The Lancaster Intelligencer.

Volume XVI—No. 274. LANCASTER, PA., TUESDAY, JULY 20, 1880 Price Two Cents.

CLOTHING.

Spring Opening

—AT—

24 CENTRE SQUARE.

We have for sale for the coming seasons an Immense Stock of

Ready-Made Clothing,

of our own manufacture, which comprises the Latest and Most

STYLISH DESIGNS.

Come and see our

NEW GOODS

—FOR—

MERCHANT TAILORING,

which is larger and composed of the best styles to be found in the city.

D. B. Hostetter & Son,

24 CENTRE SQUARE.

25-lyd LANCASTER, PA

SPRING OPENING

—AT—

H. GERHART'S

Tailoring Establishment,

MONDAY, APRIL 5.

Having just returned from the New York Woolen Market, I am now prepared to exhibit one of the Best Selected Stocks of

WOOLENS

—FOR THE—

Spring and Summer Trade,

Ever brought to this city. None but the very best of

ENGLISH, FRENCH

—AND—

AMERICAN FABRICS,

in all the Leading Styles. Prices as low as the lowest, and all goods warranted as represented, at

H. GERHART'S,

No. 51 North Queen Street.

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THE ARTIST TAILOR.

Closing out our stock of Light Weights at cost to make room for

Fall and Winter Stock.

A Large Line of

English Novelties.

TROPICAL SUITINGS, SERGES AND REPS,

BANNOCKBURNS AND CELTICS, GAMBROON PARAMATA AND BATISTE SUITINGS.

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A Splendid Assortment of Wilford's Padded Ducks in Plain and Fancy Styles. A Full Line of

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All the latest novelties. An examination of our stock is respectfully solicited.

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WINDOW SCREENS,

In Black, Drab and Green. Handsome Landscape sold by the foot in any quantity.

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Where a Screen is made that must be taken out when you lower the sash, it is troublesome to handle, always in the way and will wear out in half the time.

We make them in Pine and Walnut Frames and cost you no more than the Patent Screens, and are much more desirable.

A lot of Ends of

WALL PAPER

will be sold low in order to close out.

Our store will close at 7 p. m (except Saturdays) until the 1st of September.

PHARES W. FRY,

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DRY GOODS.

NEW EMBROIDERIES.

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Watt, Shand & Company

HAVE OPENED A CHOICE LINE OF

Hamburg Edgings and Insertings at Very Low Prices.

Just Opened another Invoice of VICTORIA LAWNS, INDIA LINENS, WHITE PIQUES, &c., at Bottom Prices.

NEW YORK STORE,

8 AND 10 EAST KING STREET.

N. B.—During July and August will close at 7:30 p. m., Saturdays excepted.

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DAMAGED GOODS.

—:o:—

HAGER & BROTHER will continue the sale of Goods damaged only by water during the recent fire on their premises.

WALL PAPER CARPETS,

Mattings and Oil Cloths, Muslins and Sheetings, Linens and Quilts, Woolens for Men's Wear, and Ready-Made Clothing, &c.,

All of the above have been marked at a very low price, as we are determined to close out the entire lot.

The sale is going on daily from 6 a. m. until 7 p. m. Saturday evenings until 9 o'clock in store rooms in rear of main store.

As there was no damage to stock in main store room business there goes on as usual.

HAGER & BROTHER,

NO. 25 WEST KING STREET.

CLOTHING.

A FACT WORTH REMEMBERING!

THE REPUTATION OF THE GREAT CLOTHING HOUSE

—OF—

A. C. YATES & CO.

FULLY ESTABLISHED.

—:o:—

Four Years of Success in Producing First-Class

CLOTHING.

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INCREASING SALES AND SPREADING POPULARITY THE RESULT OF OUR EFFORTS TO PLEASE THE PUBLIC.

AN OPEN DOOR TO ALL AT THE

LEDGER { CHESTNUT AND SIXTH STS., } BUILDING,

PHILADELPHIA,

THE FINEST CLOTHING HOUSE IN AMERICA.

JUST RECEIVED THE LARGEST LOT OF

GENTLEMEN'S AND BOYS' FURNISHING GOODS

Ever brought to this city, embracing all the new, beautiful and most stylish colors in Neckties and Scarfs for the Summer Season.

