

LEGAL INTELLIGENCE.

In Court of Appeals.

Present: Hon. Sanford E. Church, chief justice. Justices Grover, Allen, Peckham, Rappallo, Folger and Andrews.

Proclamation made and court opened.
Thursday, December 12.—Calendar, No. 872.
The city of Rochester appt. agst Roswell Hart et al. respts. Argued. Mr. John C. Cochrane for appt. Mr. W. F. Cogswell, for respts. In 1851, the plaintiff was authorized to become a stockholder in the Rochester and Genesee Valley railroad, to the amount of \$300,000. (Laws 1851, chap. 199.) By chapter 381, laws 1872, the mayor was required to appoint five persons, to be known as a board of water commissioners, who were authorized to construct water works, and borrow money on the credit of the city to an unlimited amount, and the money thus borrowed was made a lien upon the city property. Chapter 771, p. 1836, sec. 26, laws 1872, authorized the issue of bonds to the amount of \$3,000,000. Defendants were appointed commissioners under the act, and this action was brought to restrain them from interfering with the streets and property of the city, and from incurring obligations against it.

Defendants demurred to the complaint, which was sustained in the court below, and plaintiff appealed to this court.