HISTORY

OF

BEAVER COUNTY,

PENNSYLVANIA;

INCLUDING

ITS EARLY SETTLEMENT; ITS ERECTION INTO A SEPARATE COUNTY; ITS SUBSEQUENT GROWTH AND DEVELOPMENT; SKETCHES OF ITS BOROUGHS. VILLAGES AND TOWNSHIPS; PORTRAITS OF SOME OF ITS PROMINENT MEN; BIOGRAPHIES OF MANY OF ITS REPRESENTATIVE CITIZENS; STATISTICS, ETC.

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CHAPTER XXVI.

BIOGRAPHIES—WEST SIDE.

DANIEL AGNEW. The outbreak of the rebellion found the supreme court of the United States, most of the state supreme courts, and by far the larger number of the lower courts, federal and state, in the hands of those whose political training inclined them to excuse, if not to approve, the cause of those who were seeking to betray the Union to its destruction. The Pennsylvania bench was no exception to this rule. The majority of its supreme court was as little able as President Buchanan then seemed to be, to find any law or precedent to justify national self-preservation or to authorize the suppression of a gigantic rebellion. One of this majority, Judge George W. Woodward, when the dissolution of the Union seemed imminent in 1861, declared, "If the Union is to be divided, I want the line of separation to run north of Pennsylvania." Later, this same judge was very

properly chosen to formulate the decision of the Democratic majori y of the court which disfranchised the Pennsylvania soldiers in the field. These and kindred acts so highly recommended Judge Woodward to his party that in the critical days of 1863, when the cause of the Union was trembling in the balance, he was selected to contest the re-election of Governor Andrew G. Curtin. Chief-Justice Lowrie, who was in entire accord with his colleague on the bench, Judge Woodward, and the author of a then recent decision of the state supreme court, declaring the national draft law unconstitutional, was a candidate for re-election. In selecting a candidate to run against Chief-Justice Lowrie, the Republicans or Union men looked for a jurist of high legal attainments, who was firm in his convictions and of approved loyalty. All this and much more they found in Judge Agnew, of the Seventeenth Judicial District, whose services to the Union cause had made his name well known throughout the state. The ticket thus composed of Andrew G. Curtin for governor and Daniel Agnew for supreme judge proved too strong for the opposition, and carried the state, in October, by 15,000 majority. By virtue of this popular decision Pennsylvania's great War governor was retained in the position he had filled so worthily and well, and the state supreme court received an infusion of fresh blood, new thought, intense energy, and high patriotic impulse, which at that time it sadly needed. Judge Agnew's accession brought that court into harmony with the Union sentiment of the state and added immediately and in a marked degree to its strength and influence as a judicial body.

Judge Agnew is a Pennsylvanian only by adoption and a life-long residence He was born in Trenton, N. J., Jan. 5, 1809, and while yet a lad his parents came to Western Pennsylvania, on their way to the state of Mississippi, and after a brief sojourn in Butler county, settled in Pittsburgh. There young Daniel lived, increasing in wisdom and stature until the dawning period of manhood, when he left the parental roof to go a little farther west and grow up with Beaver county. His father, James Agnew, M. D., was a native of Princeton, N. J., and graduated at its college in 1795. He studied medicine with Dr. McLean, the father of President McLean; took his degree in medicine at the University of Pennsylvania in 1800, and remained a year in Philadelphia under Dr. Benjamin Rush. His mother, Sarah B. Howell, was the eldest daughter of Governor Richard Howell, of New Jersey, who was a major of the New Jersey Continental line in the army of the Revolution. His paternal grandfather, Daniel Agnew, came from the County Antrim, in the north of Ireland, in the year 1764, and settled in New Jersey. On his mother's side he belonged to the Howells, of Caerfille, in Wales. The father of the future chief-justice was for a time uncertain where he should permanently pitch his tent. The century was just opening; a new country was all before him where to choose, and he was embarrassed by this wide range of choice. He first practised his profession for several years in Trenton, New Jersey, and then went to Mississippi in 1810. He returned in 1813, riding on horseback all the way from Natchez to Princeton, through the Indian country then known as the "wilderness." In the following October he started on his return journey to Mississippi with his family, intending to remain during the winter at the house of John L. Glaser, the owner of a furnace in Butler county, whose wife was a sister of Mrs. Agnew. But Mrs. Agnew, becoming alarmed at the wildness of the West and the dangers of navigation, then made in arks or flat-boats, declined to make the voyage down the Ohio and Mississippi, and the whole party came to a halt in Butler county. It was through this circumstance that Mississippi lost and Pennsylvania gained Daniel Agnew as one of its citizens. The family were not unrepresented in Mississippi, however. Mrs. Agnew's brother established himself there, and her niece, Varina Howell, Judge Agnew's first cousin, is the present wife of the ex-Confederate chieftain, Mr. Jefferson Davis.

