

Bradford Reporter

WEDNESDAY.

Regardless of Denunciation from any Quarter.—Gov. PORTER.

BY E. S. GOODRICH & SON.

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(From the Rural Repository.)
The Indian Girl's Prayer.

BY MISS HENRIETTA GAY.

Upon the pebbled shore,
Where rolls the Hudson's wave,
I hear each heavy roar,
And echoes from the grave;
The night, and cold the breeze,
Howled through the forest trees,
With all its sweeping might;
I was the thunder's pealing-tone,
And the echo of each moan,
That tempestuous night.

My prayer mingled with
The storm; as loud she cried—
My spirit shield my father,
From his shield and guide;
With him in his hours of grief,
With the broken-hearted chief,
Whose days are nearly closed,
Do not let his white man's dart,
Not pierce his heart,
Nor triumph in his woes.

Let not the aged warrior make
The bed of his dying bed,
My spirit—may thy saints watch o'er
My father's hoary head;
Do not watch o'er him, while in his prime,
The conquering hand of time
Has bowed his giant frame;
When his eagle eye was bright,
And-browed foes feared at the sight,
Had trembled at his name.

At now, he comes not from the field,
He was wont to do;
Night amid the howling storm,
He watched for his canoe,
Tribes of victory greet my ear,
And the sweeping blast I hear,
And waters dashing wild.

He and maid, thy prayer's in vain,
We will ne'er return again,
Unless this weeping child,
Lies among the heaps of slain,
Upon the battle-field.

His hand grasps in death's hour,
His curved bow and shield;
His bow remains beside
The gurgling rivulet's flowing tide,
That his eye ne'er will view;
The bridge screened from the sun's bright rays,
He ne'er meet his enraptured gaze,
To see his bit adieu.

Life's Errors.

In that sublime estate
Which our souls shall once attain,
Of Earth and Time, and Fate,
I pass before our eyes again.

We review our Life's slow way,
And weariness beholding,
By Heaven's purer noon survey
The Earth's dim twilight now is folding!

A wondrous change will pass
That here hath seemed or been!
We see as through a glass,
And then shall face to face be seen;
And of all we prized,
The shadow of the love we sought,
The truth of hearts despised,
The worth of all we valued not!

How earthly path of tears,
The tearer's eye appears.
The dew lights around us break,
The eye shall read their course below,
The line of long mistakes,
Marked by many a needless woe.

Each was jangled in visions fair,
The wealth of heart;
Each had the harder care
Of watching all those dreams depart.
There were left-for sad old age,
In useless grief to rue
The error of a pilgrimage.

Would not, if we would, renew
The error of the evil lay,
The weak artificers of woe!
Each all were made of clay,
It was our hand that framed them so.

Each some dinner call,
Each our hearts alike to shun
The fault of trusting all
The bitter sin of trusting none.

And then, with vain disgust
Love betrayed and faith deceived
Our hearts forget to trust,
That they are wounded, wrong and grieved
To learn this lesson—it is such
That Life's darkness into light,
We can never love too much,
We will only love aright!

A Truism.

Each day
Recedes me away,
And yet approaching my prime!
A neighbor—Not so—
The truth is, we know,
Rather you, that wastes Time.

Opinion of the Supreme Court.

The Commonwealth vs. James Clarke, Jesse Miller, and Wm. B. Foster, Jun.

