## "Days of Auld Lang Syne,

By author of "Bounie Brier Bush," lan Maclaren's new book

## At Norton's.

### THRACITE CULM DUMPS

Compared with Niagara Falls for electrical power, by an expert New York engineer, with Miss S. E. Dickinson's interesting article on the industries of Scranton, Illustrated by numerous engravings, in Nov. issue Cassier's Magazine.

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Price, 25 cents.

## A Foe to Dyspepsia

**GOOD BREAD** USE THE

FLOUR

And Always Have Good Bread.

MANUFACTURED AND FOR SALE TO THE TRADE BY

## The Weston Mill Co.

PERSONAL.

John Bamford, formerly of the North End, was married last Wednesday at Bing-hamton to Miss Minnie Brown, of the Par-lor City. A number of persons from this city attended the wedding.

Arthur Frothingham has returned from business visit to New York city. John H. Blackwood is in New York. Mrs. Livy S. Richard, of Quincy avenue, is in Philadelphia.

Mrs. J. T. Ross, of Tunkhannock, is vis-iting Mrs. Fred Abrams, on North Main W. H. Hanley, jr., spent Sunday with his sister at Bryn Mawr.

J. D. Carpenter, of Tunkhannock, was here yesterday. W. E. Stibbs, of Wilkes-Barre, is in the city. Patrolman Thomas Mills, of the police

department, is on a vacation. Rev. A. W. Cooper, of Waymart, was here yesterday.

Del Lease, secretary of the Elmira Rail-road Young Men's Christian association, was here yesterday.

Mr. and Mrs. William Connell, Mr. and Mrs. C. B. Penman and Colonel E. H. Rip-ple are enroute for Atlanta with Governor. Hastings and staff and party.

Underwear. Bargains for all in Men's Natural Wool, adles' Union Suits, Children's Ribbed

## HEAVY DEATH RATE.

Forty-Three Deaths Occured in This City

During Last Week. Forty-three deaths occurred in this city last week which is an exceptioncity last week which is an exception-ally high mortality rate, being only four below the greatest number of deaths ever reported in any one week. There were six cases of typhoid fever, with one death resultant thereform, four cases of scarlet fever, with two deaths, and six cases of diphtheria, with one death. There were also three deaths from consumption. deaths from consumption.

RHEUMATISM is caused by lactic acid in the blood. Hood's Sarsaparilia neu-tralizes this acid and completely and per-manently cures rheumatism. Be sure to get only Hood's.

HOOD'S PILLS cure nausea, sick head-ache, indigestion, billousness. Sold by all druggists.

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Important to Americans seeking English capital for new enterprises. A list containing the names and addresses of 250 successful promoters who have placed over fil0,000,000 sterling in foreign investments within the last six years, and over fil6,000,000 for the seven months of 1835. Price 55 or \$25, payable by postal order to the London and Universal Bureau of Investors, 20, Cheapside, London, E. C. Subscribers will be entitled, by arrangement with the directors to receive either personal or letters of introduction to any of these successful promoters.

This list is first class in every respect, and every man or firm whose name appears therein may be depended upon. For placing the following it will be found invaluable—Bonds or Shares of Industrial, Commercial and Financial Concerns, Mortgage loans, Sale of Lands, Patents or Mines.

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Rich, lustrous Kid, with tips of same or of Patent Leather; Half-Scotch Edges; Regulation Military Hoels; Laced or Buttoned. An ideal "20th Century" Street Shoe.

Extreme Needle Toes, English Derby Toes, both graceful and somfortable. All Women's and Young Girls' Sizes, 2 to 8, AH to EE.

THE PRICE IS \$4.00.

## SMITH WOULD NOT After Court Refused a Change of Venue

He Left the Court Room.

JENNINGS CASE NON-SUITED

No One Present to Try Mr. Jennings' Sensational Conspiracy Case-Mr. Smith Says He Will Take an Appeal to the Supreme Court.

