250, you refused to entertain your brother commissioner's charges; isn't that the fact? A. After reading all the evidence in connection with it, I exercised my very best judgment and voted accordingly.

Q. And it is in that direction your best judgment has gone?

A. That was my best judgment; yes, sir; after all the reports came in I did not think it was proper.

Q. Don't you know that four other houses which were reported against Captain Martens at that time had the licenses for their houses revoked by the excise law? A. I don't recall that; I wish you would refer to the records and let them speak for themselves.

Q. It is a recent occurrence; there has not been a trial or a charge against any officers since? A. Any captain?

Q. Any captain; yes; any one; any captain; I do not mean roundsmen. A. I think the last captain on trial was Captain O'Connor, of the second precinct.

Q. It is since Captain O'Connor's trial? A. No, sir; I think not, sir; I think what you speak of was before; I think it was.

Q. Speaking of Captain O'Connor's trial; that is the officer in whose precinct a policeman in citizen's clothes clubbed a man in a policy shop, isn't it? A. That was the charge; yes, sir.

Q. And it was sworn to before the commissioners? A. Yes, sir.

Q. And it was not denied that the officer was there in the policy shop in plain clothes? A. There was a whole mass of testimony in the case, taking up, I think, about 700 pages of close typewritten testimony in the case, given on both sides; the case has not yet been disposed of.

Q. The commissioners have not yet disposed of the case? A. No, sir; the commissioners have not yet disposed of the case.

Q. Will you state how many captains have been convicted on charges since the Senatorial committee has been appointed? A. Two, I think so.

Q. Two? A. I think so.

Q. Will you state how many captains received convictions? A. One received five days, and the other 30.

Q. Will you state how many captains were convicted before the committee was appointed? A. I do not recall it.

Q. Were there any captains convicted before this committee was appointed by the Senate? A. I am inclined to think there was.

Q. Will you name me one? A. I would not like to attempt that.

Q. Isn't the conviction of a captain extremely rare in the department? A. When you are trying 5,000 cases in a year you would not have it impressed upon your mind.

Q. There are only 33 captains? A. Yes;

Q. Is not the conviction of a captain a very rare occurrence in the department? A. I should say it was.

Q. Can you say there was a conviction of a captain since you have been a commissioner of police up to the time of the appointment of this Senatorial committee? A. I don't recall any.

Q. Is it not a fact that there is none? A. I can not state.

Q. Can you recall any instance? A. No, sir; I do not.

By Chairman Lexow:

Q. You don't remember any conviction? A. I do not recall any.

Senator Bradley.—If there were, you would certainly remember.

By Mr. Goff:

Q. How many convictions of captains since the appointment of this committee? A. My recollection is Captain Martens and Captain Price, one received five days —

Q. Were not there two more; has there been four convictions since the appointment of this committee; Haughey and Westervelt? A. Oh, yes, sir.

Q. That makes four since the appointment of this committee? A. Yes.

Mr. Goff.—What was the date, Mr. Chairman, of the appointment of this committee?

Chairman Lexow.—Thirtieth of January.

By Mr. Goff:

Q. Now we have it so far; since the 30th of January, 1894, the date of the appointment of this committee there have been four captains convicted of offences on charges presented to your board? A. Yes, sir.

Q. And for a period of nine years or thereabouts, prior to that you have no recollection of any conviction having been had of a captain in this city? A. I do not recollect any; no, sir.

By Chairman Lexow:

Q. Is it because the captains have been much worse then, or behave themselves worse since the appointment of the committee than they did before? A. I am inclined to think Mr. Chairman

that extreme vigilance and extreme indulgence in going into the most minute thing has had a tendency to bring about some of these charges.

By Senator Cantor:

Q. Vigilance on what? A. On the part of the inspectors and the superintendent.

Q. Did that vigilance begin after the appointment of this committee? A. I do not think so necessarily; the papers had been criticising the police for the year or two and I think that has necessarily had a tendency to make them very careful.

Q. Was that by any arrangements among the commissioners themselves? A. No, sir.

Q. As to when; the particular time for vigilance commenced? A. No, sir; no instructions; whatever has been done was done the natural way by them.

Q. You could not fix the particular time when this vigilance commenced except the appointment of the committee? A. No, sir; I think they used to run along about 75 to 80 charges a week against patrolmen, and now they run 90 to 100.

By Chairman Lexow:

Q. Is it a fact since the appointment of this committee there have been a larger number of convictions in every grade of the force than there were before? A. Excepting I think so far as to the board; I do not think that the size of the penalty has been in any way changed.

Q. There have been a greater number of convictions? A. I think about the same proportion to the entire board.

Q. And that is due to the greater vigilance on the part of the superior officers of the force? A. I am inclined to think that owing to the fact that there has been more or less newspaper criticism that the members of the force themselves have been extra vigilant; that the captains have been more vigilant; and their sergeants and their roundsmen and the inspectors, and they are perhaps a little bit closer.

By Chairman Lexow:

Q. Mr. Commissioner, that implies a neglect of duty of men previous to that time, does it not? A. I would hardly think, Mr. Lexow, that you could hardly put it in that light; I would not like to say that; there is another thing in connection with it; when

you get a new superintendent, he is desirous of doing the best he can and when you can make any changes he is inclined to be more vigilant and perhaps that has something to do with it.

