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THE PERUVIAN SYRUP.—WHAT IS IT?—Most persons have an idea that the Peruvian Syrup is a preparation of Peruvian Bark. This is not the case. It is a soluble preparation of Protoxide of Iron, which readily received into the constitution, and will act as a tonic in a way that that metal does not usually act, when given in the form of carbonate, or even in the iron by hydrogen preparation, so popular with physicians. Those who desire to give iron in a form that will be accepted by the human stomach, and that will be readily taken into the blood, will give this Peruvian Syrup, which is attested by men of high character throughout the country. Dr. Hayes, the State Assayer of Massachusetts, testifies to its extraordinary virtues, and we have every confidence in the ability of the agent here to convince any one of the same. The Peruvian Syrup is made in Boston, and has performed most wonderful cures in all diseases requiring a tonic and alterative preparation. See long advertisement in another part of to-days GAZETTE. DR. GEO. H. KEYSER, 140 Wood street, is the Agent for this city. sn29:4t:dw

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Pittsburgh Gazette.

PITTSBURGH: WEDNESDAY MORNING, SEPT. 21, 1859.

OFFICIAL PAPER OF THE CITY

City and News Items.

METEOROLOGICAL Observations for the Gazette, by G. E. Shaw, Optician, 55 Fifth st.—Corrected daily.

	IN SUN.	IN SHADE.
9 o'clock A. M.	60	65
12 " M.	60	66
6 " P. M.		62
Barometer	29	2 10

☞ JOHN BAUSMAN, Esq., is employed by us as an agent for canvassing and collecting for the Pittsburgh *Daily* and *Weekly Gazette*. He will visit in that capacity the various portions of Western Pennsylvania and Eastern Ohio. He is our *only* agent for the purposes named. R. ERNEST & CO. *August 29, 1859.*

U. S. DISTRICT COURT.—The following is the opinion of the Court, Judge McCandless presiding, in the case of Oehlricks & Co., vs. the City of Pittsburgh, of which we have before written on several occasions, and which the public generally will understand without further comment:

In the Circuit Court of the United States at Pittsburgh, Oelriche & Co., citizens of the city of Bremen and of the State of New York, vs. the Mayor, Aldermen and citizens of Pittsburgh, and citizens of the State of Pennsylvania.

Opinion of the Court, delivered by Hon. Wilson M'Candless, United States District Judge.

This case was tried at the late term of the Circuit Court, a verdict rendered in favor of the plaintiffs and judgment entered on the 23d day of May last, defendants having failed to file their writ of error, issued their citation, give bail and remove their case to the Supreme Court of the United States. Plaintiffs sued out a writ of Fi Fa. on the 2d day of September, and levied on 656 shares of the capital stock of the Pittsburgh Gas Company, owned by the defendants and held in their names on the books of the corporation.

An application is now made to this Court to set aside the execution and the levy, upon the ground that the writ of Fi. Fa. is not the proper remedy and will not lie against a municipal corporation, and that under the law of the State recognized in this Court the process of the fi fa is not the proper one for the seizure and sale of corporation stocks held by the defendant.

The Court is impressed with the gravity of the questions presented and has given to them the consideration which their importance demands.

1st. It is contended that the Act of the 10th April, 1834, creating counties and townships, bodies corporate, is applicable to cities and boroughs, and that the plaintiffs are limited to the remedy provided in that act. We think not. Cities are no where mentioned except when embraced within a county, it is declared that they shall form a constituent part of it, reserving to them all the franchises conferred by their respective charters. They were independent bodies politic, capable in law of suing and being sued, and of holding real and personal estate. They were not merged in the counties, and being already corporate bodies having all the immunities and subject to all liabilities as such, there was no legal necessity for the application of the law to them. Counties, on the contrary, were none descript bodies, called by the courts, before the passage of the act, *quasi* corporations, against which the creditor has but an imperfect remedy. They were represented by commissioners, as they are now, but with limited and undefined duties and responsibilities, (16 S. and R. 290.)

It was to remedy this defect that the law was passed. It would be manifestly impracticable to execute the act of '34 as to cities. Upon whom would we serve the writ which commands the Commissioners to pay the judgment out of any unappropriated moneys or if none out of the first moneys that may come into the treasury? Upon the Mayor, who represents the general police of the municipality, upon the Controller, Treasurer, Finance Committee, who may have the custody of the public funds or upon the Select and Common Councils, the legislative body of the city? The act is silent as to cities. There is no provision rendering the corporation officers amenable to the law for this neglect of public duty. And when it is remembered that disobedience to the writ is followed by an attachment and imprisonment for contempt and a suspension of the functions of all the public offices, it is inconceivable to the good order and welfare of the city, there must be some positive enactment—something more than the doubtful construction of an act relating to a different body politic before this Court will apply such a remedy. It would be equivalent to the issue of a high prerogative writ, they thing is similar, and consequences—the assumption and exercise of an extraordinary power.