Attorney Cornelius Smith and his client, John G. Jennings, of Minooka, were central figures in another court episode yesterday. The November term of common pleus court opened yesterday morning with three judges on the bench. Judge H. M. Edwards in the main court room, Judge Gunster in No. 3 court, and Judge McPherson, of Harriaburg, judge of the Dauphin county courts, in No. 2 court room.

The first case on the trial list was the trespass suit of John G. Jennings against the Lehigh Valley Railroad company, Judge R. W. Archbald, Judge E. N. willard, Major Everet Warren, Attorney I. H. Burns, Attorney Lemuel Amerman, Prothonotary Clarence E. Pryor, Deputy Prothonotary Myron Kasson and Detective Thomas E. Reynolds, asking for damages in the modest sum of \$160,000.

The case resulted disastrously for Smith and Jennings. They were rout ed. The court granted a nonsuit and the next step in the matter will be when Mr. Smith goes before the Supreme court. He was seen by a Tribune reporter yesterday afternoon and he said that he would go to a higher court right away.

This colossal suit was based upon

court right away.

This colossal suit was based upon the ground that the defendants conspired to defeat the ends of justice and injure John G. Jennings in his action against the Lehigh Valley company. When the case was called for trial yesterlar norming Indees Edwards and When the case was called for trial yesterday morning Judges Edwards and Gunster were upon the bench in the main court. Attorneys J. Alton Davis, C. Comegys, Joseph O'Brien and John P. Kelley appeared for the defendants. Attorney Smith was alone in the interest of the plaintiff.

Jennings Had a Back Sent. Jennings llad a Rack Scat.

Judge Archbald, Attorneys Burns
Warran and Amerman and Myron
Kasson were all of the defendants who were present. They sat beside their attorneys. Mr. Jennings was
in the rear of the court room. When
the time was at hand for a jury to be
drawn Mr. Smith advanced and asked
for a continuance. This was refused for a continuance. This was refused and he applied for a change of venue. Attorney Davis opposed the change of venue on the ground that the petition for it came too late, that the plaintiffs' application should have been made last

week.

Mr. Smith argued that no notice had been served upon him that the case had been set down for trial at the head of the list, and, therefore, he had not sufficient time to lay grounds for a change of venue. The judges left the bench after listening to some argument and consulted for a few minutes. Upon re-appearing, Judge Edwards said that they would continue the case for two they would continue the case for two weeks to give Mr. Smith and his client time to produce evidence to support his reasons for a change of venue. Before the order was signed Attorney Davis said that the only evidence necessary for a change of venue was that of the petitioner, and as Mr. Jennings was in court he ought to be brought forward forthwith to give the session. was in court no ought to be brought forward forthwith to give the reasons why he could not get a fair trial in Lackawanna county. Mr. Smith then presented a petition asking the court to grant him a reasonable time to subpoce his witnesses and produce them in court.

Mr. Smith Had Delayed. Judge Gunster refused this motion and told Smith to bring them forward without any further delay. Judge Ed-wards said that the case was advanced upon the list because it was of such a nature as to require speedy action. Mr. Smith evidently knew that it was on the list and that is the reason why the court refused the continuance. The plaintiff allowed thirty-five days to

clapse since this case was on the list without presenting his motion for a change in venue. Mr. Smith said it was impossible for him to produce witnesses for his appeal for a change of venue and that he would be glad to go to trial tomorrow if

would be glad to go to trial tomorrow if he could. In answer to this statement Maior Warren said:
"Your Honor, I desire to say that the application is based on the fourth paragraph in the act relating to change of venue which provides that if it shall appear by the oath of the plaintiff that local prejudice exists and that a fair trial cannot be had, the change of venue shall be made. John G.Jennings, the plaintiff, sits right there. This case the plaintiff, sits right there. This case involves the integrity of the officials of this county, and of the members of this bar, and it is a reiteration of the most scandalous accusations against the living and the dead, and I submit if this ing and the dead, and I submit if this party can show any local prejudice let him come here and show it now. Let us have some action by the court that will bring an end to this business. We ask your Honor in the name of justice and out of respect to this court and to the members of the bar, to have this case heard at once. If his accusations are true give him a change of venue. If they are not true let the case be tried now, and let us have an end to these accusations. If they are true these gentlemen and myself ought to be in states prison, and if they are not true, Mr. Smith ought to be promptly disbarred."