/By Senator O'Connor:

Q. Now, because of the increased number of the charges made against captains, that would imply increased vigilance on the part of the superior officers of the captains? A. Yes, sir; now in the case of Captain Price, the testimony would seem to show that the house in question had virtually closed up sometime; it was on Second avenue and Fourteenth street, and notwithstanding that fact, the superintendent had directed some of the central office detectives to try and succeed in getting in there; they did finally succeed in getting in there in dress suits, in the basement one night; and that of course an officer in uniform could not very well do.

By Senator Bradley:

Q. You say the inspectors have not become any more vigilant than before the appointment of the committee? A. No, on the contrary, I am inclined to think they are all doing the very best they could to make any improvement.

Q. Do you want the committee to understand that the patrolmen were violating the law any more than before? A. I would not like to say so.

By Mr. Goff:

Q. It was not the increase of charges, but the increase of convictions? A. I do not think the convictions are any greater.

Q. You mean to say the charges have increased since the committee has been appointed? A. I would state to the best of my recollection that the ordinary amount of charges made each week would run along about 75 or 85; that within the past year or past two years they have seemed to gradually increase until they run, perhaps, to 90 or to 100; a great number are for violations of the rules and for off post or something of that kind.

Q. Conduct unbecoming an officer? A. Yes; and citizens' charges are more frequent.

Q. Do you know after before 1892 there was ever a captain tried upon charges preferred by a superior officer? A. Prior to 1892?

Q. Yes; was there ever a captain tried on charges preferred by a superior officer? A. I do not recollect that, sir.

Q. Do you know as a fact that there never was a captain tried except upon charges preferred by citizens? A. would not like to state that as a fact.

Q. Have you any knowledge at all about this subject you have been talking about? A. I think I have a fair knowledge of it.

Q. You have been a commissioner nine years and your recollection fails at the very point you want it to fail? A. I do not desire to have it fail me.

Q. During your term will you state to 1892, there was ever a captain put on trial on charges — put on trial on charges made by a superior officer? A. Do you think you should ask me to remember eight years that particular fact?

Q. I remember that particular fact; and I remember also there are very few captains. A. I would like to state as a matter of fact that I recollect that sufficiently; I would prefer that the record should speak for itself.

Q. Do you remember when Captain Williams was tried? A. I think he was tried twice.

Q. You presided at the trial? A. I was one of the commissioners.

Q. Who preferred the charges against him, a citizen or a superior officer? A. In the first case I think the charge was preferred by a party named Chapman.

Q. How many trials have you presided on when Captain Williams was brought before the board? A. I don't think he was tried more than twice.

Q. Don't you remember there was a trial on the complaint of Dr. Howard Crosby? A. That was the Chapman trial.

Q. Do you remember the date of the decision of the commissioners when they voted two to two on Inspector Williams — on Captain Williams' charges? A. No, sir; I do not recall the year.

Q. I read it to you to-day? A. Well, then it is all right.

Q. You remember that, without regard to the date? A. I remember the fact of his having been placed on trial, and the fact of this General Porter's —

Q. You remember that fact? A. Yes.

Q. On the same day when two commissioners voted for his conviction and two for acquittal was he not made an inspector of police? A. I think not on the same day.

Q. Will you swear that it did not take place within one hour after the vote was taken? A. No; I would not say that.

Q. Don't you know as matter of fact that that was the day on which he was made inspector of police? A. I hardly think that is so; it may be true.

Q. It may be true? A. Yes.

Q. It is true; don't you know he was made inspector of police, at least, very shortly after? A. I should think that was true.

Q. And in the face of these charges against this officer he was made inspector of police, rising to a higher grade; is not that a fact? A. Where they were considered as disposed of.

Q. Two commissioners did not consider it disposed of? A. One of the commissioners wanted to fine him two days' pay.

Q. He was immediately, after his trial, made an inspector of police? A. Yes, sir; that is true.

By Senator Cantor:

Q. Didn't it require that majority of the board to convict? A. Yes, sir; the same parties who voted to have a penalty on the charge of two days' pay voted for his being an inspector.

Q. He voted for conviction, didn't he? A. He assented to give him a penalty on some technical point.

Q. He voted for conviction on the penalty? A. Yes, sir.

Q. He voted with you to make him inspector of police? A. He did vote for inspector of police.

Q. The charges against Captain McLaughlin, the same result was arrived at there, wasn't it, two and two? A. Yes, sir; I think that is correct, two and two.

Q. And Captain McLaughlin was made inspector immediately after that wasn't he? A. I can not tell how soon; shortly afterwards.

Q. And he was charged by a citizen and not by a superior officer? A. Yes, sir.

Q. You remember the charge against Captain Carpenter of the fourth precinct? A. Yes; I think that was some time after Captain McLaughlin.

Q. He was not convicted? A. He was not convicted; he retired afterwards.

Q. He retired at the shake-up, didn't he? A. I don't know what you call the shake-up.

Q. Did you ever hear the word "shake-up" used in connection with the police department? A. You mean the police captains; yes; that has been done.

Q. He retired after the shake-up? A. Yes.

Q. Do you remember the trial of Captain Killilea? A. That was in connection with some place in Forty-fourth street?

Q. In reference to a disorderly house at Sixth avenue, the Sixth Avenue Hotel; he was found guilty? A. No, sir.

Q. Charges were made and preferred against him by citizens

of that district, by an association of citizens; do you remember that? A. Yes; Clark Bell, I think, appeared as counsel for the property owners.