It is unnecessary to advert to the common law definition of an office, or to the supposed distinction between offices in the appointment of the Executive and offices within the power of the legislature by the original constitution. The question for decision turns on the peculiar provisions of the amended constitution, and it lies almost within the bounds of a nut shell. The 8th section of the 6th article declares, that "all officers, whose election or appointment is not provided for in this constitution, shall be elected or appointed as shall be directed by law." The election or appointment of Canal Commissioners was not provided for by the constitution, and it was consequently to be provided for by law. But it was declared by the schedule appended to the instrument (section 11,) that "the appointing power shall remain as heretofore, and all officers in the appointment of the Executive department shall continue in the exercise of the duties of their respective offices, until the legislature shall pass such laws as may be required by the 8th section of the 6th article of the amended constitution; and until appointments shall be made under such laws, unless their commissions shall be superseded by new appointments, or shall sooner expire by their own limitations, or the said offices shall become vacant by death or resignation." Now the Canal Commissioners were officers within the appointment of the Executive at the adoption of the amendments; and consequently were to remain in office, till laws for elections or new appointments should be enacted. But the same section of the schedule directed those laws to be enacted by the first legislature under the amended constitution; and as the injunction was not performed by it, the argument on the part of the Commonwealth is, that it could not be constitutionally performed by a subsequent one—of course that the power of appointment remains with the Executive.

The authority invoked for this interpretation is the decision of this court in the Commonwealth vs. Lieb (9 Wats, 200,) in which it was held that the execution of a power by the first legislature, as directed by another section of the same schedule, could not be repeated by a subsequent legislature, on pretence that the preceding one had not carried out the views of the Convention. The 9th section had directed the first Legislature to divide the Associate Judges of the Common Pleas into classes in order that they might be displaced in turn, according to seniority of commission, in a certain number of years. The classification was made, but the second Legislature undertook to remodel it on the ground of mistake; and this it was held incompetent to do, not only because the power was a discretionary one vested in a particular body, which was to judge of the exercise of it, but because it had already been exhausted by the execution of it, and was gone. Being executed, it had become obsolete and incapable of giving authority for further action. What conclusively showed that the exercise of it was limited to the first legislature, was, that subsequent legislation would have come too late for the object; for, when the second act was passed, the period for the expiration of the commission of the first class had already elapsed. How different the case before us, in which the power to enact laws for the introduction of the particular amendment had not been executed at all, and in which the power is not such as must necessarily be exhausted by a single exercise of it. It was a cardinal object of the convention, to place the appointment to office, and the patronage consequent upon it, in such hands as the Legislature should from time to time direct; not to have a final disposition of it by the accidental action of any one Legislature. The purpose of subjecting it to legislative action at all, was, to have the benefit of changes which experience might from time to time show to be expedient. But the power of the Legislature over the classification of the Associate Judges, was necessarily limited to a single exercise of it; and the act, being done, could not be repeated. It would have been a curious, but by no means an amusing spectacle, to see a class of those judges, who had retired from the bench under a particular classification, re-called to it, and their successors expelled, by the establishment of a new one, according to the alternate prevalence of parties in the political arena.

To have applied the principle of the Commonwealth vs. Lieb to cases of a different stamp, might have led to startling consequences. By the 7th section of the 6th article of the amended Constitution, "Justices of the Peace and Aldermen, shall be elected, in the several wards, boroughs, or townships, at the time of the election of constables, by the qualified voters thereof in such numbers as shall be directed by law; and shall be commissioned by the Governor for a term of five years;" and by the 12th section of the schedule, "The first election for Aldermen and Justices of the Peace, shall be held in the year 1840, at the time fixed for the election of constables. The Legislature at its first session, under the amended Constitution, shall provide for the said election, and for subsequent similar elections. The Aldermen and Justices of the Peace now in commission, or who may in the interim be appointed, shall continue to discharge the duties of their respective offices, until fifteen days after the day which shall be fixed by law for the issuing of new commissions, at the expiration of which time their commissions shall expire." Now on the principle of construction asserted by the Commonwealth, what would have been the consequence if an accidental difference of views between the Senate and the House of Representatives, such as actually occurred in regard to the Canal Commissioners, had prevented the first Legislature from enacting laws to carry the ulterior provisions of the Constitution for the election of Aldermen and Justices of the Peace in effect? It would have been the frustration of those provisions, and the perpetuation of the old mode of their appointment with its attendant principle of tenure for life, and with the preservation of a great share of the Executive patronage which it was an special object of the Convention to destroy.