Daniel Agnew was educated at the Western University, in Pittsburgh, and studied law under Henry Baldwin and W. W. Fetterman. He was admitted to practice in the spring of 1829, and opened an office in Pittsburgh. Not succeeding as he wished, he went to Beaver in the summer of the same year, intending to return in a year or two. He soon created a practice, however, which once gained by a young lawyer is

not lightly to be given up, and this fact, in connection with another, decided him to remain in Beaver permanently. The other potent influence on his decision was a Miss Elizabeth Moore, daughter of General Robert Moore, a leading lawyer and representative in congress, who had lately died. In the abundant leisure afforded by a law practice still in the future, he wooed, won and married in July, 1831, this lady, who has now shared his joys and sorrows, his honors and his cares, for fifty years, and still lives, no less hale and hearty than the Judge himself, rejoicing in the more constant companionship which the termination of her husband's long engrossing public duties now brings to her. Land titles were unsettled in that western country, and in the extensive litigation growing out of this circumstance, young Agnew early had a chance to show what he was made of, and he was prompt to improve it. He soon gained a high standing as a land lawyer, and with it a large practice. His first service to the state at large was in 1837, as a member of the constitutional convention which in that and the year following sat in Harrisburg and Philadelphia, forming a series of amendments to the constitution of 1790, and which subsequently became a part of it. Mr. Agnew drew up the amendment offered by his colleague, John Dickey, as to the appointment and tenure of the judiciary, known as Dickey's Amendment, afterwards modified by the amendment of 1850.

It is proper to correct here a false charge brought against Judge Agnew by political enemies: that he voted in the convention to insert the word "white" in the article upon elections. On the question of *insertion*, he voted always against it; but after failing in that, voted for the section as a whole, on account of other most important amendments intended to prevent fraudulent voting.

In June, 1851, he was appointed by Governor Johnston President Judge of the Seventeenth District, then composed of Beaver, Butler, Mercer and Lawrence counties. In the following October the people confirmed the appointment, electing him for a term of ten years. In 1861 he was reëlected without opposition at the call of the members of the bar of all parties. He did not, however, consider that his duties as judge superseded his duties as a citizen, and when the rebellion broke out, he became known at once as an ardent and active supporter of the Union cause. The Virginia Pan-Handle made Beaver a border county, and brought the atmosphere and spirit of secession into its very midst. A committee of public safety of one hundred members was appointed, and Judge Agnew made its chairman. Later he was a zealous participant in the formation and maintenance of the Christian Commission. As a judge, all his energies were bent to preserve peace and order, and to check the budding treason which had the temerity to show its head in the Seventeenth Judicial District. Other judges, even such as were in sympathy with the Lincoln administration, were in doubt and perplexity as to their proper course in regard to the new issue which was suddenly sprung upon them. Judge Agnew, however, never hesitated. In him sound learning and sound sense went hand in hand; and he found no difficulty in making the eternal principles which underlie all law apply to every time and every emergency. He was the first of the state judges to take cognizance of the aiders and abettors of rebellion around him, and enforce the necessity of obedience and the paramount duty of loyalty to the government. In May, 1861, more than four years before President Johnson talked of making treason odious, Judge Agnew, instructed the grand jurors of Lawrence country that treason was a crime, and all who had any part or lot in it were criminals before the law. In this charge he combated with overwhelming conclusiveness the doctrines held by the Northern allies of rebellion, that aid to the enemies of the United States, which the constitution defines to be treason, meant foreign enemies only. He instructed the grand jury that where a body of men were actually assembled for the purpose of effecting by force of treasonable purpose, all those who perform a part, however minute or however remote from the scene of action, were actually leagued in the general conspiracy, and were to be considered traitors.