Men's Colored Balbriggan Hose, with Embroidered Silk clocks; Scarlet and Blue Silk Hose; Fancy Colored Half Hose; Striped Cotton Half Hose and Merino Half Hose. Men's and Boys' Suspenders and Fine Braces, in all styles and Colors. Men's and Boys' White Dress and Colored Shirts, Superior Cheviot Shirts, and Blue Flannel Negligé Shirts. Men's and Boys' Summer Underwear in Merino and India Gauze. Men's and Boys' Colored Lisle Thread and Kid Gloves, for Summer Wear. Men's and Boys' Vulcanized Rubber Braces, and a large stock of fine Silk, French Linen and Cambric Handkerchiefs. Men's and Boys' Latest Styles Fine Linen and Paper Collars and Cuffs.

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WATCHES, JEWELRY, &c.

SPECIAL NOTICE.

—:o:—

EDW. J. ZAHM,

JEWELER,

ZAHM'S CORNER, —:o:— LANCASTER, PA.

Our largely increased business makes it necessary for us to enlarge our store room. To make room for the alterations we contemplate, we will close out as much of our stock as possible, between this date and the 10th of AUGUST, at

GREATLY REDUCED PRICES.

This offer applies to any article in our extensive stock EXCEPT SPECTACLES, and will afford all who desire goods in our line a rare opportunity to buy from first-class stock at unusually low prices.

ZAHM'S CORNER. LANCASTER, PA.

MEDICAL,

DR. BROWNING'S

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The Celebrated Prescription of W. CHAMPION BROWNING, M. D.

FOR GENERAL DEBILITY AND PURIFYING THE BLOOD.

Perfectly Purifies the Blood, Enriches the Blood, Reddens the Blood, makes New Blood, Wonderfully Improves the Appetite, and Changes the Constitution Suffering from General Debility into one of Vigorous Health. The best proof of its wonderful efficacy is to be obtained by a trial, and that simple trial strongly establishes it reputation with all.

☞ It is most scientifically and elegantly compounded by its author and sole proprietor,

W. CHAMPION BROWNING, M. D.,

117 ARCH STREET, PHILADELPHIA, PA.

A regular graduate of Jefferson Medical College, of Philadelphia, a thorough Chemist and Skillful Pharmacist. Price, 50c and $1.00. For sale by the Proprietor and all Druggists and Dealers in Medicine. d4-lydcow&w

Lancaster Intelligencer.

TUESDAY EVENING, JULY 20, 1880.

BENCH, BAR AND PRESS.

THE STEINMAN-HENSEL DISBARMENT.

Argument of A. K. McClure on the Power of Courts to Disbar by Summary Proceedings—An Interesting Review of the Courts and Law of Pennsylvania.

The case of A. J. Steinman and W. U. Hensel, plaintiffs in error from the judgment of Judge Patterson summarily dismissing them from the bar for a publication in the Lancaster INTELLIGENCER criticising a case that had been finally disposed of and with which the appellants had no professional connection, was recently argued before the supreme court at Harrisbhrg by Rufus E. Shapley and A. K. McClure, for the appellents, and by Samuel H. Reynolds, as a "friend of the court." The speeches were stenographically reported by Mr. H. C. Demming. Mr. Shapley made an able and exhaustive argument of the law, reviewing all the English and American authorities bearing on the issue, and Mr. McClure followed, confining himself mainly to a review of the bench, the bar, the press and the law as interpreted and revised from time to time in Pennsylvania. He said:

