

Lancaster Intelligencer.

WEDNESDAY EVENING, JULY 27, 1881.

The Salary Grab.

Judges Pearson and Henderson, for whose court the people of this state have a deservedly high opinion, amply sustain Attorney General Palmer in his construction of the law regulating the salary of the members of the legislature and the attempt of that body to make the state pay its members \$10 a day for the fifty extra days, to which they drag out its sessions by neglect of business and the unnecessary frequency of adjournments, and the brevity of sessions. The members take their pay for seven days of the week and work on an average about three.

The court, which the present legislature chose as the tribunal for the determination of this question, decides squarely against it, with the right of the members to appeal, of course, of which they will doubtless avail themselves. Judges Pearson and Henderson's opinion is so lucid that it needs no comment. It depended entirely upon the definition put upon the word salary, and they approve that of the attorney general and the books; as well as the spirit of the well established legal principle that representative bodies ought not to have the power to increase the salaries of their members. For to drag out a session to the extra length of 50 days, at \$10 a day, is a hardly less decent way to vote themselves extra pay than by a direct grab.

The public will be glad of the opinion, because it is in accord with their sense of right; and they will respect it, besides, because of the very respectable authority from which it emanates. The patriot, which has unsparingly denounced the attorney general and the state treasurer for their course in this matter says: "This decision does not detract the right of a mere ministerial officer to take the law in his own hands, as State Treasurer Butler did, nor does it put the seal of approval on the attempt of the attorney general to disperse the legislature by threatening the members with loss of pay. These questions were not at issue in the case before the court."

There will be a meeting of the State Democratic committee at Bolton's hotel, Harrisburg, at 12 M. on Wednesday, Aug. 10, to determine upon a time and place for holding the next state convention. A full attendance of the members of the committee is requested in the call of Chairman Dill.

Having denied that infernal machines were found on board of steamers from America, English papers now censure our authorities for not having ferreted out the culprits. These foreign journals are obviously in error. Had no crime been committed, our astute Dogberies would have had somebody punished for it ere this.

PHILOSOPHICAL Titusville Herald: "We believe that almost every man, straddled down by conventional ties, often feels a vagabond desire rising within his breast, and often wishes he could follow the circus, the traveling show, or Francis Murphy, or become a stage driver or a tramp."

WHEN the Chinese are expelled from the United States they will have a place of refuge comparatively close at hand. So far from declaring that the Chinese must go, the Spanish government proclaims that they must come. They are wanted in Cuba, where they will be provided for under arrangements made with the Chinese authorities.—North American.

The gentleman who entered the bank this morning, glancing furtively about, was not a suspicious character, but a reputable citizen conveying a vital rain water for deposit in the vaults as an heirloom. To generations to come this will be not less a precious memento of ancestral forethought than an object of antiquarian veneration.

THE attitude of the United States toward England during the present agitation in Ireland is commented upon by the press in many parts of the kingdom in a more healthy tone than heretofore. Most of the papers agree in expressing the belief that England can rely on the good faith of America in endeavoring to prevent a renewal of and avert the attempts by conspirators against the British government.

"INQUIRER" asks, "Why not knights of Damon, as of Pythias?" We cheerfully illumine the Cimicrian darkness of this young person's understanding. The knights of Pythias and the Knights of Dam'ian are closely associated. The lodge of the latter opens soon after the former closes. In strict confidences: The emblem of the order is a latch key; the password "hic jacet." At the portals you say "hic!" in a peculiar manner known to the initiated. Upon entering the lodge chamber, the master says: "Where have you been till this time of night?" To this you reply with, "jacet." Further exposition of the mysteries we dare not make; and, indeed, subsequent proceedings vary in the different lodges.

the fuel pile as such. These devilish modes of warfare—or rather of inhuman massacre—can only do the Irish cause harm and awaken the resentment of the civilized world, except Wendell Phillips. It may be that J. O'Donovan Rossa has no complicity in these villainous schemes to destroy innocent people; including American tourists on the high seas, but the fact that he has advocated such things in his United Irishman entitles him and his paper to utter disrepute and popular condemnation. America offers a refuge to excited patriots, but not for assassins and incendiaries.