Jennings on the Stand.

Jennings on the Stand.

Mr. Jennings on the Stand.

Mr. Jennings was called to the stand in the afternoon and questioned by Attorney Smith. Jennings said he remembered well the second trial of his case against the Lehigh Valley railroad and was of the opinion that he could not get justice. His testimony was brief. Mr. Smith again asked for more time and was answered by Judge Edwards as follows:

"This case was advanced by us upon the trial list so that it should be speedily disposed of, the official position of some of the defendants and their connection with our courts being such that some of the defendants and their connection with our courts being such that in our judgment in the interests of the administration of justice a speedy disposition of the case was desirable. When the case was called for trial plaintiff's attorney moved for a continuance on the ground that he had no notice that the case was specially ordered on the trial list. The trial list having been made up thirty-five days before the day of trial, this motion was refused. The plaintiff then filed his petition asking for a change of venue. A rule was granted returnable forthwith to show cause why a change of venue should not be made.

"We think this motion should have been made before the case was called for trial, but we concluded to hear evidence in support of the petition and rule. The main ground of the petition is that some of the defendants are county officials, and that by reason thereof such a local prejudice exists as will prevent a fair trial of the plaintiff's case. The evidence establishes the official character of two of the defendants but it is utterly insufficient to sustain the allegation of local prejudice.

the official character of two of the defendants but it is utterly insufficient to sustain the allegation of local prejudice.

Can Be Fairly and Impartially Tried Here.

"We are satisfied that the case can be fairly and impartially tried before a jury of this county. We therefore discharge the rule and refuse the motion for a change of venue and unless other cause be shown for the continuance of the case we direct the trial to proceed before Judge McPherson, of the court of common pleas, of Dauphin county."

Mr. Smith handed the following paper up to the court, then went to the clothes rack, put on his overcoat and slik hat, turned his back to the court and strode out.

"Now, Nov. 11, 1896, the plaintiff presented to the court a petition praying for a change of venue. The court grant-

ed a rule to show cause why the venue should not be changed returnable Nov. 24, 1895. Afterwards, on request of defendant's counsel, the court made the rule returnable forthwith, and rerused the plaintiff any time to subpoens or produce his witnesses to prove the facts alleged in his petition for removal. Same day the court refused to grant a change of venue in the case. Therefore the plaintiff declines to try the case before he is allowed a reasonable time to produce his witnesses as to the facts alleged in the said petition either by way of depositons or in open court."

A jury was drawn in the regular way and as the plaintiff was not present to plead his case, the defendants applied for a non-suit and it was granted by the court.

the court. None of the defendants would state None of the derendants would state whether or not they would take any action with reference to disbarring Mr. Smith. Judge Archbald said positively that he had no intention of acting in

In the Other Court Rooms. Only cases of lesser importance were taken up in court rooms No. 2 and 3 yesterday, and in the main court after the Jennings' case was disposed of Judge Edwards heard the suit for of Dominick Hastings against Michael Burke. The jury went out at adjournment to find a verdiet. The case of John Knittle against Joseph Kretz was called, the plaintiff did not appear and a verdiet for the defendant was taken.

was taken.

In No. 2 court, before Judge McPherson, of Harrisburg, the suit of A. S.
Spencer against Joseph Pendle and
James Mora, was on all day. It is for
a judgment note of \$100. The action
of John Flanaghan against Elizabeth
Maynard was no suited W. B. State. Maynard was non-suited. W. B. Stansbury vs. Singer Manufacturing company, Lizzie Jane Ruse vs. William T. James and Annie T. James, were

### OBJECTIONS SUSTAINED.

Opinion of Judge Archbald in Regard to South Side Sewer Assessments.

