The Centre Democrat.

Vol. 13 BELLEFONTE, PA., THURSDAY, MARCH 12, 1891. NO. 10

The Centre Democrat.

CHAS. R. KURTZ, - - - EDITOR

TERMS OF SUBSCRIPTION.

Regular Price - - - $1.50 per year.
When Paid in Advance - $1.00 " "
When subscriptions are not paid inside of three years $2.00 will be charged.

Editorial.

Democratic County Committee, 1891.

Bellefonte, N. W.	W. S. Galbraith
" S. W.	Joseph Wise
" W. W.	John Dunlap
Centre Hall Borough	John T. Lee
Howard Borough	H. A. Moore
Milesburg Borough	A. M Butler
Millheim Borough	A. C. Musser
Philipsburg, 1st W.	James A. Lukens
" 2d W.	C. A. Faulkner
" 3d W.	A. J. Gorton
Unionville Borough	E. M. Griest
Burnside	Eugene Meeker
Benner	Harvey Benner
Boggs, N. P.	Philip Confer
" W. P.	T. F. Adams
" E. P.	G. H. Leyman
College, E. P.	W. H. Mokle
" W. P.	Jas. Foster
Curtin	N. J. McCloskey
Ferguson, E. P.	Daniel Dreibelbis
" W. P.	Geo. W. Keichline
Gregg, S. P.	Chas. W. Fisher
" N. P.	James P. Grove
Haines, E. P.	Isaac M. Orndorf
" W. P.	Geo. B. Shaffer
Halfmoon	Ellis Lytle
Harris	J. W. Keller
Howard	W. T. Leathers
Huston	Henry Hale
Liberty	Alfred Bitner
Marion	John J. Shaffer
Miles	James P. Frank
Patton	P. A. Sellers
Penn	J. C. Stover
Potter, N. P.	S. W. Smith
" S. P.	Jas. B. Spangler
Rush, N. P.	Jas. Dumbleton
" S. P.	Hugh McCann
Snow Shoe, W. P.	Thomas Turbidy
" " E. P.	John D. Brown
Spring, S. P.	Jerry Donovan
" N. P.	James Carson
" W. P.	E. E. Ardery
Taylor	W. T. Hoover
Union	Chas. H. Rush
Walker	D. A. Dietrick
Worth	O. D. Eberts.

L. A. SCHAEFFER, Chairman.

GEN. BUTLER says that every generation of the United States has witnessed a war and that it will soon be time for another. He may be correct.

CENTRE and Clearfield county will erect two new bridges and the good feature about it is there will be no man by the name of Gallagher employed to fleece the county.

SENATOR Quay has gone on a fishing tour to Florida. He is troubled with insomnia and wants to recuperate. Suppose he wants to get in good fighting condition before he tackles the newspapers with libel suits.

NEARLY every man who is sent to Harrisburg as a representative frames a half-dozen foolish bills to give him standing among his constituents. If more time was devoted to suppressing and obstructing these foolish ideas it would be better all aronnd.

THE appropriations of the present Congress exceed the appropriations made by the last democratic Congress to the extent of $174,000,000. This is the cost of republican rule, and the consequence of this enormous expenditure of public funds.

ON April 27 ground will be broken at Riverside Park for the monument to General Grant, say our New York contemporaries, and a new method of raising money is proposed. This method is a series of musical entertainments by which it is thought that the needed sum will soon be secured.

SECRETARY Blaine awaits with considerable anxiety for the news from his reciprocity proposition now before the Brazilian Government. In the meantime England's agents are working night and day to convince Brazil that she does not want her trade interfered with or endangered by any scheme by which America proposes to take any portion of her large Brazilian trade from her. It now looks as if Brazil will decline to ratify the treaty, and one of the Maine statesman's plumes will consequently droop down his auricular appendage.—Wm'sport *Sun*.

DURING his term in Congress Mr. Vaux, of Philadelphia walked from his hotel to the Capitol every morning in all weathers, and for a man of his years is in the enjoyment of robust health. Another peculiarity he had was to walk from his hotel to the statue of Andrew Jackson every morning before breakfast and, with bared head, reverently bow to the image of the great exemplar of democratic principles. On being asked once whether it was true that he did this he promptly answered in the affirmative and declared that it was absolutely necessary that he should do so in order that he might keep his democracy from being polluted by the republican d——n scoundrels by whom he was surrounded and with whom he was constantly associated.

