### THE SCRANTON TRIBUNE-TUESDAY, DECEMBER 12, 1899.

### POOR BOARD ACT IS CONSTITUTIONAL

OPINION OF JUDGE ARCHBALD IN CARBONDALE CASE.

First Time This Act Was Reviewed by the Court-After a Careful Consideration of All of Its Provisions tents of the statute is necessary in view of the objections raised to it. the Judge Is Convinced That It Does Not Offend Against the Provisions of the Constitution-Way the Case Came Before the Court and Its Disposition.

In an opinion handed down yester-day Judge R. W. Archbald holds that the act passed by the last legislature affecting the Carbondale poor district is constitutional. It is the first time this act has been reviewed by any court

The matter came before the court in the form of a demurrer to the return of an alternative mandamus in the case of the commonwealth ex. rel. Henry Carter and others, against Edward Moon and others, poor directors of Carbondale. The opinion of Judge Archbald in part is as follows:

The right to an office which is al-The right to an office which is al-ready filled by another with color of right cannot be determined by manda-mus. Com, ex rel, vs. Commissioners of Phila., 6 Whar, 476; Same vs. Same, 5 Rawle 55; Com, ex rel, vs. Perkins, 7 Pa, 42. The only way is for the per-son who claims the office to compel by quo warranto the one who occupies it to show his title mon one warranto. right cannot be determined by manda-nuss. Com, ex rel, vs. Commissioners of Phila, 6 Whar, 45: Sume vs. Same, T Pa, 42. The only way is for the per-son who claims the office of the part of the section to deal with the affaits of the boundaries, if they are not. This prevents us from granting any re-fiel in the present instance so far as the claims the right by virtue of an appears, was elected to the office and any to be manded on the pointment under the ext was based to the office and pay and the subject covered by the act? The subject covered by the act or the office and pay as there are affaits of the sore of the act and the first section to deal with the clare enlarged, fail within appropriate sup-plemental legislation concerning the affaits of the district. So the district is a place affaits of the district? Or how, acain, the first charter election for the relative to a manded the and the office and the and the office and the additing of the relative to a struck out without any 5 1850. P. L, 231, to represent the First Robbins, who, it appears, was elected to the office and by the other members, Rob-the act mappears, and a scalated it. So the act on the specifications of the different things to postiment. CANNOT ACT SUMMARILZ, We cannot summarily oust him from office and put another person in until the add.

other. This disposes of the case so far as Daley is concerned who must be regard to this poor district, why may it not lawfully appear in the general supplement to the original act which for the Fifth and Sixth wards not now represented there. The respondents deny that there are any such places to be filled, but if the vacancies exist and

he relators have a right to them, the fore us, leaving that to stand in previis by a mandamus to the rest of the sary to modify. We are not compelled is by a mandamus to the rest of the board to admit and recognize them. The right of the two relators, Carter and Gardner, depends on the validity of the Act of May 5, 1539, P. L. 234, aiready referred to under which they were duly appointed by the judges of the quarter sessions of this county. This statute the respondents contend is unconstitutional on numerous grounds.

tion which declares that "No law shall be revived, amended or the provisions unconstitutional on numerous grounds. • • What is outlined in the title is strictly followed in the body of the act. • • This reference to the conthereof extended or conferred by ref-erence to its title only, but so much thereof as is revived, amended, extended or conferred shall be re-enacted and published at length. The argument on this branch of the case, as we under-These objections, as already said, are numerous, and if it were not for the eminent counsel who raise them we this branch of the case, as we under-stand it, is that the act, while denomi-nated a supplement, is in fact an amendment of the previously existing statutes which should have been re-cited therein at length. There have been three previous acts with reference eminent counsel who raise them we should be inclined to pronounce them hypercritical. For instance, it is claimed that there is more than one subject covered by the title; but how, or why? It is declared to be an act to regulate to this poor district; the Act of March 9, 1860, P. 4. 138, which created it, and provided for the general regulation of its affairs; that of March 27, 1862, P. L. 211, which made some slight changes with reference to the collector of taxes and the solution of the state of March 21, 1862, P. L. the affairs of the poor district men-tioned, and then the particulars in which that is to be done are given. No which that is to be done are given. No one can well say that the title does not disclose the complete purpose of the act and it is certainly not to be con-demned for its detail. The only ques-tion is whether the different things es-sayed to be done are germane to the general purpose. But in what respect are they not? and steward; and the Act of March 21, 1865, P. L. 529, which undertook to re-

ABOUT CHANGE OF NAME.