It has been urged that inasmuch as municipal corporations are clothed with some of the attributes of sovereignty, as for instance the taxing power, they should not be subject to the exigencies of a writ of execution in the hands of the marshal. But the sovereignty delegated is at least of a bastard nature, like a fee, the highest estate in realty, when coupled with a qualification, it is determinable at a base fee. The corporation is limited and contracted in its powers, which is repugnant to all our conceptions of sovereignty.

We now approach the second point submitted:

2d. In the early periods of the English law, goods and chattels, of those which are visible or tangible, constituted the great mass of the personal property, though the value of them bore no proportion to that of real estate. Bonds, stock, and other evidences of debt, were little known or regarded in the law, and upon writs of S. fa. the Sheriff took only that which could be sold or money. Such was the law in Pennsylvania until alterations were made by Act of Assembly passed in 1817, in case of an execution against a corporation, authorizing the levy upon current coin of gold and silver and copper, if other personal property could not be found, and by the Act of 1819, which provided that the stock of any body corporate, owned by any individual or individuals, body or bodies politic or corporate, in his, her, its or their own name or names, shall be liable to be taken in execution and sold in the same manner that goods and chattels are liable in law to be taken and sold. Still, much remained to be done to give creditors the full benefit of the property of their debtors. The commissioners to revise the civil code, recommended an execution to be levied on bonds, mortgages, credits, etc., as well as upon stocks of incorporated companies (Report 56.) This was followed by the Act of 1836, directing the mode of levying upon stocks by attachment and *scire facias*, and by another Act of the same year, regulating the levy of executions against corporations, followed by sequestration, municipal corporations are exempted from the operation of both these Acts, and it is admitted with great candor by the learned counsel for the defendant that they are foreign to the case before the court. He contends further that although these Acts afford no remedy against a municipal corporation, they are part of a general system, which repeals and supplies all former laws. To this it may be replied that the Act of 1836 contains no repealing clause, and the commissioners of the civil code themselves, in their report of January 15, 1830, do not treat it so, but say, "in this bill are proposed some important additions to the law." Besides, the Supreme Court of Pennsylvania had this very question before them in the case of Lex vs. Potter, 4 Harris, 275, and decided that the 2d section of the Act of 1819, above quoted, is not repealed by the Act of June, 1836. In this opinion this court concurs.

It becomes us here to inquire how the practice in the courts of the United States is affected by this state of the laws in Pennsylvania.

State laws cannot control the exercise of the powers of the National Government, or in any manner limit or affect the operation of the process or proceedings in the national courts. The whole efficacy of such laws in the courts of the U. S. depends upon the enactments of Congress; so far as they are adopted by Congress they are obligatory. Beyond this they have no controlling influence. Congress may adopt such State laws directly by substantive enactment, or they may confide the authority to adopt them to the courts of the U. S. (9 Peters, 359.)

Examples of both sorts exist in the national legislation. The process act of 1789, Ch. 21, expressly adopted the forms of writs and modes of process of the State courts in suits at common law. The act of 1792 permanently continued the forms of writs, executions and other process then in use in the courts of the U. S., under the act of '89, but with this remarkable difference, that they were subject to such alterations and additions as the said courts should in their discretion deem expedient. The constitutional validity and extent of the power thus given to the courts of the U. S. was fully considered by the Supreme Court of the U. S. in the case reported in 10 Wheaton, 1 & 51. It was there held that the delegation of power by Congress was perfectly constitutional; that the power to alter and add to the process and modes of proceeding in a suit, embraced the whole progress of such suit and every transaction in it from its commencement to its end, and until the judgment should be satisfied; and that it authorized the courts to prescribe and regulate the conduct of the officer in the execution of final process, in giving effect to its judgments. (9 Peters, 329.)

But the present case does not depend simply upon the note of '89 and '92, but is directly within and governed by the process act of 19th May, 1828, chapter 68.

The third section declares that writs of execution and other final process, issued on judgments and decrees rendered in any courts of the United States, and the proceedings thereupon shall be the same in each State respectively, as are now used in the courts of such State. Provided, however, that it shall be in the power of the courts, *if they see fit in their discretion*, by rules of court, so far to alter final process in such courts as to conform the same to any change which may be adopted by the Legislature of the respective State for the State courts.