Q. And he was not convicted? A. No.

Q. Two to two again? A. I do not recall how the votes stood.

Q. He was not convicted, anyway? A. No; he was not convicted; that is my recollection.

Q. Now, Inspector Williams, Captain Dougherty, Captain Haughey and Captain Schmittberger were placed on trial together? A. I don't think Schmittberger was, was he; Inspector Williams and Captain Haughey and one other captain, I don't think it was Schmittberger.

Q. Dougherty? A. Yes; that is it.

Q. And those charges were preferred by the superintendent of police? A. That is right.

Q. And they were not convicted? A. Some of them was; yes, sir.

Q. Which of them? A. Captain Stephenson was also included in that; he was convicted and transferred, and both, I think, of the captains was, weren't they?

Q. No. A. I stand on the record, whatever it was there.

Q. I wish the Senate committee to get that fact, commissioner, that the police department has been quickened into activity in the way of trials and convictions since the appointment of this committee; isn't that so? A. I made the statement that I think that during the past year or two that there has possibly been a greater vigilance on the part of everybody connected with the uniformed force to perform their duty literally, speaking in every sense of the word, and upon the most trifling offenses people have been put on trial.

Q. How does that apply to the commissioners? A. We have performed our duty, as a rule, by sustaining the complaints that have been made.

Q. You did not change your attitude at all, you went along and exercised your discretion, both before and after? A. It was our attitude there to exercise our discretion.

Q. And did the existence of the new superintendent in the department, as you have referred it to that, increase the vigilance of the commissioners? A. The vigilance of the commissioners?

Q. Yes. A. The commissioners went right straight along, as a rule, in their usual way, and tried the cases and inflicted whatever penalties that they prescribed.

Q. Irrespective of the new superintendent? A. I do not think as to the penalty —

Q. I ask as to that increased vigilance; that would be the only way of showing vigilance, and conviction. A. Convictions, and in the punishment, and sustaining the force wherever the testimony justified it.

By Chairman Lexow:

Q. This increased vigilance, so far as the captains are concerned, seems to have added from about the 30th of January, is it not; your convictions, as I understand the testimony in the — you have not convicted in nine years a single police captain until after the 30th of January of this year? A. The testimony, Mr. Lexow, seemed to be entirely inadequate.

Q. I am speaking of the fact of convictions; is that a fact? A. That the convictions have been greater?

Q. That there have been four convictions of police captains since the 30th of January of this year, and not a single conviction of any police captain for eight years previous? A. I think that you would have to be guided entirely by the testimony in the cases in that matter.

Q. Is that the fact? A. I do not remember positively about that; I should rather incline to think that they were.

Q. Do you remember any other captain being convicted? A. Mr. Goff asked me that question; I do not remember.

By Senator O'Connor:

Q. I think that we have all that the commissioner knows about it; he says he didn't know of the conviction of any captain in the nine years previous — prior to the 30th of January last; and that there have been four convictions since the 30th of January; that's his recollection of it; I prefer to fall back on the record.

Mr. Nicoll.—The record is open for inspection; are you going to take an adjournment now?

Mr. Goff.—I asked for it.

Mr. Nicoll.—All you ask will be granted; all I have got to do is to trail along; may I be permitted to ask how long you are going to continue the examination of Commissioner McClave so I can get some idea about it?

Mr. Goff.—Will you permit me to ask a question by way of information so as to advise the committee of a certain matter?

Q. Do you know, Mr. McClave, if any application has been made to any magistrate or to any judge in this city or county for a warrant against your son-in-law, Granger? A. No, sir; I have no such knowledge.

Q. Since yesterday was such a thing agreed upon or spoken of?
A. Mr. Nicoll spoke about the propriety of it last evening; what he did about it I don't know.

Q. Do you know whether a warrant has been obtained? A. I do not know, sir.

Mr. Nicoll.— You can get information from me without going any farther; a warrant has been obtained; the thing I reproached Mr. McClave about last night at my house was that he had not obtained a warrant for this man who had treated him in such a shocking fashion for so many years, and that I considered it to be his duty to do so at once, but as a matter of fact I have been so busy, and so interested in the proceedings here that I have not done a thing.

By Senator O'Connor:

Q. Do you know whether this fact of the question of a warrant being issued or an application made for the warrant, has in any way affected your son-in-law, Mr. Commissioner? A. No, sir; I have not the slightest idea.

Q. Do you not know where he is now? A. I have not the slightest idea.

Q. And have not known anything about his whereabouts since he left here yesterday afternoon? A. No, sir; I have not seen anything of him except in the chair.

Q. Directly or indirectly? A. No, sir.

Q. Nobody has communicated to you where he will be? A. No, sir; I have not the slightest idea; I should be very glad, indeed, to have him here.

Mr. Nicoll.— If there was any way we could produce him we would produce him; may I ask the committee whether your own officers or sergeant-at-arms to whom you spoke this morning has obtained any information about the whereabouts of the witness?

Chairman Lexow.— We have none.

Mr. Goff.— He has not been to his place of business to-day.

Senator O'Connor.— That is all the information that we had, that he had not been to his place of business to-day.

Mr. Nicoll.— Let us hope he will be here to-morrow.

Chairman Lexow.— You will understand, Mr. Nicoll, that any threats made against witnesses who is subpoenaed to come here and testify is not indirect itself, but indirect contempt of the Senate; it is a fact to intimidate or brow-beating to keep the witness away; and this committee will be compelled to take such steps to enforce its orders, and the presence and appearance of the witness are given, to the full extent of its authority to bring them here and protect the witnesses here.

Mr. Nicoll.—I know what my rights are, and know what the committee's are; but I want to know whether or not the committee would protect a man who they believe to be guilty of forgery?