My learned "friend of the court" very gravely misunderstands the attitude of the counsel in this case. It is true that I feel much interest in maintaining the rights of the press, but much more in maintaining the rights of the bar. Indeed I appear to plead the cause of my learned opponent rather than my own. He is simply a member of the bar, while I am more fortunate in being connected with a newspaper. If I should be so rash as to offend some little end of the judiciary and meet the fate of the appellants, I might manage to worry along in the editorial chair without appearing at the bar; but if he shall ever offend the judiciary he will be left without a vocation, and if he correctly presents the law, without remedy. In a little while his friend Judge Patterson will probably be a candidate for re-election, and his nomination would be reasonably certain as things go in Lancaster these days, if the mayor and police shall be equal in protecting the political return judges from self destruction, and the vaults of the Lancaster banks shall be strong enough to protect the returns over nights from factious belligerents. In that case my learned opponent might be inclined to take the stump, and his party predilections would compel him to favor Judge Patterson's competitor. His impressive eloquence could not be silent in such a struggle. It is possible that he might deem it his duty to say on the hustings that corrupt and riotous judicial nominations should be condemned with emphasis by the people, and he might be impelled to go further and say that a judge whose record cannot stand public criticism should not be permitted to preside in the temple of justice. If in such manner, or in any other manner, by public or private speech, he should question the fitness of Judge Patterson for his present high office, he would be guilty of impairing public confidence in the integrity of the court, and a messenger from the offended judge would summon him to the august presence for apology or dismissal from the bar. The judgment upon my friend on the other side would be: "You have brought the administration of justice into disrepute, and you are disbarred for misbehavior in office." It is to protect my learned opponent rather than myself that impels me to appear to-day before the court of last resort in this case, and for his sake I protest against any such monstrous perversion of the law as he has inconsiderately urged upon this learned court.

Mr. Reynolds—(laughingly, in his seat)—I am much obliged.

Let me be well understood at the outset in regard to the distinction between liberty and license of the press. I have no sympathy with, or respect for, the assumption that there must be no absolute restraint upon the licentiousness of journalism. Although trained to the press rather than to the bar, I have uniformly and earnestly protested against the theory that our libel laws should give unrestrained license to publishers. We reached that point in legislation when the Getz act practically stripped home and private life of all sanctity and gave unbridled license to the press, if the truth could be summoned to sustain the publication. It was a blot upon the statutes, and I was glad, as a representative of the press in the Legislature, to give active aid in effecting its repeal some twenty years ago. Our present libel laws, when fairly interpreted, are all that any reputable publisher can desire, and the last decision of this learned court in the Barr case is an enlightened and just elucidation of the relative rights of public journals, public officers and private citizens. With the right to criticize every public officer, including judges, and to discuss all questions of public interest within the lines of truth, and with the immunity of the new constitution in criminal cases, protecting the press against punishment for honest mistakes, Pennsylvania journalism has reason to feel just pride in the liberal laws of our great commonwealth. We have at last reached a proper appreciation of the rights, duties and powers of both the judiciary and the press, and that teaches us that an honest and competent judiciary cannot be successfully assailed by a corrupt or licentious press, and that an honest and fearless press cannot be successfully assailed by a corrupt or vindictive judiciary. The judge and the editor who maintain their integrity and self-respect have nothing to fear from those who disgrace both the judiciary and the press by their abuse of prerogatives which should ever be sacred to truth and justice. The judiciary is an integral part of our governmental system; the press is an essential element of the safety and advancement of free government, and their respective duties are harmonious as the seasons, which so widely differ in their offices, but all of which are the sources of health and plenty. Both have painful duties to perform at times, but those of the courts are to conserve and to restrain, while those of the press are necessarily aggressive and often revolutionary. Judges restrain newspapers which disgrace themselves and their communities by licentiousness, and newspapers criticise judges when they drift into antagonism to popular rights or when they disgrace the ermine by the prostitution of justice. The press is the advance line of every legal and political reform. It must often accuse power fearlessly and summon the law and the courts to shield it against corrupt authority, and there have been periods in our history when the press was compelled to make exhaustive battle to sustain the integrity and majesty of the courts against sudden tempests of popular passion. The press is trained to criticism, and adverse criticism is not pleasant even to those most accustomed to it. Editors do not enjoy it; politicians fear it, and judges are most impatient under it, as they have not the attrition with the world that readily adjusts public men to it. They are but men, made better by their better offices, and they have often marred the pages of our judicial history by mistaking the common resentments of common men for a zealous maintenance of the dignity and just prerogatives of the courts. It is worthy of notice, however, that these errors do not come from those to whom the bar, the press and the public point as the ornaments of the sanctuary of justice. Great judges do not grasp for the extreme powers conferred upon courts to enable them to enforce process and compel public confidence in the administration of the laws. The Bairds, the Stantons and the Pattersons do it; the Gibsons, the Blacks and the Woodwards have never done it. It is the petty judge and the corrupt judge that loves despotism and perverts the law to its own degradation, while able and reputable judges command public respect by their fidelity to justice and have no uses for their extreme powers to punish their foes,

Rights of Courts and Press.