That is not all. Though the justices and aldermen would have held their commissions for life, there would have been no power under the constitution to supply their places at their death; and thus this indispensable arm of the magistracy would in the end have been cut off. The 11th section of the schedule which provided that the appointing power should remain as heretofore, was predicated of offices indicated in the 8th section of the article; and it is restrained to officers in the appointment of the Executive, whose election or appointment is provided for in the amended constitution. It was said in regard to these, that they should continue to exercise their functions till the Legislature should pass such laws as might be required to give effect to the 8th section of the 6th article; and it was consequently in relation to the offices indicated in that section that it was said the power of appointment should remain as heretofore. If that provision were an independent and unrestricted rule of the constitution, it would annul all the alterations for appointment to office either by the Executive or by the Legislature; but it was expressly restricted to officers whose election or appointment is not specially provided for by the terms of the amended constitution. Now the election of justices and aldermen happens to be thus provided for in the body of the instrument; and it is therefore not within the conservative operation of the 11th section of the schedule. Can it be thought, then, that, by directing laws for the election of justices and aldermen, to be enacted at the first session, the convention meant to expose one of its most cherished alterations and an entire branch of the magistracy, to the chance of destruction from the uncertain action of the legislature? Perhaps nothing conducted more to the success of the amendments than public clamor against the inferior magistracy; and though it may be entirely true that the quality of these officers has not in any great degree been improved by the change, it is certain that a change was called for by the public; which is all that is required for the argument.

The principle of strict construction, would frustrate important provisions in every newly constructed frame of government. It was provided by the 1st article and 2d section of the federal constitution, that the Senate should be composed of two members, from each State, chosen for six years; and that "immediately" after they should be assembled, they should be divided into three classes, in order that one-third of the body might be chosen every year. Yet, on the principle of strict construction, a postponement of the division for a month, or a day, would have presented an insuperable obstacle, to the organization of the government.

Necessity, the paramount rule of interpretation, demands that such provisions be deemed only directory; as was the injunction imposed by the 7th article of our constitution, which has been retained by the reform convention, that "the legislature shall, as soon as conveniently may be, provide by law for the establishment of schools throughout the State, in such manner that the poor may be taught gratis." Yet, though it was just as convenient to perform this duty at first as at last, it was not done till half a century had elapsed; and no one doubts for that reason the constitutionality of our system of public schools. Still further. If the power of appointment remains with the Executive, it must be because it was vested in him by law at the adoption of the amendments; and it must be exercised in the mode prescribed by the law, without confirmation by the Senate, though it was evidently intended that no executive appointment by virtue of the constitution should be valid without such confirmation, except that of Secretary of the Commonwealth. Thus, would not only the power to appoint Canal Commissioners remain as it was, but also the power to appoint all officers whose appointment is not specifically provided for in the amended constitution; and thus, too, would the principal part of the executive patronage be restored by an accidental difference of views between the branches of the first Legislature. That difference would have the effect, too, of engrafting on the original constitution a power of appointment which originated in an act of ordinary legislation; and this, too, without submission to, or adoption by, the people.

A constitution is not to receive a technical construction like a common law instrument or a statute. It is to be interpreted so as to carry out the great principles of the government—not to defeat them—and to that end, its commands, as to the time or manner of performing an act, are to be considered as merely directory, wherever it is not said that the act shall be performed at the time, or in the manner prescribed, and no other. The object of the command, in this instance, was no more than to urge the Legislature to put the elective principle in active operation at the earliest day practicable under all the circumstances; and it has been accomplished. What is this schedule? It is a temporary provision for the preparatory machinery necessary to put the principles of the amendments in motion without disorder or collision. Its purpose was not to control those principles by the happening of an event, but to carry the whole into effect without break or interval. Its use was merely to shift the machine gradually into another track; and having done its office, it is to be stowed away in the lumber-room of the government. Nothing was further from the purpose of the convention than to make anything contained in it a matter of permanent regulation. Its uses were temporary and auxiliary.