Mr. Goff.—How do they believe it?

Mr. Nicoll.—Who they believe to be guilty of forgery. If this man was an honest man or honest witness, he would return.

Senator O'Connor.—You can not tell whether this man tells the truth. Even if he is guilty of forgery, or even of murder, he is entitled to protection.

Mr. Nicoll.—He is entitled to it; but I say no man who is an honest man will hesitate to come before this committee or before any other judicial body and give his testimony. The fact that he has disappeared after his midnight association with Mr. Goff is a strong evidence in my mind that he is not entitled to the belief of this committee.

Chairman Lexow.—May he not have disappeared, Mr. Nicoll, as the result of the suggestion thrown out to him that he would be arrested on the charge of forgery?

Senator O'Connor.—He promised Mr. Goff to be here.

Mr. Nicoll.—He has known all about these transactions for a year. Mr. McClave has known them. The witness has known about them; others have known about them; there can be no secrecy about them; there is some reason why this man has not appeared this morning; you will never find me guilty of the misconduct of trying by any indirect manner to intimidate a witness who is properly subpoenaed to appear before the committee of the Senate of the State of New York. That is certainly true; but at the same time you are not to blame me if I discover that this man committed 20 crimes, and that the witness who sits upon that chair simply because he was his son-in-law, because he was the father of his three grandchildren, because he lived in his house and was the husband of his daughter, out of motives of humanity hesitated to prosecute him. Now you may not blame me for that.

Mr. Goff.—I think there is no blame to be attached to Mr. Nicoll whatever. No question has been raised here on the part of this committee, and I am certain on the part of counsel. There is no question of Mr. Nicoll's duty to advise his client, Mr. McClave, or to feel indignant on his part of what he considered an unjust act to Mr. McClave. But we are here in the performance, as we understand it, of a public duty, and, since there has been bribery and corruption charged against the police department, we must make use of whatever weapons comes to our hands, and we can only make use of these weapons, from which bribery and corruption have generated. No honest man, my

friend, Mr. Nicoll, says, no honest man would come here and go on the stand and give evidence if he had committed forgeries. Might I reply to that by saying that I doubt if any honest man in New York would keep in his love under any circumstances; and if made to be a progenitor of his grandchildren from year to year know he was begetting forgers and corruptionists.

Mr. Goff.—Every day, in the course of demonstrations of justice in this city—well, I won't say every day, but frequently—Mr. Nicoll, himself, as a public prosecuting officer, and myself, as an assistant in the same character, we have necessarily, when the occasion makes it a necessity to make use of all implements that come to our hands, only to obtain knowledge and information; and the fact that this witness came upon the stand here yesterday and swore to certain facts and has not been proven or demonstrated as being untrue, his word is as good as Mr. McClave's. His manner on the stand was just as convincing of truth as Mr. McClave's has been; he stands equal with Mr. McClave, because Mr. McClave has thrown around him his shielding wing for six year. Now, all I have to say, if your honors please—

Mr. Nicoll.—If your honors please, I object to this.

Mr. Goff.—You opened the case. If your honors please, with respect to the disappearance of this witness, I repeat again, he told me last night that he was afraid of being arrested this morning. I told him that such an arrest would not dare be made in this court. That he was under the protection of this committee; he said that his father-in-law threatened to have him arrested. I urged him to come here this morning, and that this committee would protect him; he left me in that frame of mind. That is all of our relation with the matter. We want to get this witness; we want to see, gentlemen, after this supreme moment, when this witness has taken the stand, why Mr. McClave should have made these threats last night, at that particular time.

Mr. Nicoll.—We want the witness and there is nothing we would not give to have the witness.

Chairman Lexow.—You can not but suppose that this committee should be surprised that the gentleman who slept for six years upon his criminal rights, if you please, and then just as soon as the witness appears on the stand against the man here and gives testimony against the man, that then he should for the first time avail himself of his right to arrest him.

Mr. Nicoll.—And you have never known a father—

Chairman Lexow.—It is intimidation.

Mr. Nicoll.—Have you never known a father who was seeking to suppress charges against his son-in-law before? Is this your first experience of this kind?

Chairman Lexow.—I have certainly heard of it.

Mr. Nicoll.—We know this witness is protected by this committee in coming before this committee and in going from this committee room, in appearing at the sessions of this committee; he is protected while giving his testimony; but after he has got through he is entitled to no other protection than any other man in the State of New York, than any other criminal, and this is the only protection you can give, except in one case where the witness testifies to the giving of a bribe, he is protected by statute, and every other citizen, although he is protected in attendance on the sessions of the committee, as soon as he leaves the attendance, the criminal law falls upon him as it falls upon everybody else.

Chairman Lexow.—The committee is surprised that the representative of the police department should, himself, suggest the method of intimidating the witness, because that is the result of it; Mr. Nicoll must know as well as anybody else that the suggestion of arrest against this witness will naturally intimidate a witness. Mr. Nicoll knows we are bound to protect our witnesses so far as we can, and it is unfair to this committee to throw a straw in the way of obtaining the truth in this case. That is not only throwing a stone but putting up a big obstacle.

Mr. Bradley.—I ask Mr. Nicoll why he was so emphatic in making the assertion this morning that we would never see this witness again.

Mr. Nicoll.—I will tell you, sir. For the first time in my life, at my house, Mr. McClave disclosed the fact that this young man had been committing forgeries for a period of seven years, and that Postmaster Van Cott had discharged him from the post-office for opening registered letters and taking money therefrom, and I said that a man of that sort to have the audacity to come down before the honorable committee of the Senate of the State of New York and palm himself off as an honest witness, I venture to say he will never appear before them again.