THE Philadelphia Press concludes a column, double-headed, spasm with the sage prophecy that with a good ticket the Republicans will carry Pennsylvania this fall. "If" —

MINOR TOPICS.

OUR exchanges are still assasinating General Jackson.

THE United States Senate has five "pairs." When Washington inspiration takes a hand "fishes" will hold good.

GUTEAU denies that he expressed sorrow at the president's relapse, and says he still hopes Garfield will die.

DR AGNEW has destroyed another venerated tradition. He says: "Caudily, I don't believe there is a particle of malaria about the White House."

THE Chinese have a Masonic society in New York. Con Suito, a member, died last week and was buried with the honors of the order, somewhat colonial.

If report be true, one of the most reliable preventives of dissolution is a bullet in the liver, and it is re-assuring, for the death rate cannot be large in this country.

THE assertion of the Atlantic City Times, that bathing costumes there are "unusually modest" is calculated to exercise a very deleterious influence upon the prospective business of that resort.

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PERSONAL. Prof. Wm. B. Hall and family left today for Long Branch. Mr. Tibbles, the advocate of the Ponca Indians, takes his client in marrying "Bright Eyes."

LEGISLATIVE PAY.

THE OPINION IN THE EXTRA SALARY CASE. Judge Pearson and Henderson decide that the act of 1874, which fixed the salary of the members of the legislature at \$1000 per annum, and provided for a per diem of \$10 for each day of session, is unconstitutional.

The Commonwealth of Pennsylvania ex rel. Charles S. Wolfe vs. Samuel Butler, state treasurer. 193, August Term, 1881. Writ of Mandamus and Application for a Peremptory Mandamus and Answer Thereon.

By the court: The pleadings in this case raise a single question. The plaintiff, a member of the Legislature of Pennsylvania, entitled to receive out of the treasury of the state the sum of five hundred dollars in addition to the salary, mileage, etc., already paid him for his services during the session of 1881. That he is entitled to the compensation of the first section of the act of the 11th of May, 1874, making compensation to the members of the general assembly in these words: "That the compensation of members of the general assembly shall be one thousand dollars for each regular and each adjourned annual session, not exceeding one hundred days; and ten dollars per diem for time necessarily spent after the expiration of the hundred days: Provided, however, that such time shall not exceed fifty days at any one session."

THE Grand Army encampment at Gettysburg, accompanied by the Westcott Legion band, of Philadelphia, paid their respects to the widow of the late General GEORGE G. MEADE, at Gettysburg springs and tendered her a serenade, which was gracefully acknowledged.

THE Adams estate farm buildings at Newfield, Me., were struck by lightning and destroyed. Loss, \$10,000. Nathan Nicholson, colored, drank carbolic acid for whisky, at Baltimore, and died.

AN unknown man was killed by the cars near Kinkora, on the Amboy division of the Pennsylvania railroad. At Woodbury, Tenn., one Wilson killed his father in law, and Lewis Bremer killed John Pugh with a butcher knife.

AT Chicago yesterday "Little Brown Jug" attempted to be 2:12 for a special purse, but only succeeded in making 2:18.

DEPUTY Sheriff Cornelius went to arrest Henry Cole, a negro, at Edwards, Miss., and in the melee that followed shot Cole dead.

THE body of U. W. Wey, from Waterbury Conn., has been found near Santa Fe, N. M., murdered by two traveling companions. Muir, Mich., the house of Alonzo Derrick was burned, and three children, aged 11, 8 and 5 years, perished in the flames.

IN a ten mile horse race at Leadville, Col., Minnie Pinneo, of Greeley, Col., defeated Miss Curtis, of Topeka, Kansas, who fainted on the eighth mile.

WILLIAM Rodden, a news agent, aged 24 years, was fatally injured by a passing train while asleep on his box at Matawan, New Jersey.

E. R. Bates, aged 50 years, was killed by the cars at Natick, Massachusetts, on Monday, while he was looking for a place to start business as an undertaker.

