

"It would be affectation to doubt that the paragraph headed 'The Judge and the Actress' in your paper this evening refers to me. I desire, in the fewest possible words, to state that I never had the pleasure of seeing Miss Anderson in my life, either in public or private, and that I never wrote a line to her. The whole matter is an absolute and impudent falsification."

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, Jan. 31, 1884.

Before JOHNSON, J.

RIVET v. THE CITY OF MONTREAL.

City of Montreal—Assessment for cost of improvement—Petition to annul special assessment roll.

Commissioners acting under the 42 & 43 Vict., c. 53, regulating proceedings for the preparation of special assessment rolls for improvements in the City of Montreal, are not authorized to go beyond the terms of the resolution of Council settling the proportion of cost to be levied on the proprietors benefited. And where an action was brought to annul a special assessment roll, without attacking the resolution under which it was prepared, the Court held that the question, whether the city had power to limit its share to one-third of the cost of the improvement, was not put in issue, and could not form the subject of inquiry.

JOHNSON, J. This is an action brought in the form of a Petition by a municipal elector to annul a special assessment roll made by commissioners acting in virtue of a resolution of the corporation, for the purpose of a local improvement, and under an appointment for that purpose made by the Court of Review.

The right to petition is based on sec. 12 of 42 & 43 Vic, c. 53, which is as follows:—
"Any municipal elector, in his own name, may, by a petition presented to the Superior Court sitting in Montreal, demand and obtain, on the ground of illegality, the annulment of any by-law, resolution, assessment roll or apportionment, with costs against the corporation."

The 4th section of the same statute, after reciting certain previous and abortive assessments, authorized other and new assessment rolls to be made, and also the appointment by the Court of Review of three commissioners for that purpose; and by the fourth clause of that section it was enacted what the powers and duties of the commissioners should be, and certain other provisions of a previous statute, (37 V. c. 51) were referred to as governing their proceedings. As to their office, and the nature and extent of their duties as commissioners, the fourth section said: "It shall be the duty of the said commissioners to commence their proceedings on the day fixed by the judgment appointing them, and to assess and apportion the cost of the improvement in whole or in part, as the case may be, according to benefit and in such manner as to them may appear most reasonable and just, upon all and every the pieces or parcels of land or real estate which they may determine to have been benefited." In May, 1880, the commissioners were appointed by the Court of Review; and that Court appears, by its judgment on that occasion, to have held that whatever difficulties might arise thereafter, when the commissioners should have terminated their proceedings, there was, at all events, no difficulty then in the way of appointing them. The difficulties or some of the difficulties which seem to have been then anticipated are now said to have arisen, and the assessment the commissioners have made is arraigned on a variety of grounds—some of which I will not dwell upon further than to say that they are of a most extensive and sweeping character, and directly include in one vast conspiracy both the legislature and the corporation, as well as their individual members. Coming down, however, to more tangible grounds of complaint, I understand the main pretension of the Petitioner to be that this last assessment roll made by the three commissioners appointed by the Court of Review should be set aside, because the commissioners have proceeded upon an entirely erroneous principle in assessing him at \$1,015 for his share of this improvement, whereas he was not benefited to that extent; and that the duty of the commissioners was, under the interpre-