Senator O'Connor.—I do not think you intended to keep this witness away, but you said that which was likely to keep the witness away. You did a very unwise thing.

Mr. Goff.—I ask the committee if they will direct the commissioner of police of this city on the stand, if he will bring to bear the tremendous resources of the police department of this city to produce this man?

Senator Bradley.—He can do that in 24 hours.

Mr. McClave.—I want to say, Mr. Goff, that I shall be pleased better than anybody else if Mr. Granger will come to this court room and sit in this chair again. I will say now that I will instruct my messenger to go to Superintendent Byrnes at once

and to instruct him to put every possible man that he can on, to find that man and put him in this court to-morrow morning.

Mr. Goff.—Suppose you go to the Superintendent Byrnes yourself?

Mr. McClave.—If I can catch him I will do that myself.

Mr. Nicoll.—With this proviso that you permit me to show when this man is on the stand, what kind of a man he is.

Mr. Goff.—There is no proviso.

Senator Bradley.—That is a privilege.

Chairman Lexow.—We want to know that.

Mr. Goff.—We are satisfied.

Mr. Nicoll.—If I can show you what I know about him, that is all I want.

Chairman Lexow.—We told you Mr. Nicoll, that you would have the broadest latitude of examination.

Mr. McClave.—Mr. Goff, do you think I had better go up personally.

Mr. Goff.—I would suggest it. The fox is always his own best messenger. Your honor, will we adjourn now until to-morrow morning?

Chairman Lexow.—Until half-past 10 o'clock to-morrow morning. We stand adjourned until then.

Mr. Goff.—Mr. McClave, will you please have your bank-books here, your private as well as your official?

Mr. McClave.—Yes.

Adjourned.

Proceedings of the fifteenth meeting of the committee, Wednesday, May 23, 1894, at 10.30 a. m.

Present.—Senators Clarence Lexow, Edmund O'Connor, Jacob A. Cantor, Charles T. Saxton, Daniel Bradley, Cuthbert W. Pound and George W. Robertson, of the committee; John W. Goff, W. Travers Jerome and Frank Moss, of counsel for the committee; Mr. Delancey Nicoll, for the police board.

Chairman Lexow.—Before opening the proceedings to-day, the committee desires to state through me that upon a repetition of what occurred yesterday in the form of applause or hissing — upon the repetition of that to-day this room will be cleared of all those not immediately connected with these proceedings.

John McClave resumes the stand.

Direct examination continued by Mr. Goff:

Q. Have you heard anything about Mr. Granger, Mr. McClave?

A. No, sir; I have not.

Q. Did you see the superintendent of police, as promised? A. Yes, sir; I did.

Q. Was there anyone present when you saw the superintendent? A. Yes, sir.

Q. Did the superintendent ask you if there was a warrant out for this man? A. I think he did; yes, sir.

Q. Did he ask you what crime he was charged with? A. I think he did, sir.

Q. What did you answer? A. I told him that I had no knowledge of the fact that any warrant was out for him at all.

Q. I ask you if the superintendent asked you what crime he was charged with, and what you replied? A. Yes, sir.

Q. What did you say? A. What did I say in reference to that question?

Q. Yes. A. The superintendent asked me the question in the presence of Mr. Latchaw, of the World, as to whether or not there were any warrants out for him; I told him that I had no knowledge of that fact at all; then he asked me upon what grounds he could be interrupted in case he should find him; I told him I thought he would be perfectly justified, in case he did find him at all, to hang on to him in some way or other, and bring him here; he then promised me he would do everything that lay in his power; he called in two detectives, and he gave one of them to Mr. Latchaw, of the World, and they went out; and he sent for another one, and sent him with Mr. Barnes; and called in Inspector McLaughlin, and told him to tell his men to look out for him.

Q. I ask you again, for the third time, if the superintendent asked you what crime he was charged with; will you please answer that question? A. No, sir; he asked me if there was a warrant.

Q. Will you please answer my question; did the superintendent ask you what crime he was charged with? A. No, sir; I think not.

Q. Will you swear he did not? A. I may be a little mistaken about it; I am inclined to tell you the best of my recollection about it; I would not like to swear; he may have asked me that question.

Q. Was anything said about forgeries having been committed? A. I—while we were there—

Q. Was anything said about forgery while you were there?

Mr. Nicoll.—Let him answer; he is trying to do his best.

Mr. Goff.—The difficulty is, his speeches are taking up considerable time.

The Witness.—I think possibly there was something said about that.

Q. Who said that? A. I think likely I did myself.

Q. And the superintendent asked you when these forgeries had been committed, didn't he? A. I don't think he did.

Q. Are you as uncertain about that as other things in connection with this conversation? A. I do not desire to be uncertain; I want to tell you the facts; I say I don't think he did; I stand by that.

Q. Do you say he did not? A. I say I do not think that he did; I would be willing to admit it, if he did say that.

Q. I do not ask you that; when the superintendent asked you if there was a warrant out, did he not ask you, if you had made information against Granger? A. Made "information?"

Q. Yes; you know what an "information" is? A. No, not particularly; I do not know in what sense you took it.

Q. I am putting it in the sense the police put it, the proper sense? A. I never heard the word in the police department in connection with criminality at all.