For $1.75 you can get the CENTRE DEMOCRAT and Philad. *Times*, or New York Weekly *World*, one year.

LICENSE OPINION.

RULING OF JUDGE FURST IN FULL.

His Interpretation of the Present Brooks License Law—Reasons Given for Granting Licenses

His Honor, Judge Furst, is criticised pro and con in Centre county for his rulings on license questions. The temperance people and many ministers find fault with His Honor for granting any licenses and frequently advise him in a manner as to his duty in such matters. On the other hand, the license people find fault because, in Centre county under Judge Furst, the licenses have been reduced to almost one-third the former number. They point to Clearfield, Clinton, Union and Snyder counties where the number of licenses according to the population are more numerous.

In granting licenses this year, His Honor was careful to ristrict the number and gives his oppinion for doing so as follows:

In Re LICENSES CENTRE COUNTY

The Court:

There is no law upon the statute books of this Commonwealth that is so much misunderstood by the people at large as the law relating to the sale of intoxicating liquors, or the law regulating the licenses of hotels, inns or taverns.

One class of people holding to the doctrine that the Court can and therefore ought to refuse all applications for licen e; another class quite as large, that the Court ought to grant all petitions for license where the forms of the law have been observed.

The first class base their judgment upon the fact that the law is harmful and injurious to the morals of the people and therefore it ought not to be administered or executed by the Judge, whose unpleasant duty it is to hear and determine the rights or claims of the petitioners for license.

The second class are controlled in their judgment by a desire to grant license to all applicants, and thereby avoid any discrimination between persons or their particular locality or localities. Both theories, so far as the duty of the court is concerned, are equally condemned by the highest court in this commonwealth.

The duty of the judge is to follow the law as he finds it in the statute or as defined in the decisions of the Supreme Court.

He is not responsible for the law itself; he does not sit in judgment or in review of the reasons which influenced the Legislature in the enactment of the law. With this he has nothing to do.

It matters nothing to him that his own private judgment condemns the wisdom or morality of any act of assembly or decision of the Appellate Court. It is his sworn duty to execute the law and to obey and follow the decisions of the Supreme court, even though his own judgment satisfies him that the law is obnoxious to the best interests of society.

If an act of assembly be constitutional or if it be unconstitutional, yet pronounced so by the Supreme court, it is the duty of every judge in the land to yield obedience thereto until the law is changed or repealed by the law-making power.

The judge who in his official capacity sets at naught all laws which his own conscience does not approve, is unworthy of the confidence and trust of those whose rights and liberties depend upon the rightful execution of the law. Law is not detirmined by the conscience of the individual. If this were not so, no one would be able to discover the law.

Government with us is a trinity composed of legislative, executive and judicial powers and duties. The province of each is separate and distinct.

It is the duty of the Legislature to enact the law, of the Executive to sanction or disapprove of the same, and of the Judiciary to expound and execute the law, when it has been constitutionally enacted.

The guide to the law, in every inferior Court, is found in the writings of the Supreme Court or in the act of assembly. When the law has not been judicially determined, litigants take their cases by appeal to the higher Court, for final decision, and in cases of reversal, the absolute and unquestioned duty of the Court below is to follow the precedent thus established were they not so. Anarchy would soon subvert the security of the citizen. The legislature, on the 13th of May, 1887, passed the High License act, popularly called the Brooks Law.

The law was intended to create a monopoly in the licensing of hotels, &c. It is entitled an act to *restrict* and *restrain* the sale of intoxicating liquors.

The object of the law was to place the licenses in the hands of a few responsible persons, so that greater vigilance could be exercised over them by the peace officers of the district, and thus promote a stricter observance of the law. No man has a legal right, absolute in itself, to demand a license from the Court.

The law attaches the license to the business and the place.

A public necessity for the applicant's house as a place of entertainment for the traveling community must first appear, before the Court is warranted in granting any license. If, in the judgment of the Court under all the evidence submitted, and the knowledge the Court may have itself, there should appear to be this public necessity in any one place for the three hotels, and three only, yet applications are pending for six, the duty of the Court is plain, that but three can be granted. And although all the six applicants may be men of good character, for moral and sobriety, yet from among them the Court must select the three places best calculated to accommodate and entertain the public, and refuse the others.