JAMES O'Donnell, a Morocco shaver, aged 39 years, died at Wilmington, Del., from the effects of an overdose of laudanum, of which he partook after attending a fire.

AN accident on the Richmond and Allegheny railroad near Bent Creek, Va., caused the fatal wounding of three colored laborers and the injury of the engineer, conductor and others.

A telegram from Angola, United States minister to China, announced a ratification of the two treaties between the United States and China, which were exchanged at Peking July 10.

TEU Soen Kee, an attaché of the Chinese Embassy in Washington, says that the Chinese students about 100 in number, just recalled from American schools, will be educated in England, France and Germany.

THE fire which destroyed the furniture works of Lyons, Spencer & Co., Richmond, Ind., destroyed a revolving desk which President Garfield had ordered for his private use, but the furniture for the Catholic cathedral of New York was saved.

THE rear of the procession at Dean Stanley's funeral included deputations from the American Educational Aid Association and the American Exchange and Trade Society. Among the Americans present were Geo. Clinton B. Fisk and W. E. Dodge, who received Dean Stanley on his visit to New York. Cardinal Manning nor Cardinal Newman was present at the funeral, as has been stated. They were unable to attend.

THE Decline of the Senate. The Republicans lost three of their ablest men in the Senate when Conkling, Blaine and Carpenter were removed from that scene. The Democrats were equally unfortunate in losing Thurman, Eaton, McDonald, and others of a lesser degree who had attained prominence and usefulness. As a body, the Senate has fallen from its former high estate, and no longer enjoys the confidence that the country has placed in it. The purchase of seats, almost in open market, by rich capitalists for political fame; the constant accession of the agents, attorneys, or creatures of great corporations; and the presence of notorious jobbers in legislation, have contributed to a decline, which is getting worse instead of better.

aries to certain other officers, or persons in other situations. 10 Indiana 85-6. Again in 1874 (Ohio state R., p. 617-18, "Salary," appropriation to an officer for a fixed time, it is held by the courts that the salary of an officer should not be increased during the term of his office. All of these cases draw the distinction between fees, wages and salary. Few persons would in the present age confound the three as all meaning the same thing, yet they might all come under the word "compensation" as used by the Legislature, but could not by any possibility under the word "salary" as used by the convention, which carefully avoided the word "compensation."

It follows, as we conceive, that so much of the act of 1874, as fixes a salary for the session of the Legislature is unconstitutional. The Legislature might have declared that the session should not exceed one hundred and fifty days, but the salary must be fixed, and when the session exceeded one hundred and fifty days, the salary must be paid. The time and amount were both discretionary, but it could not be salary and daily pay also, on a sliding scale, a salary alone was provided for in the constitution. If that had not been declared, the Legislature would have had an unlimited mode of payment, as under the former constitution, by the word "compensation." By the change of language it is very manifest that a different method of payment was intended, and the object of the change was clearly to avoid a prolongation of the session, or any temptation thereto.

A question has been raised as to whether the courts can declare an act of assembly void in part as violated by the constitution, and not void in whole. The power we have no doubt, some provisions may be good, others bad, valid under some state of facts, as violative of the rights of individuals, good against others differently situated. This act of 1874 is constitutional so far as it gives a fixed sum for the session whether by the name of "salary" or by another name: but it cannot give both the compensation by the session, and by the day, or by the day alone. We are well aware of the legal principle that the Legislature can do anything not prohibited by the constitution, and that its power must be liberally construed, whilst the constitution of the United States must receive a strict construction. Congress can do nothing but what is authorized by express words or necessary implication, but can the Legislature entirely depart from the whole scope and meaning of the constitution? A system is pointed out in that instrument. Can the Legislature instead of allowing a salary fix daily pay? That conflicts with the intention and is so far void.