Q. You never heard the word "information" used in the police department in connection with criminality? A. No, sir.

Q. During your nine years experience? A. No, sir.

Q. You never heard the complaint filed before a police magistrate or made before a police magistrate, was called an information? A. Do you mean on information and belief?

Q. No; did you ever hear that paper called an information? A. No.

Q. This is the first time you ever heard that word used? A. Yes, sir.

Q. Did the superintendent ask you if any complaint had been made before any police magistrate? A. No, sir; he did not ask me that question at all.

Q. Didn't you say to the superintendent that there had been warrants issued against Granger? A. No, sir; I did not.

Q. You swear to that positively? A. Yes, he asked me the question.

Q. Wait a while; did you say, "I understand there were warrants out for him last night:" did you utter those words? A. No, sir.

Q. Do you swear positively? A. I swear positively that I made no such statement as that at all.

Q. In words or substance? A. Oh, nothing — warrants out last night; that is in reference to night before last?

Q. I ask you for words, not for occasion? A. I told you the superintendent asked me if there were any warrants out for his arrest, and I told him I had not knowledge to that fact, and he wanted to know what ground he could hold him on.

Q. You have sworn you did not utter those words; that is all I want? A. Yes.

Q. And you stand by that? A. Yes; Mr. Latchaw, of the World, is present; I am willing to let him go on the stand in reference to that matter; Mr. Latchaw, of the World, asked that I would give him a detective and thought he could find him, sir; he was present at the time of the interview with the superintendent.

Q. Will you stand with what Mr. Latchaw says? A. I think Mr. Latchaw is an honorable gentleman; I have every reason to believe so.

Q. Have you talked with other persons besides the superintendent, about Granger's testimony against you, the other day?

A. Other persons?

Q. Yes.

Chairman Lexow.—What is the object of this kind of examination, Mr. Goff.

Mr. Goff.—We want to see if we cannot trace some knowledge of this witness, Granger.

The witness.—If you will permit me to answer that absolutely and directly, I will be pleased to answer it as positively as it is possible for any human being to answer it, just as clearly as it is possible for any human being to answer it. I say to you absolutely and positively that I am not a party to keeping him away from here. There is nothing in the world that I so much want at this particular time, as to have that man in this witness chair again.

Chairman Lexow.—This closes this episode. It seems to me we can get at those facts in a more direct way, if you need them.

Mr. Goff.—All right, Mr. Chairman.

Q. Have you brought your bank-books, Mr. McClave? A. Yes (Producing three bank-books.)

Q. The year before you were appointed police commissioner in 1881, did you represent yourself to any of the commercial agencies, as to your worth in business? A. I have no recollection of it, sir.

Q. Did you ever make any representations to the mercantile agencies of your worth in business? A. I do not recall any; they may have come in from time to time, those certain years, and made some general inquiries.

Q. Don't you remember in that year that you ever made a representation of what you were worth? A. I don't recall, sir.

Q. Does your memory fail you on that point, again? A. I can not recollect having made any statements to any mercantile agencies for a great many years.

Q. Verbally, or written, did you ever make a statement to a mercantile agency of what you were worth? A. There have

been statements during my business career, just when, I do not remember.

Q. Do you recall any particular statement you ever made as to your worth in business? A. No, sir; I do not recall of any at the present.

Q. Do you know positively you ever made a statement? A. I would not care to state whether I did or not; I could not tell you positively.

Q. You, as a business man, doing a business of \$500,000 a year, you were not rated in the mercantile agencies? A. The mercantile agencies have rated me for a great many years, I think, for three to five hundred thousand dollars, with the highest credit.

Q. For what year? A. For a number of years back.

Q. What agency has done that? A. Dunn, Barlow & Company.

Q. And any other agency? A. I do not know, sir; I never looked them over.

Q. Are you a subscriber to Dunn, Barlow & Company? A. I have their book in my office.

Q. And have had their book in your office for a great number of years? A. Yes, sir.

Mr. Nicoll.—It is R. G. Dunn & Company you mean, isn't it?

The witness.—Yes; R. G. Dunn & Company.

Now, isn't it a fact that you were never rated at R. G. Dunn & Company's before the year 1894, as being worth from three to five hundred thousand dollars? A. No, sir; I think not.

Q. What? A. I think not, sir; I think I have been rated in Dunn & Company's agency, for eight or ten years, that is my recollection of it, at \$500,000.

Q. Don't you know, in 1884, you were rated at \$200,000 dollars in the book of R. G. Dunn & Company? A. No, sir; I do not.

Q. Will you state that is the fact? A. I don't think that is so, sir.

Q. Do you know anything about it? A. No; I don't remember; I don't recollect making any statement in 1884 at \$200,000.

Q. I ask you the statement R. G. Dun & Company made, to which concern you are a subscriber? A. Now, you are asking me if I made a statement of \$200,000, is that the idea, in 1884?

Q. Mr. McClave, I ask you if R. G. Dunn & Company, to which you were a subscriber, did not rate you in 1884 at \$200,000? A. I do not know; I can not remember; I can not recollect ten years ago.

Q. Don't you know that Bradstreets rated you in 1883, on your own claim, at \$146,000 to \$228,000, on your own claim? A. I don't know, sir; that is in 1883, you say?