This is the plain design of the present law, for the reasons we have already stated.

The duty of the Court to grant the three is the supposed case, or to grant any generally, is no longer an open question.

Facts may be shown to the Court which should influence and, in some cases, does influence the Court to grant but few, or, in a proper case, none at all, but such fact never lies upon the ground of mere objection to the law.

The fact or facts which will thus influence the Court to refuse all applicants must be shown to relate either to the character of the applicant, the character of his house or the necessity thereof, or such other facts in relation to the person or place, as will satisfy the Court that the license should be withheld. In such cases facts will and do prevail and at the same time the binding obligation to observe the law is recognized by the court and the people.

It is idle to say that the license law is to be executed in the counties of Philadelphia and Allegheny and not to be executed in the county of Centre. The Legislature has said that this law shall obtain throughout the Commonwealth, except only where there are local prohibitory laws.

The legislature never intended local prohibition under this general act. In 1872 we had local prohibition in this county, but in 1875 the law repealed and license laws enacted, and ever since the law has been held to be that the legislature intended that licenses should be granted by the courts. The number of licenses in any particular place or district was to be determined in the sound legal discretion of the court under the law. The judge who refused all applications except for cause shown, has been repeatedly said to have violated the law.

The "cause shown" must be a cause recognized under the law; it can not be a cause that ignores the law, or that is predicted upon the theory that no necessity for license exists.

This question the legislature has determined for us, and the Judge who will not thus exercise his legal discretion under the law, in determining what licenses he should grant or refuse, acts violently and in an arbitrary manner, refactory to the law itself and in violation of the precedents established by the Supreme court.

It is no answer to this, that the judgment thus rendered cannot or may not be reviewed by the Higher Courts. Because the Supreme court cannot review the discretion of the lower court, it does not follow that the lower court may refuse to exercise a legal discretion, and substitute therefore an arbitrary will. In all cases where a judgment of this character is not the subject of review, it behooves the Judge to act with the highest regard for the law, and to observe with most conscientious care the law as laid down for his guidance.

Legal discretion under the law is well understood by the professional mind. Arbitrary power is the will of the tyrant, and governed by neither law nor sense of duty.

In Sparrow case, 27 W. N. C. 47, decided on the 3d day of November, 1890, Chief Justice Paxon, delivering the opinion of the court, thus reviews the law assented to by repeated decisions: "We have decided repeatedly in language too plain to be misunderstood that the granting of a license to sell liquor by retail rests in the sound discretion of the court."

In Reed's appeal, 114, Pa., 462, he said the action of the court in granting the license complained of is something that we cannot revive, that being a matter of discretion, though we are satisfied that there was a misapprehension of the Act of 22d of March, 1867.

In the late case of Randenbusch's petition, 120, Pa., 328, in alluding to this discretion, we said, it has been excercised by the Court of Quarter Sessions almost time out of mind and the power has again and again been affirmed by this Court.

This discretion, however, is a legal discretion, to be exercised *wisely and not arbitrarily*.

A *judge who refuses all applications for license*, unless for cause shown, *errs as widely as the judge who grants all applications*. In *either case* it is *not* the *exercise* of *judicial discretion* but of *arbitrary power*.

The *law* of the *land has devided* that licenses shall be granted to some extent and *has imposed the duty upon* the *Court* of *ascertaining* the *instances* in *which the licenses shall be granted*. In order to perform this duty properly, the act of assembly has provided means by which the conscience of the Court may hear petitions, remonstrances or witnesses, and we have no doubt the Court may in some instances act of its own knowledge.

In Schlaudecker vs. Marshall 72 Pa., 200, in referring to the same object Justice Agnew said, whether any or all licenses should be granted is a *legislative question*, not a judicial one. Courts sit to administer the law fairly, as it is given to them, and not to make or repeal it.

The law of the land has determined that licenses shall exist and has imposed upon the Court the duty of ascertaining the proper instances, in which the licenses shall be granted, and therefore has given it to the Court to decide upon each case as it *arises in due course of law*.

The *act* of *deciding is judicial* and *not arbitrary or willful*.

The discretion vested in the Court is therefore a sound judicial discretion and to be a rightful judgement, it must be exercised in the particular case and upon the facts and circumstances before the Court, after they have been heard and duly considered; in other words, to be exercised upon the merits of each case, according to the rule given by the act of assemble.