These were words fitly spoken and nobly spoken, at a time when treason was noisy and aggressive, and our leading public men were still under the delusion that it might

be put down by soft words and gentle dalliance. Had other Northern judges everywhere displayed the same spirit, the progress of our arms would not have been so often obstructed and the war prolonged by a disheartening and demoralizing fire in the rear. In answer to those who denied the power of the government to maintain itself against domestic assaults, he wrote and delivered a careful and elaborate address on the "National Constitution in its Adaptation to a State of War." This address was so timely and so strong, breathing such a lofty spirit of patriotism, and evidently drawn from such rich stores of legal knowledge, that it at once invited public attention to its author, whose fame had been before confined to Western Pennsylvania. By special request of the members of the Legislature Judge Agnew repeated this address in Harrisburg in February, 1863. Secretary Stanton called for a copy of it, and the Union League, of this city, determined to scatter it free-handed. Two large editions of it were published by the league, and when Chief-Justice Lowrie's term in the supreme court was about to expire, the author of the address, while absent in the West, and without an effort on his part, was nominated by the Republicans to succeed him, and elected in October, 1863.

As a member of the supreme court of Pennsylvania, Judge Agnew was early called to make a practical application of the doctrines, of which, as a citizen and judge of a lower court, he had been a zealous advocate. A majority of the bench, consisting of Chief-Justice Lowrie and Judges Thompson and Woodward, had pronounced against the constitutionality of the draft law. Judges Strong and Reed dissented. The question came up again immediately after Judge Agnew's accession to the bench, and, as the senior members of the court were evenly divided, it devolved upon this new judge to decide the question, and his first opinion as supreme judge was in affirmation of the constitutionality of the draft law (see 9th Wright, 306). He thoroughly believed in the right of the government to suppress insurrection and to enforce obedience to its laws.

Soon after the question of the constitutionality of the draft acts of congress had been decided, an important question of marine insurance came up, involving the true *status* of the seceding states. It grew out of the capture of the merchant vessel "John Welsh" by the Confederate privateer "Jeff Davis." The question was whether the letters of marque of the "Jeff Davis," and the nature of the service in which she was engaged, divested her capture of its piratical character. Woodward, then chief-justice, in an elaborate opinion, sustained the capture as an *act of war* by a *de facto* government, and on that ground held it to be within an exception in the policy. The effect of this *status* of the rebel government was too important to be suffered to go out as the doctrine of the supreme court of Pennsylvania, and was combated, therefore, by Judge Agnew in a vigorous opinion. He held that secession and confederation were nullities—that the United States was the supreme government both *de jure* and *de facto*, not displaced—its functions temporarily suspended in certain districts, but its actual existence continued everywhere within its rightful jurisdiction; coupled with actual possession of important posts in every seceding state, and necessarily excluding all other sovereignties. That a rebellion or attempted revolution by a portion of a people, taking the form of a government, but leaving the true government *in esse*, actively and successfully asserting its rightful authority, with important possessions, does not constitute a *de facto* government, for the reason that it in no sense represents a nation in fact, nor exercises its sovereignty. He, therefore, denied Judge Woodward's conclusions of an accomplished revolution—the position of an independent power *de facto*—and the abrogation of the constitution in the seceded states, leaving them under the laws of war and of nations alone.

Pennsylvania was the third state in which the constitutionality of the act of congress, authorizing the issue of treasury notes and making them lawful money and a legal tender for debts was called in question. The court of appeals of New York and the supreme court of California sustained the act, and Judges Agnew, Strong and Reed, overruling Chief-Justice Woodward and Judge Thompson, brought, in turn, the Pennsylvania supreme court into line. Judge Agnew differed from his colleagues in holding that a specific contract for payment in coin was not payable in treasury notes, but

that the latter were receivable only for debts payable in lawful money. Judge Agnew had, however, ruled the same question, sustaining the legal tender clause, while in the common pleas of Butler county, as early as the summer of 1863, in the case of Crocker *vs.* Wolford (Pittsburgh *Legal Journal*, Sept. 14, 1863).