Q. In 1883. A. I don't know.

Q. Will you say that is not so, or was not so? A. Will I say I made a statement to them in 1883 of \$143,000?

Q. Yes. A. No.

Q. When a business man is asked for a statement for a mercantile agency, he generally makes what he believes to be a truthful statement, don't he? A. I think the Bradstreet agency has quoted me from \$150,000 to \$200,000; some years ago they asked me for a statement; I think I did make some sort of statement to them at that time, and they did not correct their report; they then asked me again for another statement, and I wrote them a letter and I told them that until I had an assurance that they would quote me correctly, I would not make any report, and I have never heard from them since.

Q. Did you ever make any outside the one you have mentioned; did you ever make a claim except the one you have mentioned; did you ever make a claim for a rating excepting the one you have stated? A. No; I think not.

Q. That is what you claim? A. That is my recollection of it.

Mr. Goff.—Mr. Chairman, on this point of inquiry it may be of interest to the committee, and as Bradstreet's agency have kindly sent their books down here, under charge of their counsel, who is willing to go on the stand and produce them, I will ask you to allow me for a few moments to put him on the stand.

Chairman Lexow.—Step aside, for a few moments, Mr. McClave.

John H. Bird, called as a witness on behalf of the State, being duly sworn, testified as follows:

Direct examination by Mr. Goff:

Q. What is your profession, Mr. Bird? A. Am I obliged to criminate myself?

Q. Not unless you wish to make a voluntary statement. A. Well, I am a lawyer.

Q. Then you make that of your own free will, that admission? A. Voluntarily, or involuntarily.

Q. How long have you been in that character? A. I have played that character for about 35 years.

Q. And successfully? A. I think so.

Q. Are you counsel for the Bradstreet Mercantile Agency? A. I am, sir; and have been for a quarter of a century.

Q. Have you in your possession records of that agency in relation to the rating of Mr. McClave—Mr. John McClave? A. I have, sir.

Q. Will you kindly tell us what that statement is, in the year 1893?

Mr. Nicoll.—Is this a letter from Mr. McClave? One moment; what are those papers? Permit me to cross-examine on the question.

The Witness.—They are the record of the Bradstreet Company, with respect to the commercial standing of Mr. John McClave.

By Mr. Nicoll:

Q. Who made them up? A. Made up by the clerks in the office from statements made by Mr. McClave to them.

Q. Did you make them up? A. I did not.

Q. Did you collect the information from which they were made up? A. Personally, Mr. Nicoll, I know nothing about them, except as counsel for the company; being subpoenaed by this committee, I brought the record here.

Q. It is not a part, as I understand, of the business of the counsel for the company to go out and interrogate merchants about their standing; is it? A. Certainly not.

Q. That is not a part of your professional employment? A. I have never exercised it.

Q. You have never done that business? A. Certainly, not, sir.

Q. That being so, you know nothing personally about those records? A. Personally; no, sir.

Q. Who are the clerks in the firm of Bradstreet & Company who have collected that information recorded on those certificates?

Mr. Goff.—I object.

Chairman Lexow.—I think counsel has a legal right to put that question, but I do not see why Mr. Nicoll loses his time in making an objection.

Mr. Nicoll.—Perhaps I am wasting time. I am going to object to it on the ground that it is not legal evidence.

Chairman Lexow.—I understand that. Why not let it go in for what it is worth?

Mr. Nicoll.—I object to it on the ground that it is not legal evidence, and should not be received by a judicial tribunal, and try as hard as it will, the committee can never divest itself of its judicial functions, and the committee should not receive evidence of this sort. I should consider myself derelict in the performance of my duty, if I did not object, that they ought not to receive anything but legal evidence.

Chairman Lexow.—I understand the objection you make that they should produce proof of original sources of information.

Mr. Nicoll.—They should bring the clerk who had the inter-

view with Mr. McClave, and get the information from him as to what he was worth in 1880.

The Witness.—I have here the detailed statement made by Mr. McClave to the company.

Q. In his original handwriting? A. It is not in his own handwriting.

Mr. Nicoll.—If you can produce Mr. McClave's handwriting, I shall make no objection.

The Witness.—If he will look them over, he will probably recognize the statement made by him.

Mr. Goff.—What is the use of wasting time on it?

Chairman Lexow.—I think if this witness will testify that is a correct copy of the records of the office, we will not call for the original document. Unless you desire the originals to be produced, we will allow this testimony to go in.

Mr. Nicoll.—I do desire the originals.

Chairman Lexow.—We will allow the testimony to go in on the statement that this is an original copy.

Mr. Nicoll.—I understood you to say that if I required the originals, these would not be allowed in evidence.

Chairman Lexow.—What I said is this: You will have the right to have the originals produced, if you desire it; but if the witness here testifies this is an exact copy of the originals, we will take this for evidence.

Mr. Goff.—Go on, Mr. Bird.

The Witness.—What year was you asking?

Senator Cantor.—We understand the originals are to be produced?

Chairman Lexow.—Certainly.

By Mr. Goff:

Q. In the year 1883? A. In that year he made returns at \$146,228.50; that is for 1883.

Q. What is the statement there, if any? A. The statement in detail I have before me; I have the detailed statement.

Q. That is his claim for that year? A. Yes.

Q. What did Bradstreet rate him at in that year? A. In 1883; I haven't the record for that; I have for 1884.

Q. Give us 1884? A. The rating of Bradstreet's do you mean, for 1884?

Chairman Lexow.—How is that material, Mr. Goff? This witness, Mr. McClave, may be worth a million, and Bradstreets, for some reason of their own, may rate him at \$1. How is that material, unless it is made on the statement of the defendant?

The Witness.—I have that record here, so far as his claim is concerned. As the chairman says, we are very conservative, and Bradstreets may underrate; we generally do. I have not the claim for 1884 in detail.