To say that I will grant no license to any one or that I will grant it to every one, is not to decide judicially on the merits of the cases, but to *determine before hand without a hearing or else to disregard what has been heard*. It is to be determined not according to law, *but outside of law, and it is not a legal judgment but the exercise of an arbitrary power or will*.

The responsibility is cast upon the Court.

"*To refuse a license because in the mind of the Judge there is a belief that license should not be granted at all as a matter of policy is to make a law, not to administer it.*" Whether or not the court below exercised the discretion, vested in it by the law wisely or unwisely, a court of review cannot determine.

And because it cannot be reviewed, it affords no reason to act arbitrarily. The very opposite of this is the plain duty of the Court.

Thus we see that the law so ably expounded by Judge Agnew in Schlaudecker vs. Marshall has been re-affirmed by the Supreme Court, and carried still further and the duty pressed more strongly upon the court. Judge Agnew, in the case referred to, gave the philosophy the law; all that he said in that case was germain to the point in controversy.

By the recent decision in Sparrow's case it is again laid down as the law which must govern the court.

It cannot any longer be said to be *obiter dicta*. It is now made the foundation of the unanimous opinion of the Supreme Court.

This surely ought to suit the law, and it does in the professional and judicial mind.

It is the light which the Court must follow.

The act of assembly itself is so plain in its terms that it can be easily understood, but when so constructed by the Supreme Court, no conscientious judge can depart therefrom without a violation of his judicial conscience. In disposing of the applications for license before the Court at the present term, we have followed the rule thus laid down by the highest authority in the State. In the last four years licenses in this county have been reduced to less than one-third of the original number, and this has been done although the population of the county has almost doubled.

Wherever the public necessity for a hotel has been made to appear, and in the judgment of the Court the house was absolutely required for the accommodation of strangers and travellers we have granted the license; in all other cases we have refused it.

We are fully satisfied that we have not exceeded the requisite number.

We have refused all saloon licenses because in our judgment there is no public necessity existing in this county for a saloon, and the evils to the young flowing from saloons are so great that we have determined to suppress them and have done so in this district. The evidence taken before the Court upon the hearing of these applications, and the facts set forth in the remonstrances filed, have failed to show a single violation of the law.

It is also a fact not to be overlooked that during the last year not one licensed dealer has been prosecuted for the violation of the liquor laws; not one has been returned.

The constables of the county have been regularly and positively charged to make careful search for offenders, and examine strictly under their oaths as peace officers, into the manner in which every hotel in the county is and has been conducted.

This certainly indicates that the *Brooks law* has accomplished beneficial results in this county. It is the best and only law we have to restrict the sale of liquor. Without a proper and faithful observance of its provisions we would have a reign of speak-easies in our midst which happily, under the present administration of the law does not and cannot exist.

That the law has been violated we have little doubt, but nevertheless that no flagrant violation of the law exists, we are certain, otherwise the vigilance of the people to detect and punish crime of this sort or order is sadly neglected.

No guilty person has escaped when prosecuted in our courts, and the severe penalties of the law which have been visited upon those connected, have served as ample lessons to all concerned to observe and obey the law. Until the present law is modified or improved, or supplied by other more stringent enactments, it is the only rule we know of which must be followed by the Court, in dealing with this great moral question. We have thus given our interpretation of the law, and also some of our reasons which have entered into the judgment of the Court in the matter of granting and refusing licenses.

A. O. FURST, P. J.

FREE TRADE IN BIBLES.

Rev. Talmage's Unavailing Appeal to Congressman Cummings.

Rev. T. De Witt Talmage is a good Republican and a Protectionist, but he belives in free trade so far as the Bible is concerned. The night before the adjournment of Congress Dr. Talmage sent the following telegram to Congressman Amos J. Cummings: "In the name of religeon, would ask that the conference committee on Copyright bill when appointed, and whithin its power, would so amend the bill as to allow the Bible, in whatever language and from whatever land, to enter free. There should be no duty on the Bible, and it would be a glorious thing for our American Congress to set an example to the nations of the earth by placing the Bible on the free list." Mr. Talmage's suggestion fell upon deaf ears.

THE LOOTED TREASURY.

Secretary Windom, in his last annual report, estimated the revenues of the United States for the current fiscal year at $472,000,000, and the expenditures at $420,000,000. For the next year, ending with June, 1892, he estimated the revenues at $466,000,000 and the expenditures at $431,000,000.

