THE SCRANTON TRIBUNE-TUESDAY, JANUARY 29, 1901.



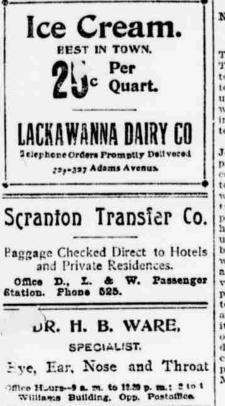
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The pleasant method and beneficial ffects of the well known remedy, FRUP OF Figs, manufactured by the CALIFORNIA FIG SYRUP Co., il'ustrate the value of obtaining the liqu d laxathe value of obtaining the high if laxa-tive principles of plants known to be medicinally laxative and presenting them in the form most refreshing to the taste and acceptable to the system. It is the one perfect strengthening laxa-tive, cleansing the system effectually, dispelling colds, headaches and fevers could be adversed and system one gently yet promptly and enabling one to overcome habitual constipation permanently. Its perfect freedom from every objectionable quality and substance, and its acting on the kidneys, liver and bowels, without weakening irritating them, make it the ideal laxative.

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ASCIRATE CON

sault and battery and disorderly conduct t terred by kate Shifeli and Juhn Rufney. HERRIWITZ NOT THE MAN. -In The Tribune

of Friday it was stated that the new famous mouse sundwich was purchased at the lunch wagon of Samuel Herriwitz. The latter is the proprietor of the wagon at the R. R. Y. M. C. A. and it is only fair to him to say that the delicacy did not come out of his wagon.

LABORATORY COMPLETED .- The laboratory at the Lackawanna hospital has been completed, All the instruments and appliances known to undern medicine have been installed by a Philadelphia firm and the laboratory is complete in every detail. The X-ray room on the second floor has been utilized for the laboratory.

PEANUT ROASTER CAUSED FIRE -- Spurks from a pearent reaster in the pearent stand situ-ated in the Coyne House building, at the corner of Penn and Lackawanna avenues, set fire to the wooden door jam yesterday and caused an alarm to be sounded from box 15. The blaze was extinguished by the chemicals. The damage alight,

The local court is divided on the FELL OVER BANK .- A drunken man fell over question as to whether the new counbank near the Mt. Picasant mine yesterday and a bank hear the M. Pressnit him yearroay and was slightly injured. When found he was some-what frozen from lying upon the ground. He was taken to the boller house of the Mt. Pleas-ant and word sent to police headquarters. Detec-tive Molr, Mounted Officer Bloch and Sergeant ty officials should receive their remuneration in fees or salary. Judges Archbald and Kelly decide in favor of fees, and Judge Edwards contends for salary. Tom Jones responded with the patrol wagon and The decisions were handed down yeslodged him in City Hall station house.

terday morning at the opening of court. Judge Archbald wrote the ma-NEW SACRED SONG .- "Excelsior" is the title jority opinion. A dissenting opinion was filed by Judge Edwards. of a new sacred song published by Shapiro, Bernstein & Von Tilzer, New York City and Chicago, words by Leontine Stanfield and music by Harry Judges Archbald and Kelly hold that Von Tilzer. The music runs in a lofty veln and the sustained harmony is fully as sublime as in "The Holy City." The publication of the latter the enumeration is not a consus; that the census was not complete until it was announced and that, as regards opened a new realm in the line of exalted music the congressional act that the census and "Excelsior" is another of the same kind. shall take effect as of June 1, "the congress while supreme in federal af-

DIAGRAM OPENS MONDAY .- The diagram fairs can not legislate with regard to purely state matters." r the Marie Antonictte jete and Pied Piper of Hamelin will open next Monday at the Lo-coum box offlex. Tickets range from 50 cents to Judge Edwards holds that the true \$1. The advance rules are improcedented and the performances promise to be the most popucolution of the question is to be found in the fact that the census was taken lar ever given in this eliv. The matinees will "as of June 1, 1900," and that the annot open until 4 o'clock in the afternoon so that the school children may attend. There is nouncement of the census, made on Nov. 19, was simply the announcement a prospect that the Pied Piper and his little followers will be the favorites of the great en-

tertainment. WILL GO TO THE "NOTCH."