It results, then, that the forms of execution (except their style) from the courts of the United States, their force and effect, and the duty of the marshal in levying, advertising and selling, are to be ascertained by reference to the laws of the respective states, as they were on the 19th of May, 1828, except when the Judges by rules of Court have changed the same. (Conk. 464.)

This course was no doubt adopted as one better calculated to meet the views and wishes of the several States, than for Congress to have formed an entire system for the courts of the United States, varying from that of the State courts. They had in view, however, State systems, *then* in actual operation, well known and understood, and the propriety and expediency of adopting which they could well judge and determine. Hence the restriction in the act now used and allowed in the several States. There is no part of the act, however, that looks like adopting prospectively by legislative provisions, the various changes that might thereafter be made in the State courts. Had such been the intention of Congress, the phraseology of the act would doubtless have been adapted to that purpose. It was, nevertheless, foreseen that changes probably would be made in the process and proceedings in the State courts, which might be fit and proper to be adopted in the courts of the United States; and not choosing to sanction such changes absolutely in anticipation, power is given to the courts over the subject, with a view, no doubt, to alter and mould their process and proceedings so as to conform to the State courts as nearly as might be, consistently with the ends of justice.

The general policy of all the laws on this subject is very apparent. It was intended to adopt and conform to the State process and proceedings as the general rule, but under such guards and checks as might be necessary to insure the due exercise of the powers of the courts of the United States. (10 Wheat. 60.)

What, then, was the law of Pennsylvania at the date of the passage of this act of Congress on the 19th day of May, 1828? Undeniably, the act of 1819 was in full force, and it authorized the stock of any body corporate owned by bodies politic, like the city of Pittsburgh, to be taken in execution under a fi. fa. and sold in the same manner as goods and chattles.

The act of 1834, relative to counties and townships, was not then in existence. It has never been adopted by rule of court as part of the final process of the court and with the view we have expressed of its provisions, it cannot be applicable to cities.

The sequence to this opinion is, that the fi. fa. issued in the present case is legal and proper; that the levy upon the stock held by the City of Pittsburgh in the Pittsburgh Gas Company, has been regularly made; that we must refuse the motion to set them aside, and that the Marshal must proceed with the execution of his writ.

Argued by Judge Shaler for plaintiffs, and T. Williams, Esq., for defendant.

INJUNCTION.—Judge Lowrie, at 10 o'clock on Tuesday morning, sat in the case of the injunction asked for by the L. & S. Plank Road vs the Citirens' Passenger Railway. Mr. Hamilton stated that the seal of the Company had been affixed to the bill, and was attested by the Secretary.

Mr. Rippey stated that he knew nothing about the matter of the seal, but supposed it was all right.

Mr. Hamilton then read the decree of injunction to which the Judge was asked to affix his name with the authority of the court. The decree is as follows:

"After the hearing of the case, it was adjudged and decreed that a writ of injunction be issued to restrain, until answer and further order, the said defendants, their workmen, laborers, servants, and each and every of them, from further entering upon and disturbing the roadway of plaintiffs; and from digging up the same or removing plank therefrom; and from constructing said railway thereon; and from passing over plaintiffs' said road with their horses and carts or with their horses and cars on the railway already constructed by them over that portion of plaintiffs' said road lying east of the western end of the Arsenal wall, without the payment of such tolls as may lawfully be demanded of them."

After Mr. Hamilton had read the decree which he wished to have made, Mr. Rippey said if that decree should be issued, it would restrain the Passenger Railway Company from taking their horses to their stable, over the road of this company, to which it was responded that they might go to the stable by paying the requisite tolls.

Mr. H. stated that the Passenger Railway Co. had not only torn up the road, but left all but their own part a quagmire. They have established a new road on ours; they have committed a trespass and now ask to enjoy the fruits of it.

Mr Rippey said the gentleman totally misunderstood several things about this road—

Judge Lowrie—The question is not how the question before him. It appears that you, the Passenger Railway Company, are trespassers, and can not enjoy the fruits of your own wrong doing. He did not think, however, that the railway should be prohibited from using the road, on the payment of tolls.

Mr. Hamilton said he thought the railway company ought to pay for such part of the road as they used. They might run up to the very toll gate, and if not going through it, use the road for nothing.

The Judge remarked that as to that, the plank road had the railway company in their power and could put their toll gate just where they pleased.

So the Judge authorized the above injunction to issue, and caused the Passenger Railway to enter security in the sum of $2,000.