As far as as can be made out the Congress just adjourned appropriated $462,000,000 for 1891 and $527,000,000 for 1892. This will not only use up Mr. Windom's expected surplus of $52,000,000 but leave a deficiency of at least $71,000,000, if the late Secretary's estimates of revenue were anywhere near right.

The Republicans, voted out for their extravagance and incompetency, have simply looted the Treasury and run away, leaving the task of restoring the balance to their successors.

The deep snows in the woods during the past winter have enabled Pennsylvania lumberman to get their logs into the streams to be floated to the mills from places in the mountains not readily accessible without snow. As a result there will be a heavier outturn of sawn lumber this year than for several years past.

WE WERE RIGHT.

The campaign is over in Centre county, new officials were elected and the former office holders have retired from their public positions and can only be looked upon as private citizens. During the past campaign this paper took a bold and fearless stand and brought many matters to the notice of the public that were startling, and very discreditable to certain office holders in Centre county. In doing this we only performed our duty, well knowing that the censure of bitter partisan and prejudiced people would be heaped upon us. Some looked upon our charges, against the former Sheriff, with utter indifference and often remarked that "it's all politics," "nothing but politics." Others read, observed carefully and thought and voted accordingly.

In Tuesday's issue of the *Daily News*, which is an out and out republican journal we find the following:

"At a recent meeting of this organization (the W. C. T. U., of Bellefonte,) the improprieties of young women at the depot at night was discussed, also the fact that a great many girls were visitors at the jail, and that great improprieties were allowed there during the reign of Sheriff Cooke, but it is thought that the present official—Mr. Ishler—exercises better judgment by not allowing visitors only at certain hours two days in a week, and that decency prevails. It is to be hoped that this is correct."

This was published by that paper at a time when the bitter animus of a fierce campaign had subsided and the truth can be expected. Since the ladies of the W. C. T. U. have openly discussed the improprieties of a former Sheriff, it certainly indicates that the charges made by this paper were not the resulted of politics but the startling truth. May the people of Centre county be spared from another such an official.

Afloat on Ice.

Two boys named Will Randalls and Earl Fox, succeeded on Saturday in getting a large cake of ice detached from the river shore at Renovo, and getting upon it they concluded to float along the shore for a short distance. The *News* says the ice drifted out from the shore and the boys soon realized that they were in peril, and began calling for help. There were no row boats near and the lads were carried some distance before they were rescued. Had they gone over the riffles, a short distance further down the stream, the probability is that both boys would have been drowned.

—We are in receipt of a prospectus of Bible's School of Elocution and Oratory, Williamsport, Pa., of which Geo. P. Bible, so well and favorably known all over the State, is principal. The summer term opens May 4, and lasts eight weeks. It is an entire new venture but the contents of the prospectus show that Mr. Bible has given the matter a thorough investigation, and will make it a success. Send for circular to Geo. P. Bible, Williamsport, Pa.

—Easter falls on an early date this year, March 29. The earliest date on which Easter can fall is on March 22d, and this only in case the moon is full on March 21st, when this date happens to fall on Saturday. On the other hand, Easter never falls later than April 25th; this was the case in 1666, 1734 and 1886, and will only happen once in the next century—namely in 1943.

—Thomas Oliver who died in Bedford county recently at the age of one hundred and three years, had joined the Methodist church five years before. It is not often that a church receives a convert at the venerable age of ninety-eight.

Arm Sawed Off.

One day last week, while Mr. George Deters, of near Penn'a Furnace, was at work at Brown & Kelley's saw mill he met with a painful accident. He was shoveling sawdust from under the mill and in some way his left arm came against the large circular saw. The result was that his forearm was severed near the elbow. Mr. Deters is a man of about 27 years, and has a wife and several children depending upon him for support.

Should Become a Law.

Among the many bills introduced at Harrisburg is the following which is deserving of much praise. It would abolish a great nuisance and tend to make politics a little cleaner than at present:

"By Mr. Robison, to prohibit and restrain solicitation of candidates for office, to buy tickets or any other valuable thing, or subscribe for charitable objects or organization. (The bill makes such solicitation an offence, and the offender liable to endictment for misdemeanor, the penalty being a fine not exceeding $250 and imprisonment not exceeding three months."