We are all well aware that it is only in a clear case that the courts can declare an act of Assembly unconstitutional. It cannot be declared unconstitutional unless shown to be clearly so. So decided from 3 Serg. & Rawl 69, down to 7 Norris 46. This in various words—See 4 Barr 123, 5 Harris 119, 6 Harris 161, 18m 200, 202, 203, 287, 300, 2 Smith 474, 4 Smith 269, 14 Wright 150, 16 Smith 164, down to 7 Norris 46. A host of other cases might be cited to the same effect. The power and the duty, to do so, declare has never been doubted in any case excepting one by Judge Gibson, in Eakman 18m, 12 S. & R. 350, which he afterwards entirely repudiated and lamented having given.

The majority of the court differed with him entirely. We are aware that in constitutional questions great weight is to be given to the contemporaneous construction by the Legislature, and that the statute relied on by the plaintiff was enacted in 1874, and has been practiced under ever since, as is shown by the records. It is very true that its validity has never been judicially questioned, but it was greatly doubted and denied by Attorney General Lear in a very able opinion presented to us, but in some way the controversy was dropped and never brought before the judiciary, and perhaps not presented to the state treasurer. It is doubted in the argument whether the court can, with propriety, look into the debates of the convention to ascertain the meaning and intention of the convention, but it has been done on several occasions by the supreme judges of the United States, and by those of our court at an early day, and even as late as one case in 9 W. N. of cases, 211, in 1880. We are, therefore, clearly of opinion that so much of the act of the 11th of May, 1874, already cited, as pretends to give daily pay, in addition to a fixed sum, to members of the Legislature, is unconstitutional and void. It would be unlawful for the state treasurer to pay it; this court cannot enforce payment by mandamus, and it is a case under the act of 1874, and we leave out of every question of policy or expediency. Those are questions for the Legislature alone, over which the judiciary has no control, and no right or disposition to pass judgement.

JOHN J. PEARSON, R. M. HENDERSON, Judges.

STATE ITEMS. Michael Grogan, of Ashley, was killed in Hartford mines by a fall of coal. Eleven tons of gold bullion, valued at over \$5,000, was discovered at the Philadelphia mint on Monday.

Overton Carr, of Franklin county, sent to Kirkbride for mental derangement, got hold of a razor and slashed his throat from ear to ear.

A fire in Erie destroyed the chair factory of Hineman & Cheney, and the cheese factory of R. Jones, causing a loss of about \$40,000.

Four cotton press hicks, weighing five tons each, are being forged at Pittsburgh. They go to New Orleans, and are the first ever forged in Pittsburgh.

LOCAL INTELLIGENCE.

Death of Henry Shaffner. Henry Shaffner is dead. He had been sick for some time, and during the last few days the news of his death was momentarily expected. Disease stole upon him gradually, enfeebling a once strong constitution of fine physique, and at 6 o'clock on Tuesday evening death calmly ended his life at his residence on East Main street, this borough.

At Manheim, Lancaster county, he was born in March, 1812, being in his 70th year. He was a healthy and vigorous child of a family of seven brothers and sisters. At that time there were few, if any, educational advantages. Before he reached his majority he had mastered the trade of a locksmith which he shortly afterwards followed at Columbia, then at Huntington. From the latter place he returned to his native place and carried on the business on his own responsibility. In '48 or '49 he left this town and embarked in the lumber trade. In this business he was engaged for several years, and becoming proprietor of the Exchange hotel he conducted that well-known hostelry for some time. He afterwards became a member of the firm of Greiner, Fryer & Co., makers of machinery, which business he quitted about eight years ago; since then he led a retired life. In politics he was a strong Democrat. He was several times a candidate for state representative and other positions. By President Polk he was appointed postmaster at Manheim. Besides representing the Lancaster county Democracy at Erie, when Pershing received the nomination for governor, he was at different times president at the county conventions and served for many years faithfully on the county committee. He was a staunch and untiring advocate of Democracy, sincere in what he advocated and has never played with the weapons of the demagogue. He had been burgess of Mt. Joy and a member of the board of directors of the Mt. Joy railroad, a liberal minded and progressive citizen.