It is said that the name is changed and the boundaries enlarged; that the manner of electing the directors, their number and terms of office, are regu-lated; and the new office of auditor of the direct state only offends against the Constitution in the direct direct state only offends against the constitution in the direct direct state only offends against the constitution in the direct state of the manner indicated, but by the omission of all notice of the two intermedi-ate acts is actually misleading. The Act of 1865 is entitled "A further supthe district created. But why are not each and every one of these a legiti-mate part of the general subject? With plement to an act to incorporate the city of Carbondale," and it is mainly concerned with the affairs of that what shall such an act concern itself if not with these? Were this original legislation, the corporate body created would have to be given a name and its boundaries defined, and why does not

It does not recite these acts in full in undertaking to modify them, therefore still remains. A more statement, how-ever, of that argument as it seems to us sufficiently refutes it. It is nothing less than thus: That every act of as-sembly which, by the introduction of new provisions, undertakes to change or modify the provisions of previously existing acts, must recite every part of each of them that is in any way modi-But it is said that the act offends each of them that is in any way modi-fied or changed. Clearly this is not the law, not only as a matter of reason but

by authority of the decided cases, Such a position would virtually ex-clude all so-called supplemental legisclude all so-called supplemental legis-lation, because there is none which does not in some respect amend or modify that which has gone before. The mis-take is in confusing amendatory and supplementary legislation. \* \* The act in controversy is abundantly vindi-cated by the authorities and there is no occasion for pursuing the discussion further. Supplemental in form and so declared to be in its title, it enacts new provisions, modifying the existing law of the neor district in several particuof the poor district in several particu-lars, but allowing all of it not so modi-fied to stand. In this there is nothing which offends against the Constitution, and it is only by the most strained construction that it could be made to

to be appointed by the late mayor's court of Carbondale, from the city at large, to four, to be elected by the qualified voters, one from each of the then four wards of the city. do so. Entirely within the form of or-dinary legislation as it is, it is difficult to see how the ends to be accomplished uld be effected in any other way than that which was pursued,

SOME MINOR OBJECTIONS.

Certain minor objections, however, are still further urged against it: for instance, that is changes the name of bound to do so. Were this part of the act therefore in contravention of the Constitution, of which we have not the slightest idea, it still would not affect

third and fourth sections of the act. & the prohibition of the Constitution is violated which forbids special legislation "regulating the practice or juris-diction of, or enlarging the rules of evidence in, any judicial proceeding or inquiry before courts, aldermen, jus-tices of the peace," etc. We should be glad to escape the extra

judicial duties imposed upon us by this and other similar statutes, but the nower of appointment so given is an administrative function not unlike many others of the court of quarter sessions, a probable relic of the petty sessions held by the justices of the quorum in the mother country; but unortunately for the argument of coun-el, as well as for our own relief, it has thing to do with the practice of the ourt or its general jurisdiction, and we annot therefore condemn it as unconitutional because of its special or

eal character. As to the relator, Alva Daley, judgas in the second on the demutrer in favor of the respondents; but as to the re-ators. Hence Carter and Milo Gardner, judgment is given against the respondents with costs and a peremptory mandamus awarded.

VERY LIVELY RUNAWAY.