New Trolley Company Ready to Meet

Costello Objection. Select Councilman Costello, of the Third ward, in an interview in The that the census was announced a day Tribune announced his determination before or a day after the election to oppose the granting of a franchise unless it would extend its line the whole distance of West Market street instead of only four blocks as contemplated by the franchise ordinance. Anent this announcement, Secretary John H. Brooks, of the Central company, says it is the intention of his company, and has been from the first, to not only extend its route all the way out West Market street, but also t Clark's Summit and Glenburn and possibly Lake Winola. At the outset, however, it deems it expedient not to undertake more construction than can be carried out with positive certainty within the two years' limit the ordinance prescribes, in which to take advantage of its privileges. The company, Mr. Brooks says, will be only too glad if Mr. Costello will introduce and have passed an ordinance giving it a right of way for the whole length of West Market street. But for the delays that would be occasioned, the

company would be content to have the present ordinance amended to meet Mr. Costello's desire.

DEATH OF CURTIS CRANE. Former Resident of This City Fell



COURT DIVIDED ON QUESTION OF COUNTY OFFICIALS' PAY.

> Judges Archbald and Keily Contend That the Census Could Not Be Effective Until It Was Completed and That It Was Not Completed Until Announced-Judge Edwards Holds That the Case Is Governed by the

as of June 1.

Acts Making the Census Effective

as may be directed by law. In counties con-taining over one hundred and fifty thousand in-hubitanta all county officers shall be paid by salary, and the salaty of such officer and his clerks, heretotore paid by fees, shall not ex-ceed the aggregate amount of fees carned dur-ing his term and collected by or for him. Atticle 3, Section 13. No law shall excend the the first Monday of January, 180. The popu-lation of Luzense county by the cennes of 1800 it was over lation of Luzense to be add to for first the first Monday of January, 180. The popu-lation of Luzense county by the cennes of 1800 it was over lation of Luzense county by the cennes of 1800 it was over lation of Luzense county by the sector of for here the sector is the first Monday of January 180. The popu-lation of Luzense county by the cennes of 1800 it was over lation behalf of Rymer

The shlary act of March 31, 1876, P. L. 17, was ir lended to give effect to the constitutional pre-vision relating to salaries. This act of 1876, to far as it concerns counties of over 120,000 in-ubitants and less than 2520,000, has been amended with act of July 24 tase.

y the act of July 24, 1895, P. L. 424. We thus have a provision in the constitution phase of the case does not seem to have been and an act of assembly providing that in coun-ties containing over one hundred and fifty thouand inhabitants shall be paid by salary. Sev-

have; and the inconvenience and injustice that would necessarily arise from accepting any un-

WHEN DOES IT APPLY?

disacrement on this point.

considered by the court. It was taken for grant-ed apparently that if the act of 1576 was not unconstitutional and was not repealed by the act of 1857, then the county of Linerre had become subject to the salary act. It is a fact and inhibitants suggest themselves. First-For the purpose of classification of become subject to the salary act. It is a fact counties under the salary act, what is the test by which the population of a county is ascer-

tained? This is a simple question and the an-swer to it is equally simple. The United States decennial comma is the only standard by which body considers the question of the suart date of we can ascertain the population of Lackawanna the announcement of the population of Lazerna county. It is true that the legislature of Penn- county to be of any importance. Nor is the sylvania could have provided some other method particular date of any importance in the present of computing the population of the counties of the state so as to carry the salary act into ef-

For the reasons to be found in the foregoin, fect. It could provide a triennial enumeration, or it could device some other means. But it opinion, hastily put together, I enter my dissent against the judgment of the an not seen fit to do pnything. There is there fort no standard to guide us except the United States census. As was stid by Mr. Justice Stor-

Additional Law Judge. The matter will now go to the Superrott in Luzerne county vs. Glennon, 109 Pa. 561-"The United States decennial census is the only lor court. theial determination of nopulation that we now

NATIONAL BOARD OF TRADE.