Doubtless, the above is all legal, and it is not for laymen to call in question the *law* on which the decree rests. Yet to laymen who have eyes and have not been able at any time these several years to discover any plank road between the Cemetery and the stable, it is a question whether the court should decide upon the point at issue, upon the hypothesis that there is or has been a plank road there. To those who this day, through mud and slough and mire will be obliged to foot that "plank road," instead of riding comfortably in convenient vehicles for 6 cents, it will seem hard that the law and the views of common sense should be so much at variance as to render it necessary to throw any obstacle in the way of a great public improvement.

CITY CONTROLLER.—The *Dispatch*, in speaking of the contemplated retirement of Mr. LAMBERT from the City Controllership, passes a deserved eulogium upon that officer, and takes occasion to express the hope that his successor will not be a mere politician, "without qualification for office." We cordially approve of the remarks of the *Dispatch*, but as in the event of another person being selected as the successor of Mr. Lambert our contemporary intimates that the people may be compelled to rise superior to mere party and to "select one for the position solely on the ground of his qualifications and with no regard to party affiliations," we may add that we have no particular nervous fear of "an unfit person" being selected by the Republican Convention for this important position. As all such aspirants usually receive their *quietus* in the nominating conventions, we have no reason to apprehend that "political hacks" will be thrust upon the party for this or any other office; such characters are usually laid out by the people in their primary organizations, however persistently they may electioneer or beg for the honors or emoluments of official station. We speak plainly, earnestly and early on this subject and hope that our people will see to it that they are not influenced in their choice of a successor to Mr. Lambert by the "private grief" or dismal forebodings of soreheaded and disappointed politicians.

THE HABEAS CORPUS.—In the case of the habeas corpus, which we published yesterday morning, the decree of the Court was made yesterday morning, as follows:

"And now September 20, 1859, after argument of counsel in this case, it is ordered and adjudged that Nina Potts begiven into the present custody of her mother, Elizabeth G. Chapline, by giving her into the possession and custody of Francis D. Chapline, the authorized agent of the mother of the said Nina Potts."

This order having been made and the law authorizing the delivery of the body declared, the next point, which the law could not fix or decree, was that Miss Nina would not leave Mrs. Lynch, to whom she appeared to be much attached. Nina absolutely refused to go, and Mr. Lynch did not desire to get rid of her, nor did his wife. There was therefore but one thing to be done, and that was done. The child was taken by the agent of the mother by force, although no great force was necessary, and so the matter ended.

JAMES S. CRAFT, Esq., ex-President of the Pittsburgh & Steubenville Railroad, has commenced an action in the District Court, the object of which is to restrain John Barton, Esq., County Solicitor, from acting as Solicitor for the Road. The action also contemplates the removal from the Board of Directors in said P. & S. R. R. Messrs. John Barton, J. Trunick, Robert Woods, E. P. Jones, and N. Ballentine. The reasons which move the plaintiff in the suit are fully set forth at great length in the bill in equity. It appears in the bill that the proceeds of certain subscriptions which, by a vote of the Directors, should have been paid to Mr. Craft, as an indemnity, were, by a vote of the above named gentlemen, after the 11th of last month, turned over to Mr. Barton. The case will be up for trial in due time, when we shall learn all the facts.

THE members of the Gymnastic Association held a meeting last evening. A large number of members was present. They voted not to have a parade on the 30th.

A motion was made but lost by a vote of 21 to 24, to appoint a committee of three to inquire into the expediency of procuring City Hall, to be fitted up for a gymnasium.

It was voted that the Board of Managers be and they were instructed to procure the City Hall if practicable. The meeting adjourned to meet on Wednesday evening of next week.

PROFESSOR GARDNER, who has not recently patronized the *True Press*, came in for a long and abusive tirade in that sheet yesterday. He is denounced, in choice billingsgate, as a humbug, imposter, charlatan, &c., &c., &c. Now, from an intimate personal acquaintance with the Professor, we take pleasure in saying that he is in no way amenable to such an attack as this. He has, since his stay in this city, behaved himself as a gentleman, with exemplary correctness, and demeaned himself throughout with a strict regard to the proprieties. His testimonials from abroad are not only genuine, but of the highest order, and he does not ask any one to buy his wares who does not want to. He simply asks the privilege of praising what he has to sell in his own way, and the public can exercise its own judgment in buying. He cannot suffer, however, by such a wanton attack as that in the *Press*. Its motive was too clearly apparent.