By his death Mount Joy lost one of her most prominent citizens, always foremost in the ranks of improvement. His loss will be keenly felt, for there are many who, in times of distress, would be happy to give by his generosity. He leaves two sons, George of Mount Joy, and Henry of Milton Grove, and was twice married.

Round trip tickets from this city to Manheim and return, on the day of Mr. Shaffner's funeral, will be sold at 45 cents. The train will leave Kirk street depot at 12:45.

The funeral will be held at 1 p. m., Friday; burial at Manheim, where he has a handsome vault in the cemetery. He was a member of several secret fraternities among them the Knights Templar, and Lodge No. 43, of Lancaster, and Odd Fellows lodge No. 277 of Mount Joy. He will be buried with the Knights Templar ritual. He was also a member of the Friendship fire company of Mount Joy. He held a policy for \$10,000 in the New York Life insurance company.

THE Borough Budget. James Mooney is repainting and repairing his saloon. About forty young ladies and gentlemen left for Wild Cat Falls this morning, to spend the day at the falls. Laura, a four-year-old daughter of William Mooney, died of diphtheria on Monday night. Interment this (Wednesday) afternoon.

THE Evangelical Sunday-school held their annual picnic at Detweiler's grove yesterday. What everybody now wants is a good soaking rain. Nature everywhere is prematurely losing its greenness. High clouds have hung over us and by their appearance promised rain. But in the end they disappointed us and in disappointment we actually yielded a few drops to remind us that they had not forgotten us in our distress.

John H. Mooney is handling the tickets here for Clark & Schmidt's Atlantic City excursion on the 18th. It comes at an opportune time and people of all classes will likely take advantage of its chances for their holidays.

TWO TERRIBLE ACCIDENTS. Occurring at Neighboring Counties. At Haverford, on the P. R. R., yesterday, Miss Annie Rutter, a young lady from Philadelphia, visiting in that neighborhood, while riding on a train across the railroad track to board a train on which they were going to Merion. A construction train came up without being observed until close on them, when the elder sister jumped back and the younger one was struck by the engine and instantly killed. It is said that the engineer of the construction train violated orders in coming up with his train while the passenger train was on the track.

The accident at Jones' ore mines, in Gearytown township, Berks county, resulting from the rupture of a fall of coal, occurred just before 12 o'clock, so that the coal-loads may have a stock on hand preparatory to sending the cars up the inclined plane after dinner. When the word was given, all hands hastened to a place of supposed safety. James Kutz, aged 19, James Patton, aged 22; Peter McCormick and Christian Kutz, a brother to the first named, took shelter beneath a gangway made of slabs, partly covered with old railroad ties, behind a small embankment. The blast was fired, and a sudden gust of air, a gust of air weighing about 50 pounds, shot 75 yards into the air, and striking on one of the heavy slabs, when it burst into four pieces like a bomb-shell, with the above result. Christian Kutz, who escaped unhurt, immediately gave the alarm, when all hands hastened to the place of the dead and dying. The young Patton, having been struck on the head by the deadly missile, expired almost instantly. He was profusely and the brain oozed from the top of his head. Young Kutz, who was struck on the left side of the abdomen, lived about fifteen minutes, while McCormick, who was seriously injured in the region of the stomach is still living, but faint hopes are entertained for his recovery.

LOCAL CORRESPONDENCE.

THE Village Set Upon a Hill. Messrs. Johnston, Carpenter and Libhart, spent a day fishing in the Susquehanna, catching a fine black bass. Samuel Lencer lost a valuable bay mare by lung fever on Sunday night, this being the third or fourth he has lost by the same disease.

A friend who has lately visited Lebanon county, informs us that all tramps caught on the roads are arrested, have a ball and chain attached to them and put to work. We commend such measures to the people of this county as a means of ridding ourselves of an intolerable nuisance. Hoffman & Hossel, tobacco packers of this place, have packed 1000 cases, and if it can be procured, will run it up to 1500. Their tobacco is of superior length and quality; and said to be among the finest in the county.