The rights of courts have been well defined under our government. They were naturally misunderstood even by our best judges in the early history of the republic, but such errors were promptly and severely corrected. After gaining civil and religious freedom in a terrible baptism of blood, we accepted the common law of the parent government, and our courts were slow to understand that much of the despotism that bred the Revolution was incorporated in the common law. The courts assumed that with the common law had come all the despotic power of judges necessary in England to sustain the omnipotence of the crown. It was this delusion of the eminent jurists who once sat on the bench I now address that called out the first admonition from the supreme authority of the commonwealth to its judiciary by the impeachment of Chief Justice Shippen and Justices Yeates and Smith. They accepted the law of England as the law of our free institutions, as the learned counsel on the other side accepts it to-day, and they were forgetful that its despotism had perished by the independence of the colonies. They summoned Mr. Passmore before them, as a court of England could have done, and arbitrarily fined and imprisoned him for an assumed contempt committed out of court by a placard posted on a coffee house. Under the many authorities so ably presented to-day by my learned opponent, there could be no doubt as to the power of the court to condemn and punish as it did: but when able counsel in this evening of the nineteenth century quote the English law of contempt of one and two centuries ago, the judges of seventy-five years ago may be excused for so mistaking the law. The integrity of Judges Shippen, Yeates and Smith were never assailed. The judgment against Passmore was confessedly an honest one; but the sovereign power of the commonwealth called them to fearful reckoning and arraigned them for disobedience to the whole spirit of free government. They were impeached by more than a three-fourth vote in the House, and a majority of the senators voted for their conviction, although they escaped for want of the constitutional vote of two-thirds It was the first crucial test of the supreme despotic power of courts under our liberalized government, and it was the first and the last offence of the kind ever committed by the supreme court of Pennsylvania. It has many times been compelled to lay its strong hand on the subordinate judicial tribunals, to teach anew the lesson that liberty is the chief jewel of our law, but it has never, since the case of Passmore, offended against the liberty of the citizen by the exercise of its extreme powers. The impeachment of our entire court of last resort so clearly defined the despotic features of the common law which were in conflict with our free institutions that he who runs may read. The laws of England remained unchanged, and are yet unchanged, in the authority of courts to punish for contempt, as was shown by England fining and imprisoning John Walter, of the London *Times*, without complaint from the supreme authority of the kingdom, while the supreme court of Pennsylvania was impeached for exercising the same powers which were exercised by the English courts. Our judges could not have forgotten that every fundamental law of the state had departed from the English laws in declaring the right of all citizens to speak, print and publish their views with freedom, subject only to just responsibility for the abuse of the privilege, and that a free press has been so uniformly declared to be one of the indispensable attributes of free institutions; but they believe that courts could not exist without despotic powers, and the lesson had to be learned through much humiliation. The first amendment to the federal constitution was proposed at the first session of the first Congress, and it was a command to all the states not to abridge the freedom of the press. Although the early courts thus had line upon line to adomish them that a free press and free speech were vital features of our free institutions, such men as Chief Justice Shippen and Justices Yeates and Smith had to be taught the law that liberty inspired, as defendants in an impeachment trial before the Senate. Since then the judiciary and the freedom of speech have had no conflict in our state, save as some petty judicial tyrant has disgrrced the administration of justice. The right to discuss law makers, law interpreters and all public men and measures, both in the public press and by public and private speech, has never been questioned by this learned court, and the press, as a rule, of every political and religious belief, has most faithfully sustained the prerogatives and the judgments of this and of all other reputable courts. So faithful has the press of Philadelphia been in its support of an honest judiciary, that party passion and party discipline are now powerless to defeat a competent and upright judge in that city, no matter what may be his political affiliations. It must be conceded that the press of the chief city is the fair representative of the press of the state, as it is most widely read and most influential. It has disreputable elements, as has our judiciary. It has its blackmailers, as the administration of justice has its low grade police magistrates, where criminals find protection instead of punishment; but the press and the judiciary of the city have more than asserted their fidelity to law, to justice and to the accepted rights of each other.