The war of the rebellion brought into existence immense armies. While the constitutional power of the government to draft men into service was supported as essential to the safety of the nation, it yet fell heavily upon the people, and the distribution of its burdens was exceedingly unequal. The necessity as well as the hearts of the people demanded these rigors of the system to be relieved as far as possible. This led to a system of bounties paid by the counties, towns, and townships of the state, to induce those who could be better spared, to enter into the service as substitutes for the drafted men. It was opposed, however, by those whose sympathies were not with the cause of the Union; and the right to raise money by taxation to pay these bounties was strongly denied on constitutional grounds. The question came up to the supreme court in Speer *vs.* Blairsville (14th Wright), and was argued in opposition to the power to tax by ex-Chief-Justices Black and Lowrie. It was settled conclusively in favor of the power in an opinion by Judge Agnew, both able and eloquent, which placed it beyond future cavil. Another phase of the war arose in the question of the right of deserters from military service to vote at state elections. Two cases came before the supreme court, Huber *vs.* Reilly (3d Smith) and McCafferty *vs.* Guyer (9th Smith). In the first case a majority of the court held that the electoral franchise of a deserter from military service could not be taken away by an act of congress without a conviction of desertion by a court-martial, and that a board of election officers was incompetent to try the fact. Justice Strong, who wrote the opinion, put the decision on this ground, conceding that the act of congress was not an *ex post facto* law, and that congress had power to pass it. Judge Agnew, in an elaborate opinion, not then published, maintained that the question before the election board was in no sense a trial for a penalty, but an inquiry into a personal privilege claimed by one offering to exercise it, and the real question was one of fact only, desertion, triable as any other fact, in relation to citizenship, by the election board; the consequence being declared by congress, whose right to declare it was not denied by Justice Strong. In McCafferty *vs.* Guyer the question came up under a state law, authorizing the board of election officers to try the fact of desertion. Justice Agnew took the ground that the whole question was resolved into a single one: Is a deserter, proscribed by act of congress, a *freeman* under the election article of the constitution? In a most elaborate and convincing opinion he traced the origin of the term "freeman" from the earliest period into the constitutions of 1790 and 1838, and proved that a proscribed deserter was not a freeman within the meaning of the term in the constitution, and the election board, being authorized by statute to determine the fact, McCafferty was rightfully denied a right to vote. In all these war questions Judge Agnew stood resolutely by his country. The effect of adverse decisions will be seen if we note the influence they would have had on the ability of the government to carry on the war to suppress insurrection. Without the power to draft the military arm of government would be powerless. Without money to carry on the war it would be ineffectual. Without the power to pay bounties the hardships of war would fall on classes least able to be spared. With a *de facto* standing of the confederate government, it would have been entitled to recognition by European powers; its prize-court decisions would be recognized as a valid source of title; its ports would be opened by foreign powers, and various obstacles thrown in the way of the United States to prosecute its lawful authority. With a right to vote by deserters the whole policy of the state might be changed and its safety endangered.

An important question upon the status of negroes in Pennsylvania arose before the adoption of the *post bellum* amendments of the constitution of the United States and before the passage of the Pennsylvania act of 1867, making it an offense for a railroad company to discriminate between passengers on account of race or color. A considerable time elapsed before the case was reached in the supreme court in 1867,

and public opinion then ran high in favor of the rights of colored persons. The court below decided against the right of the railroad company to direct a negro woman to take another seat; but "one in all respects as comfortable, safe, and convenient, and one not inferior to the one she left." This was a written point. Judge Agnew, whose courage is equal to his convictions, stood with two of his brethren, Woodward and Thompson, for reversal. He saw that as the *constitution* and *judicial precedents* stood when the case arose, it was impossible to deny with honesty that the *legal status* of the negro, both civil and political, differed from that of the white man; and that the social status was even more dissonant—that the rights of carriers and the repugnance of races necessarily involved a reasonable power of *separation* of passengers as a part of the carriers' duty, in the preservation of the public peace and the proper performance of his public obligations. His opinion (found in 6th Smith, 211) is as unanswerable in argument as it was faithful to duty; though at the time of its delivery (in 1867) the progress of public opinion, after the close of the war, led many who were ignorant of the time and circumstances under which the case arose, to suppose he was wrong. Of all the judges who heard the argument, Judge Reed alone dissented, and Judge Strong, who was absent at the argument, afterward told Judge Agnew that he agreed with him—that his opinion was right.