Incident and Accidents of the Neighborhood. Prof. M. J. Brecht, principal of the soldiers' orphans' school of Mount Joy, and wife are visiting friends in Marietta. Mrs. Joseph Nisley and wife from Hatfieldtown, who have been visiting Joseph L. Brandt, their son-in-law, have returned home. Bishop John Mallon is superintending the rebuilding of the A. M. E. church, which is nearly completed.

The trustees of Zion's church are having the graveyard around the church cleared of briars and weeds, a much needed improvement. The tractors were out in full force last evening and did good shooting. Dr. George Cassel is the champion. A young man named Simmons caught a well-eyed salmon in the Susquehanna river weighing five pounds.

Not long ago and not many miles from Marietta a colored preacher declared in the pulpit that George Washington commanded the sun to stand still. A brother in the congregation, who tried to switch him on the right track, said, "You mean Joshua." The preacher replied, "All the same, you know."

Intelligence from Down the Road. The festival held for the benefit of the Gap M. E. church in Penn Monument hall Saturday evening last was a grand success. It was attended by the largest mass of people ever witnessed in the Gap "by the oldest inhabitants." It was conducted by the good management of the ladies of the Gap. Their clear profit was about one hundred dollars, and would have been that much more had they not run out of cabbages, ice cream, cakes and everything else was sold out about ten o'clock. After the festival was over some of the company, a drunken brawl and disgraced the place with their hideous yells.

Mr. Joseph C. Walker, grain and lumber merchant of this place, erected last week in the Bellevue graveyard a very fine granite monument in memory of his deceased son, Jos. C. Walker. Also, Mr. Winfield S. Kennedy has erected in Bellevue graveyard a fine marble monument in memory of his deceased wife.

During these last few weeks quite a number of visits have arrived at the Gap to spend the summer months and breathe the cool and refreshing breezes of the Gap hills. Among them are Dr. Sanders, with wife and friends from St. Louis, Mo., who are spending the hot months at the doctor's magnificent residence on the hill; Mrs. Kutz, with her family, at the Gap; Hon. John B. Livingston and wife, of Lancaster; Mr. Isaac Stauffer and family from New Orleans, La., and many others.

Ben. Fritz has lost his favorite trotter "Rolling Pin." To use Ben's expression, "Old Rolling Pin" rolled over, stuck out his hind legs and pegged out. Mr. T. Palmer, one of the energetic merchants in our village, is about to erect another tobacco shed on his premises, to be 36 by 40 feet. Mr. Palmer is becoming an important factor in the tobacco raising community hereabouts, and is not afraid to build and prepare his ground for the crop.

Dry weather is "knocking the spots" out of the tobacco crop. The early planted is shooting to seed at a very small growth and will not make a profitable yield. A good rain will yet make fair tobacco of the late planted; but the crop of the early planted of the worm are less frequent and in all likelihood the first crop of worms have left to return in a few weeks with reinforcements. Three deaths have occurred in our township within the past few days. One a child of Amos Brinton, near the nickel furnaces; another, a child of John Murry, at White Hall; the former was interred in Georgetown M. E. burying grounds on the 24th inst.; the latter at Grace church near Sichel mines on the same day. The third death was of Miss Estienne's daughter, who died after being for several years a patient sufferer from that dread destroyer, consumption, on the 22d inst., and was buried at Octoraro church on the 25th.

Martin & Fryer finished their packing of tobacco which amounts to a few cases over 450. The Lancaster boys who finished the casing, straggled out of here on Saturday afternoon bound for Leaman Place, and their line of march resembled what might be imagined of the evening drill of the "Camp of Tramps" near Leaman Place. Some of our timorous citizens have been looking with terror up the road toward Leaman Place, with momentary expectation of seeing a deputation of "tramps" coming to sack a sack of the town, and on Friday last some little excitement was caused by the appearance of a wild, frightened looking, blue clad, dusty straggler, and several doors were securely fastened, and heads appeared at upper windows; whispers of "Who is he, went from mouth to mouth, and all was for a time excitement, until it was ascertained by some one more bold than the rest that the stranger was no other than Landis himself—what a relief! The whispers were changed to exclamations of "welcome, Landis!"