Judge Archbald yesterday sustained the objections of the Lackawanna Iron and Coal company to the assessment of Viewers E. J. McNally, Robert Haag and August Schimpff. The opinion is a very brief and reads as follows:
"It is conceded by the city solicitor "It is conceded by the which the present exceptions are directed are laid upon property to which no branch sewers run and for which none are at present provided by the ordinance under which these proceedings are had. This brings the case clearly within the decision in the Park Avenue sewers, 169 Pa., 443. The properties are assessed for that of which they have no benefit and of which they may never have any.
This is entirely contrary to the principle upon which local assessments for benefits conferred are alone sustainable. The exceptions of the Lackawanna, Iron and Coal company are sustained and the assessments set aside." tained and the assessments set aside In conjunction with the opinion the following order was handed down: Order of the Court.

"The exceptions so far as they relate to assessments laid upon property not abutting upon the line of the proposed sewer or its branches are sustained and the said assessments are set

aside."

It was very generally supposed that the decision of the court, if it should be in favor of the exceptions, would invalidate the assessment entirely and retard the progress of the sewer. This is an erroneous impression. The opinion of Judge Archbald only dismisses the assessments against the Lackawanna Iron and Coal company that have been levied on farm lands and wanna Iron and Coal company that have been levied on farm lands and other property of the company not abutting on the main or lateral branches of the proposed sewer.

The court holds that the company cannot be assessed for a sewer that will not when constructed benefit any of the

not when constructed benefit any of the company's property which is included in the tract assessed and to which exceptions are taken.

Remainder of Report Stands. The report of the viewers will stand except that part of it excepted to by the company. A map was filed with the court showing the land assessed which does not abut on any of the branches of the propsed sewer. The company will have to pay its share for any land

abutting on the sewer, just the same as

the other property owners of the dis-The tension of the sewer advocates may now be relaxed, who feared that a decision favorable to the exceptants meant an utter invalidation of the progress made to date on the proposed

## COMING ATTRACTIONS.

Some of the Plays That Will Be Seen in

City Theaters. William Fennessy's big domestic play "Slaves of Gold," will be seen at the Academy of Music Wednesday. The story of the piece is one of absorbing interest. The scenic effects are really notable, but in their excellence they are only in keeping with the other featare only in keeping with the other features of the production. The story is somewhat intricate to tell in a few words. The action takes place in England. Richard Bartley is a mine owner, whose ruling passion is the acquisition of wealth. He has obtained a mine by fraud. Finally after many years, he plots with a revengeful ex-convict to kill William Hope, his partner who knows the secret of his ill-gotten gains. Hope's daughter, Grace, who has been Bartley's foster sister, hears of the plot and in a thrilling way files to warn her father in the mine of the attempt to be made on his life. In the mine the explosion occurs, and father, daughter and assassin are imprisoned mine the explosion occurs, and father, daughter and assassin are imprisoned behind a wall of coal. After staring death in the face for three days they are rescued. The villainous Leonard Monckton is run to earth, the old miser meets his death and several mysteries are cleared up and all ends with happiness for those who deserve it. The cast includes Elmer Grandin, the famous character actor, and Eva Mountford-Grandin, the beautiful emotional actress.

Flour-de-Lis at the Frothingham

"Fleur-de-Lis," the new comic opera which has just closed an eight weeks' run at Palmer's theater, New York city, will be presented at the Frothingham on Nov. 15 and 16 by the famous Delia Fox Comic Opera company. The opera was written by J. Cheever Goodwin and William Furst, The Delia Fox opera is one of the strongest of the light opera organizations, and includes besides the fair prima donna, Miss Delia Fox, such well known people as Jefferson De Angelis, Molyille lewart, Alf. Whelan, Charles J. Campoell, Charles Dungan, Ida Fitzhugh, Kate Uart, Ada Bernard, and fifty others. The sale of seats opens tomorrow morning. A matinee will be given on Saturday next at 2 p. m. The best seats for the evening and matinee performances have been placed at \$1.50 each. Flour-de-Lis at the Frothingham

STRANGE PHENOMENON.