COAL OIL.—As the long and cool evenings approach, the family circle around the front door or on the shady piazza disappears and the members retreat to a cosy parlor, where a genial fire is already necessary. They do not now want to sit in the dark, as while chatting and gossiping without, but gather around the family table and read, sew or otherwise pass the time, as each may be individually inclined. Of course a good light is essential to their perfect enjoyment, than which there is scarcely an item in housekeeping of more importance.

It would seem that almost every imaginable source of light had been exhausted without having yet discovered the great desideratum, but nature, ever in readiness fully to meet new exigencies, supplies us with *coal oil*, and those who are best acquainted with its real merits are satisfied that they need not seek further for a light that will in so many ways commend itself. Gas is commonly considered the best of all lights, and as having the fewest objections to its use, but coal oil, while it is not only as brilliant as gas, has also the advantage of *portability*, by means of which the light can be placed and used just where it is most needed. It is also a remarkably steady light, and the eyesight is not damaged as with the flicker of gas light.

In connection with the use of Coal Oil, the question arises as to where it can be obtained of the right quality, and we are most happy to be able to direct all our readers to the well known and highly respectable firm of ADAIR & VERDER, who are making an *elegant* article of Coal Oil, a fact to which we can testify. In another column of this day's *Gazette* may be found an advertisement which will give all the needed facts in the case.

Presbyterian—2d " Rev. W. Wragg.
Methodist Protestant Appointments.—The M. P. Conference, which has had a delightful and harmonious session at Sharpsburg during the last week, adjourned yesterday, after having made the following appointments for the ensuing year:
President: Rev. V. Lucas.
Pittsburgh, 1st Church: Rev. W. Collier.
" 2d " Rev. W. Wragg.
Birmingham Station: Rev. J. W. Rutledge.
Allegheny Station: Rev. John Cowl.
Circuits—Washington, Rev. J. D. Horr; Monongahela, Rev. W. H. Phipps—Assistants, Revs. D. Jones and Wm. A. Porter; Rodgersville, Rev. Jas. Mason; Manchester, Rev. J. P. Roberts; Ohio, Rev. James Robinson; Clarion, Rev. J. Wood; Mercer, Rev. H. Palmer; Brownsville, Rev. J. Francis.
Missions—Brookville, Rev. Wm. Smith; Braddock's Field, Rev. D. Bryan; Stahlstown, Rev. Hopwood.
Rev. George Brown, D. D., superannuated.
Rev. Thos. H. Stockton left without an appointment, at his own request.
Rev. Mr. Williams, late of Stahlstown, superannuated.

CHICAGO TRADE WITH PITTSBURGH.—The greatly increasing traffic between this city and Chicago, which we spoke of at some length on Monday, is an encouraging feature in our trade. It already begins to manifest itself in our paper market, several merchants of Chicago are awaking to the importance of the Pittsburgh trade, as may be seen by the card of Messrs. HARLESS & PARKER, Produce and Commission merchants, Chicago. It is unnecessary for us to add that this is one of the most reliable firms in Chicago. Their references in Pittsburgh speak for themselves, being among the most wealthy men in this community. We take great pleasure in commending the firm of Harless & Parker to all who may desire to do business with them.

A MEETING of the coal diggers, now on a strike, having been called to assemble yesterday at the mouth of Bausman's pit, the owner was apprehensive of a riot, there being several men at work there in spite of the strike, and sent for the Sheriff to be on the ground. Sheriff Graham accordingly attended, but found no occasion for his services as a peace officer. The meeting was orderly and well-behaved; and after the regular speaking was over, the Sheriff was called upon for a speech. He complied by exhorting them to obey the law strictly, and reminding them of the danger of any thing like unlawful conduct. His remarks were exceedingly well received, and the meeting broke up in an orderly and quiet manner.

RECEPTION.—The Hope Fire Company, or rather a delegation of eighteen from that Company, arrived in town yesterday from Chicago, on their way home to Philadelphia. They have been at Chicago with their engine, at the U. S. Fair. They sent their engine on ahead of them on their return, and expected to foil her here, but she was not. She probably arrived on the night train.

The Hopes were received here by the gallant Vigilants, whose guests they are to be while they remain in the city. The latter company turned out full ranks, headed by Young's Band, and escorted their visitors to the Vigilant House. We presume they will have a banquet and other good times, but we do not know for certain.

POLICE ITEMS.—Mayor Weaver sent up ten cases yesterday, for various causes, for times varying from five to ten days.

Buckhart Sands, charged with larceny on oath of James Blair, was committed for trial by Mayor Weaver.

Edmund Day, charged on