Judicial License in Public Criticism.

Mr. McClure next proceeded to review the license with which the judges of the supreme court had criticised their own decisions, quoting Judge Black in Hole vs. Rittenhouse (2 Phila. R. 417), Judge Agnew in the Williamsport bond case, reported in Norris, Judge Kennedy in the Collins case (8 Watts 344), and Judge Agnew's public letter to the people of Pennsylvania in 1878. He assumed that the judges of the supreme court were the highest standard for the bar and the press to emulate in public criticism, and showed that the license of the bench criticizing its own judgments surpassed the license of the press.

How Courts Have Invited the Criticism of the Press.

If judges were infallible, or even always honest, however mistaken, the press would not be compelled to criticize their official acts as the plaintiffs in error have criticized Judge Patterson; but while we have always been able to point to this learned court as free from fear, favor or affection in delivering its judgments, it has more than once provoked the sovereign authority to revise its decisions, and its purest and ablest characters have not always been entirely free from the blemishes which demanded the faithful wounds of manly criticism. And when we take a dispassionate retrospect of the history of the judiciary of our state, although equal to the best in this or any other country, the necessary office of the press as a fearless censor of the official infirmities of judges must be appreciated by every intelligent citizen. It will be remembered by this learned court that the Legislature was compelled to abolish a court in Philadelphia to efface a fearful stain from the judiciary of the state. The names of Conrad and Barton are linked with grateful memories in the circles where their brilliant oratory and poetry survive their judicial records, which all are glad to consign to charitable forgetfulness. Then, as in all like cases, the press was slow to arraign the offending judicial officers; but public necessity finally demanded it and the sovereign power abolished the court. The learned counsel on the other side would then have demanded the punishment of the press rather than the judges, because the public criticism of faithless judges impaired public confidence in the integrity of the court; but there were no Judge Pattersons in those days and no teachers of the law that empowers a judge to condemn and punish its critics for his own crimes, and the diseased judicial tumor was cured by heroic legislative surgery in obedience to the heroic criticisms of the press. The distinct deliverance in favor of individual rights and against the summary exercise of the extreme despotic powers of judges, taught by the impeachment of the supreme court at the opening of the present century, was faithfully obeyed by our entire judiciary for the period of a generation. During all that time we have no record of a single complaint against the alleged abuse of the arbitrary authority possessed by courts to maintain their dignity and enforce process; but Judge Baird, of Fayette county, finally forced the almost forgotton issue upon the bench, the bar, the press and the sovereign power of the commonwealth. It was not doubted that Judge Baird was an honest man, but he was ill-tempered, revengeful in his seasons of passion and of necessity ruled the law and the bar badly when he could not rule himself. He was subject to lucid intervals, during which he intelligently and justly judged himself and his infirmities, and in one of these noon-day moods he addressed an elaborate letter to the bar, deploring the discord between the court and the bar and suggesting that his retirement from the bench would restore the administration of justice to its proper dignity and efficiency. To this letter the bar answered in respectful terms, accepting Judge Baird's suggested resignation; but because the bar, with all the respect that is due to the court, agreed with Judge Baird's proposition for his own retirement, his evil temper was aroused, and he dismissed all the leading members for the offense of concurring with him in his own opinion of himself. It was believed even in Pennsylvania that the power of a judge to punish or disbar for contempt of court was a power so sacred that no tribunal could review it. The Fayette county attorneys were stripped of their profession by the fitful resentment of a judge, and the law offered no means of redress. Impeachment would have followed, but the judiciary committee of the House decided to bring the case first within the jurisdiction of the supreme court for review by a special law, and the decision in the celebrated Austin case (5th R., 191) restored the disbarred attorneys to their offices. Although the rights of the press were incidentally involved in the case, the court below dismissed that feature of the issue, and we are denied the light of Chief Justice Gibson's exceptional legal acumen on that important question. Thus chastened by the court of last resort and self-confessed as unfitted for his trust, Judge Baird continued to display his judicial infirmities until an unbearable and wanton indignity offered to a respectable citizen in his court resulted in the citizen publicly horsewhipping the judge when he emerged from his judicial sanctuary. An indictment for assault and battery followed, and the defendant appeared, pleaded guilty, and was sentenced to fine and imprisonment; but the bar and the community, almost with one accord, appealed to the executive for a pardon on the ground that the castigation of the judge was fully merited; and, although pardons did not then go by favor, the pardon was promptly granted. On another occasion he issued a rule upon a prominent member of his bar, who had been his earnest friend through all his follies, because the attorney asked the court to hear an authority on a point that had been petulantly decided before argument. The rule was made returnable forthwith, and forthwith the lawyer was disbarred. Soon after, the court sent for the dismissed attorney to come into court to be restored, but he declined, preferring to remedy his own wrong and the wrongs of the public by the impeachment and the dismissal of the judge who thus made a mockery of justice. To escape impeachment Judge Baird resigned, but the ruling passion prevailed till death. If your honors will turn to the records of your own court, you will find that the same judge ended his professional career summarily at this bar. He differed so violently with this learned tribunal in the argument of a case that he asked to be disbarred because, as he said, either the court or himself knew nothing about law, and he was dismissed in obedience to his own request. Yet to criticise such a judge, who made a comedy of law and whose infirmities drove justice from her own temple, would, according to the learned counsel on the other side, be to impair public confidence in the integrity of the court, and if done by an attorney, deserves the penalty of dismissal from the bar.

