ing year. In that case also the council were acting in defiance of the ratepayers, and a petition signed by a large majority of the electors. In the case before us none of these objections exist. The only ground taken in the rule that can affect these by-laws is the fifth—that the corporation had not surplus funds or moneys in their hands at the time of passing any of the by-laws for the purchase of the site or the erection of the building. As to the other objections, they are pointed at by-laws within provisions of the 226th section.

But, under all the circumstances, and considering that the site has been conveyed to the municipality and paid for, that the town hall is erected and accepted by the corporation, and that the funds are in the hands of the Treasurer to meet the contract for its erection, we think that in such a case, although the corporation may not have been strictly regular in their proceedings, we ought to abstain from exercising the discretionary authority given to us by the Municipal Act, and decline to interfere. In so deciding we by no means desire to countenance in any degree non-compliance with the salutary provisions enacted by the Legislature to protect ratepayers against the creating of debts, and for the proper raising and application of municipal moneys.

We discharge the rule, but not with costs, as we think the applicant had some grounds for questioning the legality of the proceedings.

Rule discharged.

COMMON LAW CHAMBERS.

(*Reported by* HENRY O'BRIEN, Esq., *Barrister-at-Law, Reporter to the Court.*)

TAYLOR v. GRAND TRUNK RAILWAY COMPANY.

Railway Co.—Service of writ of summons on Station Master.

The station master of a railway company, the head office of which is not within Ontario, is not an agent on whom service of a writ of summons against the company can properly be effected, under C. L. P. Act, sec. 17.

[Chambers, Oct. 13, 1868.]

Lauder obtained a summons calling on the plaintiff to show cause why the service of a writ of summons against the defendants, which had been effected on a station master of the company, should not be set aside as irregular, on the ground that the station master was not an agent of the company within the meaning of section 17 of the Common Law Procedure Act, which enacts that "every person who, within Upper Canada, transacts or carries on any of the business of or any business for any corporation whose chief place of business is without the limits of Upper Canada, shall for the purpose of being served with a writ of summons issued against such corporation, be deemed the agent thereof."

Osler showed cause, and contended that the words were so wide and general as necessarily to embrace the case of a station master or agent.

MORRISON, J., held that the agent contemplated by the act was in his opinion a general agent, or superintendent, or some other officer of that description; and that the service of the writ on the station master was irregular.

Summons absolute, without costs.

THE QUEEN v. MULLADY AND DONOVAN.

Application for bail by prisoners committed for murder—Delay in trial.

On an application by prisoners in custody on a charge of murder, under a coroner's warrant, to be admitted to bail, it is proper to consider the probability of their forfeiting their bail if they know themselves to be guilty.

Where in such case there is such a presumption of the guilt of the prisoners as to warrant a grand jury in finding a true bill, they should not be admitted to bail.

The fact of one assize having passed over since the committal of the prisoners, without their having been brought to trial, is in itself no ground for admitting them to bail.

The application is one to discretion, and not of right, the prisoners not having brought themselves within 31 Car. II. cap. 2, sec. 7.

[Chambers, Nov. 18, 1868.]

This was an application to admit the prisoners to bail. It was grounded upon two principal allegations: 1st, that the prisoners were committed on a charge of murder to the common gaol of the county of Huron, before the last assizes for the county of Huron, at which court no indictment was preferred against them; and, 2nd, that upon the depositions which were taken at the coroner's inquest, the case against the prisoners was one of circumstantial evidence only, and amounted to no more than a case of suspicion, which, however strong, would not justify the detention of the prisoners in gaol.

The prisoners were committed in June last, upon a coroner's warrant, founded on an inquest, by which it was declared that they were guilty of wilful murder.

Gwynne, Q. C., for the Crown, showed cause. The prisoners are not entitled to bail as of right, unless they bring themselves (which they do not) within 31 Car. II. cap. 2, sec. 7: *Anon.* 1 Vent. 346; *Lord Aylesbury's Case*, 1 Salk. 103; *Reg.* v. *Barronet*, 1 E. & B. 1, Dears. C. C. 51; *Barthelemy's Case*, 1 E. & B. 8, Dears., C. C. 62.

Nor are they entitled as a matter of discretion; 1st, because in such case they must bring the deposition before the Court, which they do not do, and must establish by the depositions that there was nothing to justify the verdict of the coroner's jury: *Rex* v. *Mills*, 4 N. & M. 6; 1 Ch. Crim. Law, 98. 2nd, because the Crown now brings those depositions, which establish sufficient to justify the conclusion arrived at by that jury. 3rd, because a sufficient explanation is given on affidavit, on the part of the Crown, that a due regard to the ends of justice demanded that the case should be postponed to the next court, for the purpose of obtaining evidence to supply certain missing links in the chain of circumstantial evidence, and to show why the case was not proceeded with at the late court.

The judge cannot try the case. If there be sufficient to justify the charge being made, so as to put the prisoners on their trial, that is a sufficient reason why bail should be refused. The lapse of an assize can make no difference, except in so far as it may enable the prisoners to take such steps as, under 31 Car. II., would entitle them of *right* to bail.

McMichael contra. 1st. We do not ask bail as a matter of right, but appeal to the discretion of the court: *Reg.* v. *McCormack*, 17 Ir. C. L. Rep. 411. 2nd. The Crown have allowed an assize to pass since the prosecution, and this entitles us to ask for bail: *Fitzpatrick's Case*, 1 Salk. 103; *Lord Aylesbury*, Ib.; *Lord Maughan's Case*, Ib.; *Reg.* v. *Wyndham*, 3 Vin. Ab. 515. 3. It does