A great question arose after Judge Agnew became chief-justice, perhaps the most important of the many arising during his term of office. A majority of the convention called to propose amendments to the constitution, to be voted upon by the people, conceived that its powers were not restricted by the call under which it was convened; and claiming absolute sovereignty, undertook to displace the existing election laws in the city of Philadelphia, by an ordinance, without any previous submission of the new constitution to the people, as required by the laws under which the convention was called and authorized. The case came before the supreme court on a proceeding to enjoin the convention appointees from interfering with the lawful election officers. After the hearing an eminent member of the court thought it better to dismiss the bill on the ground of want of jurisdiction. But the effect of this would have been to leave the ordinance in force, and to countenance the exercise of an unlimited power not conferred by the people, and which might in future cases be dangerous to their liberties. Finally, however, the court unanimously agreed to meet the question on its merits, and enjoin the appointees of the convention from interfering. The opinion was written during the night following the argument, and, considering time and circumstances, was perhaps the most able delivered by Judge Agnew during his term. It was supplemented by an opinion in Wood's Appeal by Judge Agnew, in which the claim of absolute sovereignty was discussed upon fundamental principles, and the same conclusion reached. The two cases, Wells *vs.* Bain and Wood's Appeal, are found in 25 P. F. Smith, 40 and 49.

The ruling of Judge Cox as to the qualifications of jurors in the Guiteau case, recalls the fact that Judge Agnew was the first judge in Pennsylvania to modify the rule which excluded jurors who had formed opinions in capital cases, and admit them if their opinions were not so fixed but that they could still try the prisoner on the evidence, freed from the influence of previous impressions. This he ruled when judge of the Seventeenth District. Afterwards on the supreme bench he rendered several decisions to the same effect. In the Ortwein murder case, decided in Pittsburgh in 1874, Chief-Justice Agnew considered at length the plea of insanity as a defense in murder trials, and laid down some rules which would have been ill-relished by Guiteau, if made to apply in his case In his opinion Judge Agnew said: "The danger to society from acquittals on the ground of a doubtful insanity demands a strict rule. Mere doubtful evidence of insanity would fill the land with acquitted criminals. To doubt one's sanity is not necessary to be convinced of his insanity. A person charged with crime must be judged to be a reasonable being until a want of reason positively appears. Insanity as a defense must be so great as to have controlled the will and taken away the freedom of moral action. When the killing is admitted, and insanity is alleged as an excuse, the defendant must satisfy the jury that insanity actually existed at the time of the act; a doubt as to the sanity will not justify the jury in acquitting."

To give any adequate idea of the impress which Judge Agnew made through his decisions upon the law of Pennsylvannia is beyond the scope of this sketch. Every Monday morning during the sessions of the supreme court brought a full budget of his decisions, and every day of his vacation was spent in preparing opinions in knotty cases reserved for that time of greater leisure for careful elaboration. Until 1874 the supreme court consisted of but five judges, while it had all the work which was afterward found sufficient for seven. Ill health prevented Judge Williams from assuming his share of the labor of the bench, and disinclination for work was an impediment in other quarters, so that before the reorganization of the court the labor incident to its duties fell almost entirely on two or three of its members. The reports of that period, as well as for the entire fifteen years Judge Agnew was on the bench, bear testimony to his prodigious industry. They show him also to be one of those broad-minded judges who have regard to the meaning and spirit of a law rather than its letter. The whole body of his opinions as therein recorded illustrate at every step the keenness of his intellect, the soundness of his judgment, and the extent and precision of his legal learning. He became chief-justice in 1873, and continued until January, 1879. In permitting him to retire from the bench in that year, the state lost from its supreme court one of the strongest members and best judicial minds that body ever possessed.

Perhaps the most marked characteristics of his judicial career was his determined support of the sacredness of the fundamental rights of persons, as declared and maintained in the constitution. His opposition to all infringments upon these rights was constant and unwavering. This may be seen in many opinions and addresses. He held that the maintenance and protection of these rights were the true end of all good government, and nothing short of a real public necessity should be permitted to override them. Another leading characteristic is the rapidity with which he writes. Besides the case of Wells *vs.* Bain, another example may be seen in the contested election cases in 15 P. F. Smith, 20, the opinion being written during the night after the argument.

Judge Agnew never was a politician in its ordinary sense, and never filled a political office. He avoided both the legislature and congress, preferring to sit as an independent judge, acknowledging no political favor, and returning a full equivalent for office by his services on the bench. In early life he was a national republican, supporting the American system of Henry Clay, especially the tariff, of which his preceptor, Judge Baldwin, was an eminent advocate. He joined the Whig party at its formation in 1832–33, and remained a Whig until its extinction in 1854. He advocated on the stump the election of Harrison in 1840, Clay in 1844, and in 1848 he was an elector on the Taylor and Fillmore ticket, and canvassed Western Pennsylvania zealously in its support. After his election to the bench in 1851, he withdrew from active participation in politics, except as events of unusual importance called him out. He openly opposed the Know-Nothing movement in 1854, and two years later he assisted at the formation of the Republican party in the convention in Lafayette Hall, in Pittsburgh.