Subjects Introduced by Local Delegates Favorably Considered.

unofficial guide to the classification of counties for salary purposes, cannot be well over-esti-mated. Legislative and judicial appointments Secretary D. B. Atherton, of the board of trade, who, with Colonel Hitchcock, was a delegate to the anare both based on population determined by the last proceeding census." There is no reason for nual meeting of the national board of trade, held last week in Washington, cond-When did or does the salary act D. C., stated yesterday that the sub-jects introduced for discussion by 1876, with its supplement of 1805, go into effect as to Lackamanna county? In other words, when did our county by law "contain" or Colonel Hitchcock and himself were over 150,0000 inhabitants? The moment all favorably considered by that body. The resolution calling the attention could be said as a motter law that the county and the required population, that moment its of congress to the fact that anthracite coal was being discriminated against by the large carrying companies was withdrawn until next year by Messrs. Atherton and Hitchcock shortly after the meeting began. They deemed this advisable because of the fact that the present outlook appears to be that in a year's time pretty nearly all the anthracite mines will be in the hands of the carrying companies themselves. The resolution calling upon congress tion of the county on the first day of June, 1980, and on no other day. The announcement to put the one-cent postage plan into operation as soon as possible in cities could not be true as to any other day. It will not be amiss to examine the act of congress providing for the taking of the twelfth census. having free delivery was referred to the committee on postal affairs, where We example help being impressed with the fact that the act provides no date for the official it was amended to include a provision that the prevailing rate on second certification of the counservice. The one cer-tain, pivotal date is June 1, 1960. There is no uncertainty as To this date. Section 19 pro-vided: "That the counservice of the population required by this not shall commence on the first day of June, 1960, * * * and be taken as of that date." critification of the coumeration. The one cerclass matter should be so adjusted as to render this possible. In its amended form it was adopted. The matter of reclaiming the arid

plains in the far west was also brought up by the local delegates and a resolu-Section 25 authorizes the director of the cention was adopted requesting congress us "to print, publish and distribute from time to appropriate at this session the sum a time bulletins and reports of the preliminary of \$250,600 for the purpose of preparing and other results of the various investigations equired by this act." plans and sketches and having surveys made on which to base an estimate of Section 50 provides that governors and chiefs municipal governments may have copies of returns of population (including names, the cost of the undertaking.

IS HE FROM SCRANTON ?

ther provisions for publication and certification A Correspondence School Employee Named Frankenfield Defaulted. Representatives of the International It is claimed that the people did not know the population of the county until the publica-'orrespondence schools are looking for tion of a press bulletin in the newspapers on their Washington, N. J., representa-November 19. We must take this as true betive. D. J. Frankenfield, who disapcause it is agreed upon as a fact. Suppose it peared from that place a short time ago, taking with him something less

than \$100 belonging to the schools. He is said to have formerly lived in not be verified yesterday at the office this city, but this information could

the Philadelphia district agent en-



Have you seen them? The beautiful chocolate cups on

of the court. H. M. Edwards, Our system of PAINLESS Dentistry is far superior to the old method of doing work. We both fill and extract teeth without the least particle of pain. Our prices for the present are extremely low, and if you are in need of any Dental work. Call and have your teeth examined. We make a specialty of fine Crown and Bridge Work and it will pay you to call and get our prices before going elsewhere. All work absolutely Painless. Gold Crewns..... \$3 Gold Fillings..... \$1 Bridge Work (Per)..... \$3 Dr. Reyer, Dentist sta Spruce St., Opp. Court House

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317 Lackawanna Avenue.

sets of any other calk



officers came under the salary law. According to the "case stated" the first public annouce of a fact that existed June 1. Before the nominations were made, the judge ant that the county contained 193,831 inhabitgoes on to say, the census had been nts was made in a press bulletin from the centaken, and the candidates went into as hureau, on November 15, 1500. This was f course after the election of plaintiff to bis files of district afterney. But what did the the campaign knowing that the population might be found to be over 159,files of district attorney. 000, and that whatever the population mouncement mean? Did it mean that the opulation of Lackawanna county was 103,831 was on June 1, would govern the question of fees or salary. The mere fact November 197 Nothing of the kind. It seent, what everybody was bound to know, but the figures given represented the popula-