To suppose that the provisions in the 8th section of the 6th article, were to depend for that effect on the sanction or co-operation of the first legislature, would be to suppose that it was intended to give that body a controlling power over the public will expressed by the adoption of the amendments. It would have been an abuse of the power which the convention had received from the people, to delegate any part of it, except for merely ministerial purposes; and especially to delegate it to a body whose action would be final. It is impossible for human foresight to provide against accidents which may stop the motion of an untimed machine; and they must be repaired when they occur, by those who have the management and direction of it.—The convention could not foresee the difference which took place between the Senate and House of Representatives in the first legislature; and the great elective principle established in the body of the constitution must not be suffered for that reason to fail. It is considered, therefore, that the demurrer of the Commonwealth be overruled; that the plea of the respondents be sustained; and that they go without day.

AN IMPUDENT RASCAL.—A fellow broke jail in Maryland last week. He left behind him a letter expressing his gratitude to the jailor and his wife for their kind treatment, and regretting that his health would permit him to remain no longer in their agreeable society.—He felt himself growing unwell from confinement, and tore himself away from them, confident that the climate of the state did not agree with him.

A Splendid Church.
The New York Herald gives the following description of Trinity Church in that city, which when finished, will be the most magnificent church on this continent. When completed, it is expected that the cost of the building will not fall far short of \$800,000.

The length of the church, out and out, is 192 feet, extending from Broadway to Trinity Place; its length inside is 137 feet, depth of the chancel 33 feet 6 inches; square of the tower inside, 18 feet 6 inches; square of the tower including walls and buttresses, 45 feet; breadth of the church outside, 84 feet; breadth inside, 72 feet; breadth of the nave, 37 feet 4 inches; height of the nave, sixty-seven feet six inches; height of the part of the tower now built, one hundred and twenty-seven feet; intended height of tower, including spire and cross, 246 feet. The building is of the highest order of the Gothic school, being the most ancient order of architecture. It is technically called the style of pure perpendicular English Gothic. The main building was commenced in 1839, for which an appropriation of \$250,000 was laid by, from the richest corporation in this city.—The church is now roofed in and covered with copper, and the stucco work of the ceiling of the nave is complete. The gorgeous appearance and general finish of this part of the church, will astonish the "Cognoscenti," by the extreme beauty of its design and executions. The chancel window at the rear of the building, is of immense proportions, being over 40 feet in height, and will, when filled, the stained glass now designed for it, produce a brilliant effect upon the entire nave within.—Some of the smaller windows are already finished, and the variety of coloring is truly beautiful—presenting almost every shade and hue of the rainbow—giving an effect, in the sun's glare, resembling a perfect rainbow. The floor of the nave is to be highly finished in tessellated marble. The flooring of the pews is to be of wood—uniformly carpeted. The aisles, it will be perceived, are to be very broad. The plastering of the side walls of the Church is progressing with great despatch. Thus it will be seen that the main part of the building—its interior—is far advanced. We now come to the tower and spire in progress of erection. The height of this part of the building, as has been observed, will be 264 feet. The walls along the lower part of this stupendous pile, are 7 feet in thickness, of solid stone work, which gradually ascending diminishes to 4 feet. The main doorway is of solid workmanship. The stone of which this entire building is composed, was, after the most deliberate and careful research, selected from the quarry at Little Falls, Paterson, New Jersey. It has been analyzed by our Chemists and found to possess most largely the requisite qualities of durability and imperviousness to rain, frost or heat. Lords Morspeth, Ashburton, and many other distinguished travellers, have declared that this specimen of stone exceeds in firmness of grain and general qualities any stone known to the architects of England. We ascend this part of the building by a winding stairs, which lead us into the clock chamber, where the solidity of the stone work again strikes the eye and excites the admiration; there is to be a clock here with three dials of nine feet in diameter. Again ascending we arrive at the belfry, in which there are eight large windows of Gothic design, according with the general character of the building. Here there will be hung the celebrated chime of eight bells, which were cast by "Meirs and Sons," of London, in 1789, especially for this corporation. The front window that faces Broadway is a gorgeous specimen of this order of architecture, which excites universal admiration. An outside walk will surround the base of the spire, which will be guarded by a rich perforated battlement, of gorgeous design.—The work is here thoroughly filled in with molten lead—the cement in use is spoken of by the artisans as possessing qualities of durability equal to solid granite. The architect, Richard Upjohn, Esq., is well known in the community as the builder of the church of the Ascension of Christ's church, and this building will serve as a monument of his great genius and comprehensiveness of mind.