Judge Agnew's original intention was to retire from the supreme bench at the end of his fifteen years' term. The continued absence from home, which its duties necessitated, had all along been exceedingly unwelcomed to his wife. His life, too, had been a busy and laborious one, and, though still in the full vigor of his powers, he thought that at the age of seventy he was entitled to a rest. He made known to some of his political friends his intention not to be a candidate for re-election, but was induced by them to remain silent, and was subsequently brought out by them as a candidate, seemingly with the intention of using his name to head off other candidates, and then sacrificing him in turn. The double dealing and cross purposes of this period are all laid bare in Judge Agnew's open letter, published a few days before the election of 1878, and it is unnecessary to recapitulate them here. It is enough that he changed his purpose and resolved to go into the convention, if he did not have ten votes. In that body, with all the regular party machinery against him, he developed an unexpected strength, but the bosses had decided to put him aside, and from their decree there was no appeal.

Representatives of the National party, knowing that Judge Agnew could com-

mand a large personal following independent of any party, requested permission to propose his name for supreme judge in their convention, but this he refused. Subsequently he was, without his consent, put in nomination by the state committee of the National party. Of the nomination he never received official notification, nor was it designed that he should. He was not in sympathy with the economic teachings of that party. He believed only in a coin currency, or one based on coin, having an undoubted representative value, and his thorough republicanism was unquestioned and unquestionable. This the National leaders knew, but they thought his name would aid their ticket, and they placed it on it without troubling themselves further about his consent. A similar proposal, made by the temperance convention of that year, Judge Agnew expressly declined in a letter to its chairman, on the ground that having been an "ostensible" candidate before the Republican convention, he could not honorably put himself in the front of another party. He determined to hold himself free from any entanglement, and it was a fear of such a charge being made after the election which brought out his open letter before it. During the canvass he was offered the attorney-generalship in writing, under the incoming Republican administration, on condition of withdrawing from the National ticket. Through his son he declined this proffer expressly on the ground that he was nominated without his participation, had not accepted, and had nothing to decline.

Judge Agnew is still in the full enjoyment of physical health and activity, and of mental vigor. Since his retirement he has lived a quiet and comparatively uneventful life among his old friends and neighbors, of Beaver. Great changes have occurred in state and nation since that stripling lawyer went there prospecting for litigation fifty-two years ago, but the essential features of that staid old county-seat remain unchanged. Six children have been born to Judge and Mrs. Agnew, two of whom, their eldest son and eldest daughter, are dead. The latter was the wife of Col. John M. Sullivan, of Allegheny City, and died in 1874. Of the others, there are two sons, both lawyers; the elder, F. H. Agnew, now in the senate of Pennsylvania, is practicing in Beaver, and the younger, Robert M. Agnew, in Lancaster, Pa. One of his daughters is the wife of Hon. Henry Hice, of Beaver, late President-Judge of the court Judge Agnew formerly presided over. The other daughter is the wife of Rev. Walter Brown, of Cadiz, Ohio,

The degree of Doctor of Laws has been twice conferred on Judge Agnew, first by Washington College and then by Dickinson. Occasionally he indulges in writing or speaking on legal and public subjects to keep from rusting out. On General Grant's return from his tour around the world, Judge Agnew was selected to deliver the address in Pittsburgh, and in the succeeding canvass for nomination he favored that of General Grant for the presidency as best calculated to produce national unity. He was employed by Allegheny county in the riot cases, wrote the address to the legislature, and argued the question of the county's liability before the state supreme court. He recently argued the case of Kelly *vs.* The City of Pittsburgh in the United States supreme court. His brief is an elaborate statement of the purpose of the fourteenth amendment, and a vindication of individual fundamental right, and the jurisdiction of the court in a case of unlawful taxation, infringing upon the right of property without due process of law.