should not be allowed to control such to the Central Rapid Transit company | an important matter as this. The two opinions are given in full below: OPINION OF COURT. Rule for judgment non obstante vereilicte on

eserved point. The controlling question in this case is, what was the law in force in this county at the time the plaintiff was elected? This certainly cannot be said of the salary act of 1876 relating t counties having 150,000 inhabitants. While it is true that that law stood upon the statute books

and was a general law applicable here when the facts warranted it, as a matter of fact it had not yet taken effect with us, whatever were the possibilities that it might at some time do so. When then did it take effect and by what

course of reasoning is it made to apply to the officers who were elected at the last election in November? Since the election it has been official y announced that by the census taken in June ast we have become a county of 190,000 people and are therefore in the class designated by the act and subject to its provisions. But when did we become so subject? Coursel

regard to the application of our laws or pre-scribe terms which we must follow. No doubt

and enforce it.

IS NOT THE CENSUS.

had been announced upon October 19? Or, say on November 5, 1990, one day before election? Would that make any difference? The plaintiff's position and argument concede that if the an-nouncement had been made the day before elecunder this provision of the act in any federal matter cersus when determined relates back to

of population for the detendant say last June, when the end meration was made, and they appeal to the acof congress which declares that the census shall take effect as of that date. But congress, while expresse in federal affairs, cannot legislate with regard to purely state matters and cannot deter-mine what shall be the result in any case with



CITY NOTES

b. & H. PAYS,--The Delaware and Hudson company paid vectoriay at the Lidy Creek, Grasy Island and Olyphant minez. with his family in 1897 for Brookline, Muss., where he has since resided. The young man was 20 years old and was MID-YEAR EXAMINATIONS.-The mid-year of

cinations began at the High school yesterday and will continue throughout the week. JEWISH CHAUTAUMA -The Jewish Chap- rul,

tanqua suchty will need this evening at 8 o'clock at the residence of Mrs. A. Harls, 517 Pine street.

MEETING TODAY,-The Central Women's Christian Temperance union will excet this af-terneon at 3 o'clock in Guernsey hall. All interested are cordially invited to be present.

APRON SOCIAL-The ladies of Calvary Reternicd church, corner Monroe avenue and Gils-ion street, will have an apren social Friday coming, February 1. All are welcome, its to-shments will be served.

RESTING COMFORTABLY. - Special Office dohn Malott, who sustained a broken leg by slipping upon the ice while conveying a prisoner to the North End station house, is cesting easily at inta hospital. the Lackawa

ASSAULT AND THREATS .- Andrew Augloushi. of Lleyd street, was committed to the county jail by Alderman De Lacey yesterday in default f \$500 bail on charges of assault and batter and threats, preferred by a man named Mullenski,

PREZE OF THE CAKE WALK .- B. W. Phillip composer of the popular Country Club March and Two-Step, has just published a new composi-tion entitled "Prize of the Cake Walls." The new composition will be played this week at the Lyceum by Bauer's orchestro.

ASSAULT AND DISORDERLY CONDUCT .- Andrew Ferds and George Corrappi, of Old Forgs, very are ted last night on a warrant from Alferman Midar's office charging them with a



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Dead While Boxing. Curtis L. Crane, a former resident of

this city, dropped dead on Saturday afternoon last while boxing with a friend at Harvard university, where he was a student. An autopsy revealed the fact that his heart was badly diseased and that this caused his death nd determination.

Crane was a son of Curtis Crane, sr. who was engaged in this city up to ly, doelare that the result of the census, which was not announced until after the election, refour years ago with his brother, F. L. Crane, in the fur business. He left with his family in 1897 for Brookline, lates back and takes effect as of the date wh t was ordered to be made? It is said that whenever announced it establishes that in June young man was 20 years old and was last we had become a county of over 150,000 in well known in this city. Charles Spenhabitants and that it is the fact, and not the announcement that should control. But that is not the conclusion which we reach. The time cer and Mrs. Edward Spencer, of this

city, his uncle and grandmother, respectively, have left to attend the fune-HAYS' HEAD ALL RIGHT.

Skull Was Not Fractured. As at First Supposed.