PIETY, which does not sweeten a man's natural temper, may be compared to fruit before it is ripe—good in its kind, but not arrived at perfection.

"The last lay of the minstrel," as Jerry observed on seeing a music grinder lying in the gutter drunk.

Blowing at the Key-Hole.—A Washingtonian tells us that he had no idea that he was a drunkard, until one night he had been drinking very freely, and on entering his house and finding no light, he inquired of his wife, who was in bed, whether there was any fire; and on receiving an answer in the affirmative, he groped around until he found the bellows, and went to blowing.—After exhausting much time and patience, and not producing either light or heat, he called upon his wife for assistance; who, when she arrived, found him laboring away at the key-hole of the door, through which the moon shone, and which he had mistaken for a large coal of fire.

Harper and Brothers.

Let me improve this occasion to speak of the distinguished firm in which the Native American candidate is the principal. J. & J. Harper was the name under which the two elder brothers (James and John) began business as printers. They took the first step, more than twenty years ago, in bringing down the price of republications to a reasonable standard. The consequence was an almost immediate success.—Perhaps they owed much to the fortunate circumstance of their having begun with those immortal works, the Waverly novels. The two younger brothers (Joseph and Fletcher) came into the house at a later period. They are all men of excellent standing and character—distinguished for their exactness and fidelity in business. They have published many original works, and paid large sums to authors. As a recent instance, I may mention that of \$7500 to Mr. William H. Prescott, for his great work entitled, the Conquest of Mexico. I learn, also, that the learned Dr. Charles Anthon receives from them more than \$5000 annually as copy-right for his various classical and school books. Mr. John L. Stephens, author of Incidents of Travel in Central America, &c., has received more than \$20,000. Do not such facts as these controvert the opinion that American authors can get nothing for their works. The truth is, that successful authors are well paid everywhere, and fifty International Copyright Law will never enable an indifferent writer to procure even a bare subsistence by his pen.

The Harpers have a very large printing establishment. They employ eighty compositors, one hundred and fifty girls in folding books, besides numbers of persons in the other parts of the business. To how many families must such an establishment give support? Beginning with the poor people, who go about the streets picking rags for the paper makers, perhaps it is not too much to say that three hundred families, full fifteen hundred persons, are clothed and fed by the work of this single house.—When we think that the basis on which all this rests, is made of the brains of a few authors in the old world and the new, we are certainly not disposed to follow the fashion of the political economists, and rank the literary tribute among "the unproductive laborers."—I am curious to know how many millions of books have been printed and published by this one house alone since its commencement.

Industry, Happiness and Health.

We were forceably struck, a few days since, with a remark made by an old and affluent citizen. Speaking of his habits, and of his constant attention to something which occupied his mind, he said that he always felt better, physically and mentally, when employed in some useful pursuit; because, in the first place, he knew he was discharging his duty as a member of society and a man; and, in the second, he was prevented from indulging in painful thoughts. This is sound philosophy. The idler, whether rich or poor—young or old, is far more apt to be annoyed by disagreeable reflections—to feel moody and discontented—to be hurried on into temptation and crime, than the individual who, no matter what his condition in a pecuniary point of view, seeks to keep both mind and body properly employed, and thus to shut out feverish desires and nervous phantasmagoria which idleness is certain to call into existence. Every individual has a part to play in the drama of life; and that man is happiest, be he rich or poor, who with a proper consciousness of right or wrong—virtue and vice, keeps his body in a wholesome state of exercise—always careful to be prompted in his movements by honor, honesty, and conscientiousness.

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