The Profiles of Gladstone and Della Fox

Seen on the Moon. A Miss Kimbark, residing at Bear

Opinion Handed Down in the Pamous Nichols' Will Contest.

APPELLANT HAD NO EVIDENCE

Ills Mother Made a Will, Although He Had Several Opportunities to Do So.

From the orphans' court of this county an opinion by Judge Archbald in the famous Nichols' will contest was yesterday handed down, dismissing the appeal of James Nichols, the appellant, with an order that he pay the costs of the proceedings.

the proceedings.

In March, 1885, the decedent, Mrs. Sarah Nichols, died, and on May 21, 1892, seven years afterward, the appellant, James Nichols, her son, presented his petition to the register of wills, alleging that she died textate, and that her will that she died testate, and that her will was in possession of Asa A. Nichols, another son, and Flora A. Nichols, his another son, and Flora A. Nichois, his wife. Upon this a citation issued returnable June 6, following, to which an answer was duly made by the parties cited, denying that they had possession of any such will and affirming that they never saw or heard of any. The hearing on the citation was continued by the register to June 13, and the petitioner not appearing, the proceedings were dismissed.

the petitioner not appearing, the pro-ceedings were dismissed.

On June 28 on a plea of surprise and presentation of a new petition .he reg-ister allowed a rehearing and issued a second citation, returnable July 25.

A new party was brought into these second proceedings, Mary Davis, a daughter of the deceased; but the cita-tion was not served in time and an alias had to issue to Aug. 1 following. Unable to Furnish Proof.

This came to a final hearing on Sept 9, 1892, when counsel for the petitioner stated they had no further evidence, and that they were unable to prove that the alleged will of Mrs. Nichols was in the alleged will of Mrs. Nichols was in possession of the parties cited, whereupon the proceedings were again dismissed at the cost of the petitioner. Nothing further was done until May 17, 1895, when the same party again presented his petition to the register, alleging upon newly discovered evidence that there was a will, and that it was in the reception of the said Mary Davis. the possession of the said Mary Davis, and praying for a rehearing. The reg-ister entertained the application so far as to award a citation to Mary Davis and Asa A. Nichols, to appear on June 8 following and show cause why the will should not be produced and proved. But after considering the testimony produced in support of the petition, the register decided there was not enough register decided there was not enough to warrant a rehearing and, therefore, dismissed the petition with costs. It was upon this record that the appeal was taken. The opinion says:

"At the return of the rule entered, ac cording to our practice on the respond ents to show cause why the appear ents to show cause why the appeal should not be entertained, it was urged upon us that the appellant is conclud-ed by the decision of the register made in September, 1892, which the last pro-ceedings have ineffectually sought to open, and that the appeal ought there-fore to be dismissed.

Must Be Made Within Three Years. "While an appeal to the orphans' court is allowed by the statute from all court is allowed by the statute from an the judicial acts and decisions of the register, yet it is expressly provided that all such appeals must be made within three years. It is very clear therefore that it is now too late to ask therefore that it is now too late to ask to review the decision dismissing the appellant's petition, which was made Sept. 9, 1892, the present appeal not having been lodged in this court until Sept. 23, 1895.

"Is the appeal any more effective because of the intervening proceedings which have been taken? We think not. If the present register, after hearing

If the present register, after hearing the appellant, had reversed the decis-ion of his predecessor, assuming he had the right to do so, and had held that the possession by the respondents of a will of the decedent had been sufficient-ly established, this would have been a new judgment, from which the parties aggrieved could have taken their appeal to this court. But that was not what was done. The register merely reopened the case far enough to see whether there was any occasion for reconsidering the former ruling of the office, and not being satisfied that there was, refused to do so.