Q. Have you it in substance? A. I have our rating for that year.

Q. On his claim? A. Yes, sir; it is as follows: "He regards himself worth close to \$150,000, and there seems no doubt on nominal value that is correct, though on a cash basis, it is believed he could not raise more than \$100,000, which is the estimate given; he has not yet lived down—;" with the permission of the committee, I will not read some private matter.

Q. Is it in relation to the business? A. No, sir. }

By Mr. Nicoll:

Q. What is the date of this one? A. November 24, 1883, Mr. Nicoll.

Q. Have you compared the paper that you are now reading from, from what you say is the original in the office? A. This is the original in the office; this does not purport to be a copy of the detailed statement made by the commissioner.

Q. What is it then? A. It is the conclusion reached by the office, after going over his statements, and weighing his authority.

Mr. Nicoll.—I object to that as the merest hearsay.

Chairman Lexow.—Objection sustained.

By Mr. Goff:

Q. You have got his claims in your office, the original claims? A. I do understand.

Q. You have not got his original claims there, Mr. Bird? A. I have not, sir; not for that year.

Q. For any year? A. Yes, sir; I have 1889, in specific detail.

Q. Give us 1889? A. On May 25, 1889, Mr. McClave presented the following detailed statements—

Mr. Nicoll.—May I ask, that I may not interrupt the proceedings any more than possible, whether or not all of these you speak of are copies of statements made by Mr. McClave, which have been verified by yourself?

The Witness.—Not by myself, sir.

Mr. Nicoll.—Gentlemen, can you receive this evidence?

Chairman Lexow.—The ruling has been that, unless the original is produced, if you call for it, this is stricken out.

Mr. Nicoll.—Why shouldn't they produce it?

Chairman Lexow.—Because it takes too much time.

Mr. Nicoll.—It does not take so much time to send to the

Stewart building, which is not five minutes' walk from this building.

Chairman Lexow.—While it bears all the evidence of authenticity, it seems the original ought to be produced, Mr. Goff.

Mr. Goff.—Well, if you rule that way, Mr. Chairman.

Senator O'Connor.—Why not have the witness go to the office and get the original statements, and we won't have any controversy.

The Witness.—We will agree to have this shown to your client, and see if he recognizes it. I do not care to be bothered coming here again, if he recognizes it.

Mr. Nicoll.—Please go and get the original statement; you have wealthy clients.

The Witness.—Yes; I know I am under pay.

Mr. Nicoll.—Go right and get them.

The Witness.—Thank you; I have not been dismissed by the committee, yet.

Chairman Lexow.—Mr. Goff, do you think it better to have Mr. Bird go and get them?

Mr. Goff.—Yes, sir.

(Mr. Bird leaves the stand.)

John W. McClave, resumes the stand.

Direct examination continued by Mr. Goff:

Q. Did you make a statement in 1893? A. Eighteen hundred and ninety-three, sir?

Q. Did you make a statement in 1893? A. A written statement?

Q. I am asking you if you made a statement in 1893, that you were compelled to fail in 1873, with liabilities of \$198,000? A. No, sir; I never made any such statement.

Q. Do you know if anyone connected with you in business with your knowledge made such a statement? A. No, sir; they would not make such a statement, because it was not true.

Q. Never mentioned the cause? A. No; I do not know.

Q. Did you, on December 13, 1888, or about that date, make a statement to the representative of R. G. Dunn & Company, commercial agency, to which you subscribed, that your position as police commissioner, had, to a considerable extent, aided in your success in business? A. No, sir; I never made any such statement.

Q. Do you swear you did not make such a statement? A. Yes, sir; positively.

Q. I read from a statement furnished to me by R. G. Dunn &

Company, in which it states under the date last mentioned — December 13, 1888 — “His position as police commissioner, has, to a considerable extent, aided in his success?” A. That is not my statement.

Mr. Nicoll.—Is that put down there as a statement of Mr. McClave, or as a comment of the interviewer?

Chairman Lexow.—I understand counsel has simply asked whether on that date or at that time he made a statement of that kind to R. G. Dunn & Company. That is perfectly proper?

A. No, sir; I did not make such a statement.

Q. Is that the date? A. No; it is not true, sir.

Q. Is it a fact that your police commissionership has aided you in your business? A. It is an absolute fact, sir; that it has not aided me one solitary bit in that respect; my business stands by itself

Q. I read from a statement made on December 1, 1888, to R. G. Dunn & Company, “From his political interest as police commissioner, he is brought in contact with quite a large demand for lumber, which has increased his otherwise good business;” did you make that statement, or anything like that in substance? A. No, sir; I did not make that statement.

Q. On October 14th, to the same Mercantile Agency, did you make this statement: “Without giving his figures, he says he has done a successful business, and added to his means; this is conceded by those in a position to know, and the amount of his business has no doubt been increased somewhat by the influence of his position as police commissioner;” did you make that statement, or anything in substance? A. No; that is not my statement.

Q. Did you make that statement? A. No.

Q. Or anything in substance like that? A. No; I did not say that.

(Mr. McClave again leaves the stand, and Mr. Bird resumes the stand.)

John H. Bird, resumes the stand:

Direct examination resumed by Mr. Goff:

Mr. Nicoll.—One moment. Where is this gentleman, who occupied that chair a moment ago, while I was occupied talking with Mr. Bird?

Mr. Goff.—He is at your elbow.

Senator Bradley.—I hope you did not think the committee spirited him away, did you?