Bert Youngs and Joseph Hays, the wo young men whe engaged in an altercation on Spruce street over a woman, were fined \$5 each by Mayor Moir yesterday. Hays was released from the Lackawanna hospital yesterday morning.

It was first thought that his head had been fractured at the base of the skull, but further examination by the hospital authorities failed to verify suspicions. Italian Nell, who was arrested at the time with Youngs as a witness, was released.

OFFICERS WERE ELECTED.

Annual Meeting of Directors of St.

Clair Coal Company.

The annual meeting of the directory of the St. Clair Coal company was held be a restriction on the other provision that " yesterday afternoon in the office of the ecretary, N. G. Taylor, in the Library building.

though written immediately after it. Guldin v Schuylkill County, 149 Pa. 219. It not only pr-The following directors were elected: hibits a law from being passed to affect an off-rer's empluments after he has been elected er W. H. Taylor, W. S. Boyd, ir., N. G. Taylor, T. M. Voyle and C. S. Beckoppointed, but upon the same principle it also necessarily restrains an existing law from being put into effect after his election or appointment, with. The officers elected were: William H. Taylor, president; W. S. Boyd, jr., vice-president; N. G. Taylor, secwhether for his benefit or detriment. He is en titled to the expectation attached to the office retary and treasurer. at the time he is elected or appointed to it ac-

NEXT SEASON AT LAKE LODORE.

Booking of Excursions for 1901 at That Popular Resort Has Already Commenced.

in force as to this county when the plaintiff was elected to the office of district attorney The Delaware and Hudson company has just issued an attractive little brochure relative to the excursion seahim the fees which he claims. The act of 1876 prescribing a solary, was not in force, and did not become so until by the official anneutre son of 1901 at Lake Lodore, containing several beautiful half-tone engravings metil of the result of the centure it was now -the handsome new depot in the sumtained that we had 190,000 people. But mer shade of overhanging boughs; the great white dance pavilion in the midst of the far-stretching groves, and various aspects of the boat-dotted, magnificent lake itself with its five-and-a-half miles of varied and charming scenery. All fall and winter a strong force of men have been at work on the excursion grounds with such effect that there is a general de-Edwards, J., dissents, Securities bought and sold on + sire on the part of the people to see this resort in all its fresh, new beauty. Applications for dates are already coming in, and booking has commenced by Mr. H. W. Cross, district passenger agent of the Delaware and Hudson Railroad at Scranton. Circu-

lars descriptive of Lake Lodore and the improvements on the grounds are in the hands of all Delaware and Hudson ticket agents, who will be pleased to supply them to the public upon application.

tion, November 5, the county officers would be not be verified yesterday at the office under the salary system, while, if it had been of the schools. It was said there that e date mentioned, but that is all that can b redicated of it. We are not tled to the cens inde two days later. November 7, they would by any mandate of our own statutes; we merely e under the fee system. Is it possible that two ays can make such a difference? Is such an resort to it in determining questions of popula-tion as a matter of necessity, because it is the ortant question to be determined by th only available means for doing so. The legisla ance publication of a press bulletin, unsigned, ture might have provided others, but, not hav-ing done so, the federal census is taken because recrtified, and liable to be denied the next uncertimed, and induc to be denied the next day? It is well known that the bulietins an-neumeing the population of the different states covered a period of about a month. They were taken up in alphabetical order and given out of its accuracy and general acceptance. But the effect to be given to it in any instance such as hat before us is wholly for our own judgment Ought we, then, to, and can we constitutional

from day to day. If it was ever intended that the particular day of the announcement should ve in its relation to the November election the important and far reaching result claimed in this case, there would have been a provision in the census act fixing a day certain for "of ial" certification, so that there would be a un form rule for all the states, and so that imporiont results should not be jeopardized by acc dent or caprice or arbitrary interference.

etc.), of the political divisions under their con-trol, upon payment of the costs. There are no

THE ANNOUNCEMENT.