In the senatorial contest of last winter Judge Agnew's name figured somewhat in the scattering vote. The state would do itself a high honor if it should select such a man to represent it at Washington, or to be its chief executive. Judge Agnew's numerously published addresses, to which, for lack of space, scarcely any allusion has been made, and his opinions, involving great public questions, as recorded in the state reports, show that he is no mere lawyer, but has all the grasp of mind and breadth of view of the true statesman. As United States senator he would take rank at the outset with the ablest and most influential members of that body; as governor of the Commonwealth he would be a grateful and wholesome relief from the dead level of mediocrity, which has had monopoly of that office for many years. But the Boss is still supreme in Pennsylvania politics, and such political honors as he does not retain for himself or his lieutenants, he takes care to secure for some one of the great anonymous. Under the regime

the post of honor is the private station, and it is there, with rare exceptions, that we find our men of most distinguished ability and recognized worth.

For a short time after Judge Agnew left the Bench, he practiced law. He was engaged in several important causes, especially those of the county of Allegheny, growing out of the great riots at the Union Depot of the Pennsylvania Railroad, in Pittsburgh, in 1877. He, with his associates, drew up and presented to the legislature the address for legislation to relieve the county from the onerous liability growing out of the act making a few counties liable for injuries done by rioters.

He also argued before the supreme court of Pennsylvania the cases growing out of the same law, to show that the law did not survive the former constitution of the State, and was not continued in force by the schedule of the new constitution. The argument was deemed unanswerable by impartial minds, but the great interests of Philadelphia and the railroad company, the city itself being a large stockholder, carried the case against the county of Allegheny. He also argued before the supreme court of the United States the important question of the power of Pittsburgh to tax outlying rural districts within the corporate limits, for the special city purposes of police, fire, etc.

Finding that professional business was encroaching largely on his time and labor, and curtailing the relief he expected on retiring from the Bench, he, in the course of two or three years ceased to take cases or to be employed professionally, though many inviting offers came to him. In the year 1880, being strongly impressed with the necessity of curbing the evils of drunkenness, from which, as a judge and lawyer, his observation taught him that four-fifths of the crime and pauperism of the state arose, he became the president of the Constitutional Prohibition Amendment Association. In this work he performed great labor, writing and speaking in most of the principal places in the state. The effect of the efforts of this association, and others engaged in the temperance cause, was to carry a large majority of prohibitionists into the house of representatives in 1881. The constitutional amendment was carried in the house by a vote of nearly two to one. These efforts continued brought a majority also into the house in the session of 1883. Before this house, Judge Agnew delivered an elaborate address on prohibition. He contended in that address, and in other arguments, against the doctrine of compensation, a position since fully sustained by the supreme court of the United States. These efforts have been crowned with final success by the passage of the proposed amendment by the assembly of 1887.

His pen has also been employed in other work than legal. He has been called to deliver numerous addresses, in and out of the state, before colleges, seminaries of learning, and public audiences, civil and military. Notably he delivered the address of welcome at the convention of the bankers of the United States in Pittsburgh, and an address to them on the general banking law of the nation. In the canvass of 1880, for Garfield's election, he also delivered two very elaborate addresses on the past and present relations of the northern and southern sections of the United States.*

He yet, in 1888, enjoys good health and strength and a vigorous intellect.

Hon. Franklin H. Agnew, attorney, P. O., Beaver, was born in that place April 6, 1842, and is a son of Hon. Daniel Agnew. He was reared in Beaver, and received his earliest education in the old Beaver Academy. He afterwards attended Jefferson College, from which he was graduated in 1862. After his graduation he taught in the Beaver Academy, then in Washington county. Being desirous of obtaining a thorough knowledge of book-keeping, he attended the Iron City Business College where he took a thorough course, and was afterward a teacher in the same institution. Returning to Beaver, he became principal of old Beaver Academy. He then went on the the United States Coast Survey, which he resigned in 1871. In 1872 he began the study of law in his father's office, and, after his admission to the bar, he formed a partnership with John M. Buchanan, which continued till 1887. He was elected state

* He delivered also the address on the completion of the Chanoine Dam at Davis Island, six miles below Pittsburgh, in 1885.

senator in 1882, and served one term. July 16, 1885, he was married to Miss Nan K., daughter of Rev. W. H. Lauch. Her parents were of Scotch and German origin. Mr. and Mrs. Agnew have one child, Elizabeth. They are members of the Methodist church, in which he is a steward. Politically he is a Republican.