If your honors will recall the exhibition of incompetency in the neighboring district of York some years ago, it will give another pointed illustration of the public criticism the judiciary provoked. Judge Irwin, although an honest man and appointed by an honest executive, proved wholly unfitted for his responsible trust. Of such it can well be said that few die and none resign until compelled to choose between voluntary retirement and dismissal. The bar hesitated and the press was reluctant to criticize with that incisiveness that the public interest demanded, because the obnoxious official was charged with public duties of uncommon sanctity. A committee finally decided to appeal to the ambition of the judge, and proposed that he should resign and accept a nomination for Congress. They urged that statesmanship was his forte and that he should not be isolated on the bench when he could feast on national fame; but he probably distrusted political promises, and he rejected the proposal and exposed from the bench the attempt to bribe him to desert the high duties the state had imposed upon him. The bar then agreed not to appear before him for the trial of cases, and formally demanded his removal by legislative address—a humiliation he escaped by his resignation. If you turn to the Chester district you will find that Judge Nill was rejected by the Senate in obedience to the remonstrance of almost the entire bar, because of alleged incompetency, and like pronounced criticism of the fitness of judges occurred in half a dozen other districts of the state a short time before the adoption of the elective judiciary. Indeed, it was the provoked criticism of the press, the bar and intelligent public opinion upon partisan and incompetent judges, aided by the manifest judicial prejudice against the amended constitution of 1838, which made the people resume their sovereign power over the immediate choice of judges in 1851. What judge, member of the bar, representative of the press, or intelligent citizen, lisps the name of the late Chief Justice Gibson save to praise and reverence? His distinguished successor, in pronouncing his eulogy from the bench, truly said that he was the only chief the hearts of the people would know, and yet he brought upon his otherwise stainless judicial record a reproach that perished only when he slept the dreamless sleep of the dead. Your honors are familiar with his painful story, told in a public letter to excuse the one weakness that was stronger than himself. He pleaded that he had given the vigor of his life to his state, and that the question of bread and raiment had impelled him to accept a commission that brought with it a shadow that was never effaced from his life. The learned justice from Bradford who was a member of the convention that nominated the honored chief for election in 1851, will remember how that one infirmity confronted his candidate, and how himself and another active delegate—since a justice of this learned court—(William M. Porter)—made exhaustive battle for the great jurist, who was then quoted in both homispheres, and finally nominated him by a bare majority. They admitted the justice of the criticism of the most respected public journals of the country, but offered his purity of purpose and his pre-eminent judicial services to command the charitable judgment of the world. Thus the highest and purest as well as the lowest and vilest of those who have won judicial honors have merited the fearless criticisms of the press by their errors or crimes, and the high character and general respect of our judiciary to-day is in no small degree the result of the free press that faithfully maintains the integrity of our free institutions.

[Concluded To-morrow.]

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