The true solution of the question is to be when the result of the census becomes known to the public is the only time, at least in state found in the fact that the census was taken "as of June 1, 1900.14 This announcement of Nmatters, when they can be properly affected by it or the court be called upon to take notice vember 15 was the announcement of the fact as it existed June 1. In this way we have a

plain, certain, unvarying rule, treating all the states alike, and tending to conserve all inter-The enumeration is not the consust that it ests by the application of a consistent and uni-for principle of interpretation.

merely the gathering of data on which it is based; there has still to be an official compli-Third-It is claimed that our interpretation of the law is in a sense retroactive and does injustice to the county officers whose status tion from it and a definite conclusion reached. There may be errors to be corrected; work so correleasily done that it has to be done over again, or discrepancies, perhaps, to be reconciled. After the day of the election. I cannot see how it is of discrepancies, periaps, to be reconciled. After all this has been taken into account and the possible to maintain such an assertion in this all this has been taken into account and the possible to maintain such an assertion in this consist bureau has disally completed its labors and made an official announcement it then be-comes the census and not before. In the case Everyhedy knew or ought to know that the before us, according to the facts agreed on, we certainly had nothing on which we could rely and that whatever the population of Lackawama

earlier than the press buildetin issued .vov. 10, and ecunity was on that day would govern the ques-it would be my inclination to go further and to tion of fees or sularies. All candidates went into held that not until the official certification to the canvass with their eyes wide open. Some congress a month later was there anything which believed that the fee system would prevail, oth the commonwealth or the courts would be hound to notice and apply. How then can we carry this back retrospective-bedy's innocence. The reason for not giving In and say that the salary act applies to the retrospective effect to a law in this case is ex-plaintiff: The constitution ordains that "no law tirely wanting. A SIMILAR CASE. shall extend the term of any public officer or in

crease or diminish his salary or emoluments after his election or appointment." This is held to I have examined several authorities which indestally touch the question before this court. counties containing over 150,000 inhabitants a county officers shall be paid by salary."

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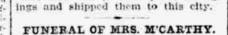
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from Scranton. been living with him. It is further stated that when he left the town, she



Remains Brought Here from Denver for Interment.

The funeral of Mrs. Catherine Mc-Carthy was held yesterday at St. Peter's cathedral. The pallbearers were: Samuel McEachen, Patrick Gordon, Martin Golden, John Comerford, John Howley and James O'Boyle. Interment was made in Cathedral cemetery.

Mrs. McCarthy was a resident of Scranton twenty years ago. She removed to Denver and died in that city a few days ago. She is survived by her husband and a son and daughter, William and Francis.

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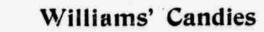
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GUERNSEY BUILDING. 316 WASHINGTON AVENUE. SCRANTON, PA.

gaged the man and was responsible for his doings and that it was extremely unlikely that Frankenfield was Information has been received in this city that he had trouble with his wife, who is said to be from Scranton, a few weeks ago, but that she has since

manufacturel. BITTENBENDER & CO., Franklin Ave. SOLE AGENTS. did not go with him and that she has since that time packed up her belong-



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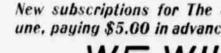
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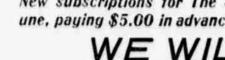
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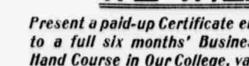
Ninth Semi-Annual **Clearing Sale**



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DISSENTING OPINION. I tool constrained to dissent from the opinio of the majority of the court in this case. I would enter judgment in favor of the defendant, notwithstanding the verdict. I give my reasons in an opinion necessarily brief. The provisions of the constitution bearing upon de

the present contention are the following: Article 14, Section 5. The compensation of county officers shall be regulated by law, and all de unty officers who are or may be salaried shall 1.0 all fees which they may be authorized to ceite, into the transmy of the county or state, 前前常常带了你要要要要要要要要要要要要要要

oming into effect by that mid ennert he cand to relate back and supervisie the previous statu under which the plaintiff by his election breame entitled to the emoluments then attached to the office, but is held in absymmet until the plaintiff's successor shall come in. The rule for judgment non obstinute veredicte is over-ruled and judgment directed to be entered on the verdice in rayor of the plaintiff. IL W. Archbuld, President Judge.

cording to the last as it then stands in force-no-more and no less-and nothing coming after that

can be permitted in the face of the prohibition of the constitution to change this one way or the

To sum up the whole matter: The only law

he now holds was the act of

stiller.