It Caused a Lot of Excitement on

Mulberry Street.

of 412 Alder street

Daniel Johnson,



fast colored cretonne, ruffled border, worth 39c. This week..... 25c Figured denim, reversible

patterns, former price 12<sup>1</sup>/<sub>25</sub>c. This week... 12<sup>1</sup>/<sub>2</sub>c

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60-inch reversible oriental stripe drapery goods, same as others asked 75c and 85c for. This week.. 50c

Denim laundry bags, worth 39 cents. Special this 25c

fancy ribbons Special sale of all silk ribbon, in both satin and fancy, in the following numbers-Fish net, yard wide, worth

Cut price on

### for this week

Dress goods

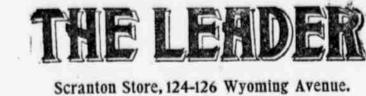
One lot of dress goods, all this season's fabrics, would be cheap at 39c. 29c Special this week ..... One lot of novelty dress goods, including cheviots and chevrons, in black and all colors, 59c grade. 39c Special this week..... 54-inch camel's hair serge, in black and colors, 98c grade. Special this week ..... 05C 42-inch black storm serge, 59c grade. 43c All of our 98c black serge. Special this

week..... 69c All of our \$1.25 black crepon. Special this week...... 98c All of our \$1.75

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black crepon. Spec-

Store Open Evenings Until Xmas.



# Reduced prices on ladies' and misses' jackets

Big reductions have been made to unload a portion of this stock while there is still a demand. You save as much by buying now as you would at the end of the season. \$12 jackets reduced to \$7.45-Made of tan covert cloth; trimmed with fancy stitching, real value \$12, formerly marked \$9.98 as a special bargain; reduced to ...... 7.45 \$14 jackets reduced to \$9.98-Made of light castor kersey, lined with Skinner Manufacturing Co. satin, lining warranted to wear two years or new lining will be given. Price formerly was \$12.98, reduced to ..... 9.98

\$18 jackets reduced to \$12.98-Made of light tan kersey, lined with fine taffeta 12.98silk and trimmed with fancy stitching, real value \$18, reduced to .....

\$20 jackets reduced to \$14.98-Made of castor kersey, scalloped around bottom, lined throughout with fancy silk and trimmed elaborately with stitching, real value \$20, 14.98reduced to.....

\$14 jackets reduced to \$9.98-Made of very fine kersey, black or castor, strap seams, lined with Skinner satin, warranted to wear two years, real value \$14. Special re-9.98duction to .....

\$16 jackets reduced to \$12.98-Made of very fine kersey, black and several shades of castor, lined with plaid taffeta silk, and stitched elaboratey all over. Reduced 12.98 price .....

\$20 jackets reduced to \$14.98-Made of London kersey, lined with plaid taffeta silk, strap seams trimmed with stitching, in black and several shades of tan and castor. Re-14.98 duced price.....

All of our \$6.00 and \$7.00

Special sale of comforts at

49c, 75c, 98c and \$1.25, worth

twenty-five per cent. more.

blankets. Special for 4.98

\$25 jackets reduced to \$18.98-Made tight fitting of Oxford Grey Montagnac, with velvet collar, lined with silk and trimmed with pearl buttons. Reduced price... 18.98

This part of it is so clearly unon-stitutional that that of itself is a suf-ficient reason for not having noticed or referred to it in the Act of 1599, if any is needed. The constitutional amendment of 1864 had the same pro-

duce the number of directors from five,

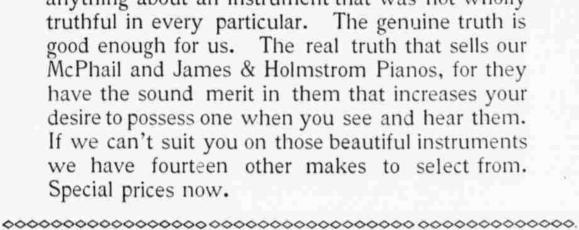
his title in appropriate proceedings cal-culated to decide who has the better right to if. Nor can the respondents who have with color of right already admitted one representative from the First ward be compelled to admit an-other. This disposes of the case so far as Daley is concerned who must be remitted to a quo warranto. Not so, however, with the other pa



Of a Piano, but we would rather have you go out of our store without purchasing than to say to you anything about an instrument that was not wholly

it is under and by virtue of this act that the respondents now hdid office. But no such objection can be made to the Act of 1862, nor of course to the ersative Act of 1869, and the argument against the act under discussion, that it does not recite these acts in full in undertaking to modify them therefore

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Mandolins,		1.25,	4.50,	8.00	
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