It Is a Matter of Graco. "A hearing in such a case is a matter of grace and not of right, and rests in of grace and not of right, and rests in the sound discretion of the register. Assuming that the case is for the time reopened by the fact that the register entertained the petition and cites the parties to appear and answer it, still parties to appear and answer it, still when the proceedings are dismissed without other action than to confirm the former decision, what was thus transparently opened is thereupon reclosed, leaving the original order to stand unaffected by what has been done. Unless this be the case there is no finality to proceedings of this character. The mere presentation of a petition to the register, which he refuses to hear, will be able to put new life into them any time, no matter how distant from the date of the original detant from the date of the original de-

tant from the date of the original de-cision, and a party can keep them re-vived in this way for a generation.

"This can not be the law. In every legal proceeding the parties litigant are bound to produce all the evidence which they have upon the subject, and whether they do or do not is concluded from the result. There may be an in-herent right in every court to open the

case and allow a rehearing upon new evidence, which the party could not, with reasonable diligence, have pro-cured before. But if so, it is a right to be exercised according to a sound dis-cretion, and is not reviewable except for abuse

Was Cited to Appear.

Was Cited to Appear.

"In the present instance the appellant cited the respondents to appear and was heard upon the matters charged in his petition, the register deciding and he, himself, conceding that they were not sustained. Later he again goes before the register alleging after-discovered evidence. That officer, after hearing it, decides that there is no occasion for re-opening the former ruling. As to the original decision the appeal is barred by the lapse of time, as to the last one it brings up nothing which we can review. The appeal is dismissed with costs."

WOULD KISS THE CAPTAIN

Girl Who Had an Embarrssing Way o Showing Her Appreciation.

Everyone who knows Captain W. H. Burke, of the health department, knows that his two chief characteristics are gallantry and modesty. The gallant and modest captain was busy at his desk yesterday when a deaf and dumb girl named Ethel Eckert came in to complain to Mrs. Duggan, agent of the Associated Charities, that she had been abused and robbed at her boarding house, 329 Penn avenue. At the request of Mrs. Duggan, Captain Burke agreed to accompany the girl to her boarding Showing H-r Appreciation

of Mrs. Duggan, Captain Burke agreed to accompany the girl to her boarding house and see that matters were set right. This he did.

Returning to the office the girl ac-companied him and with pencil and pa-per expressed her gratitude to Mrs. Duggan. But pencil and paper were not fit instruments to her mind, to arper expressed her gratitude to Mrs. Duggan. But pencil and paper were not fit instruments to her mind, to express her appreciation of the captain's services. Before the captain had time to enter a protest the grateful girl had her arms around his neck and was about to salute him when the captain tore himself away and rushed from the room amid the uproarious laughter of the dozen or so spectators.

The deaf and dumb girl did not say a word, but she looked as if sne was doing some thinking.

"How to Cure All Skin Disesnes." Simply apply "Swayne's Ointment."
No internal medicine required. Cures tetter, eczema, itch, all eruptions on the face, hands, nose, etc., leaving the skin clear, white and healthy. Its great healing and curative powers are possessed by no other remedy. Ask your druggist for Swayne's Ointment.

Quality is what we claim for the Garland heating stoves. They are made from iron mixed with aluminum, and will not crack. They are nickle-plated on copper and have the revolving fire pot. Call and see them at Thos. F. Leonard's, 506 Lacka ave.

Taylor's New Index Map of Scranton and Dunmore For sale at Taylor's Directory office, Tribune building, or given with an ord for the Scranton Directory 1896.

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## One Price

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> Three hundred large medalion pictures, new and beau-38c.

Started to sell the minute they went in the window.

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Thousands

Of beautiful gifts here. A great many are selecting now, and we set aside for Christmas. Why don't you?

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the beholder, the Littleness of the Prices creates a surprise still more remarkable.

ness and beauty of the

stock creates a wondrous surprise in the mind of



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And if you want bargains come and get them at once.

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