



A GREAT \$3.50 WORTH

The styles for Fall are well represented in our windows. This, our \$3.50 shoes are marvels at the price. Five dollars asked everywhere else for equal qualities. Fashionable shapes—slender—round—broad—round toes are the go.

SCHANK & SPENCER, 410 SPRUCE STREET.

CITY NOTES.

The grand jury will make its final report this morning. Mounted Officer Dyer arrested a man last evening for "lecturing the Washington monument." Desk Sergeant Robert Deller has resumed his duties at police headquarters after a two weeks' vacation. John O'Donnell was committed to the county jail yesterday by Alderman Howe for threatening his wife, Catherine. The Scranton Firman's union is to go out of existence at the next meeting which will be held next Thursday night at Nag Aug engine house. Mrs. W. B. Dugan, agent for the Associated Board of Charities, yesterday took a two-day trip to Erie, Pa. C. F. Van Nort was yesterday appointed judge of election in the First district of the Ninth ward in place of Arja Howell, who moved out of the district. Richard Graves was yesterday appointed by Judge Archbald to succeed H. S. Gardner as collector of taxes of Scott township, Mr. Gardner declining to serve. Dr. H. P. Hank, formerly of Pine Grove, Schuylkill county, has secured the position of junior physician at the Lackawanna hospital, T. Cushing Jones having resigned. The interment of Mrs. May Griggs will be at Dunmore cemetery Sunday afternoon, September 25. All members of the Patriotic Order of True Americans are requested to meet at the house, 32 Franklin avenue, Services at 2 p. m. held at her home. In yesterday's report of the Fifty-second regiment reunion it was stated that the "Woman's Relief Corps of Lieutenant Ezra Griffin post, No. 128, active members for those attending the reunion, and it should also have been mentioned that the Relief Corps served the supper and not Caterer Hanley, as stated.

THIRTEENTH COMING HOME.

Orders Will Probably Be Issued Today for Breaking Camp. Dispatches to The Tribune office last night advise that the Thirteenth Regiment will probably break camp today and be in Scranton toward evening. General Gobin has been given the authority by Snowden to remove the regiments at his own discretion. It is said the order would have been given ere this but for Thursday night's heavy rain storm which soaked the tent canvases, making removal impracticable. The regiments will take down their own tents. Further information regarding probabilities may be found on the first page.

Stereoscopic Views.

Several beautiful portraits of prominent people, as well as the leading candidates, will be presented on the large screen, court house square, this evening. Illustrations of the naval vessels of the United States and foreign countries will be interesting. Independence Bell will be illustrated in six beautiful colored views. Choice statuary representing the work of Thorwaldsen, the celebrated Danish sculptor, in twenty views, as follows: Apostles, Christ, Christ blessing children, Ganymede, Hebe, Lord Byron, Madonna, St. John Preaching, Three Graces, Venus, Morning, Night, Spring, Summer, Autumn, Winter, Matthew, Mark, Luke and John.

Sleeping car for New York, via Lehigh Valley railroad, may be occupied at Wilkes-Barre after 9:00 p. m. Arrives New York at 2:25 a. m. Tickets at 309 Lackawanna avenue.

THIS is SAUSAGE Opening Day at THE SCRANTON CASH STORE.

NEW TRIALS DENIED IN THREE CASES

Judge Searle, of Montrose, Hands Down Anxiously Awaited Decisions.

SOME INTERESTING DISCUSSIONS

The Sons of America Case is Not to Get a Third Hearing—Defendants in the O'Donnell-Breck and Thayne Traction Company Cases Refused Another Trial—What Warrants a Judge's Interference in the Submission of a Case to a Jury. Judge D. W. Searle, of Montrose, yesterday handed down three opinions or rulings for new trials in cases in which he specially presided in this county. The cases were A. C. Tunstall against J. F. Baumeister and others, Mrs. Ellen O'Donnell against Charles de Pont Breck and Edward Thayne against the Scranton Traction Company. In the first case it was the plaintiff who sought a new trial and in the last two the defendants were the movers. In all three the rule for a new trial was denied.

HIS OPINION NOT CHANGED.

W. C. Tunstall vs. J. F. Baumeister, et al. Rule to show cause why new trial should not be granted. The reasons assigned relate principally to the rejection of evidence offered. After an examination of the case, I am still of the opinion that the evidence offered and rejected was not material to the determination of the issues in the case, and that the rulings upon the offers were correct. The other reasons assigned are that there was error in refusing to affirm plaintiff's points Nos. 3 and 5, without qualification, and refusal to affirm plaintiff's sixth point. The third and fifth points were affirmed and the explanation attached was proper to prevent mistake. The plaintiff's sixth point was not applicable to the real issue in the case, and therefore the refusal to pass upon it was not error. Rule discharged. D. W. Searle, P. J., Thirty-fourth dist.

In refusing a new trial in the O'Donnell-Breck case Judge Searle submits a lengthy and elaborate opinion, going into an interesting discussion of the circumstances warranting the intervention of the trial judge in the submission of a case to the jury. He first sketches a history of the case, which briefly is as follows: Mrs. O'Donnell wanted to secure a piece of property on Washington avenue and spoke to Mr. Breck about getting it for her. He informed her some time later that it could be purchased for \$16,000 and she gave him \$500 instructing him to secure it. Later she learned that the property was on the market for \$14,500 and she demanded the return of her \$500. Mr. Breck refused to give it back saying it was given him to apply as part payment on the lot, which his firm, Breck & Reynolds, controlled. She said she gave the \$500 to him, with the understanding that he was to act as her attorney. He insisted he was simply acting as a real estate agent and she persisted that he had been engaged as attorney and after a lengthy argument Mr. Breck gave her back \$200 saying, as she alleges, "If you don't take that you will follow you for the rest." The check for \$200 was marked "in full settlement of all matters up to date." After outlining the cause of action and the claims of both sides Judge Searle goes on to say:

RULES DO NOT APPLY.

The learned counsel for defendant urged upon the hearing of the rule that in this case the acceptance by the plaintiff of the check for \$200, containing the statement that it was in full settlement of all matters up to date, and the obtaining the money upon it by her endorsement, was in effect an agreement in writing which should require the same rules as to the modification of it as are applied to all written agreements. I do not think the rules invoked apply to this transaction; the acceptance of the check under the circumstances testified to by the plaintiff did not have the legal effect of making the check, with the endorsement upon it, a written agreement of settlement of the matters in dispute. The weight of evidence would appear to be in favor of the claim of the defendant, that the check of \$200 was given and received in full settlement of these matters in dispute. Mr. Breck, the defendant, and his partner, Mr. Reynolds, both testify that it was and the plaintiff, Mrs. O'Donnell, testifies that it was not. The positive testimony of plaintiff necessitated the submission of the case to the jury. Upon the trial Judge rests the duty of determining the law applicable to the case and instructing the jury as to the same, as to the burden of proof, and the facts necessary to be found by them in determining their verdict. The law casts upon the jury the duty of finding the facts, under the evidence admitted, and the instructions of the judge. The entire twelve jurors are required to agree to the finding of fact necessary to render a verdict, and when the trial judge has made no mistakes in his rulings as to the law applicable to the case, and has adequately instructed the jury as to the cause and the facts necessary to be found by them in order to render a verdict, the setting aside of their verdict and granting a new trial, simply upon the ground that the jury have found the facts differently from what the trial judge would, had he been acting as a juror, would be practically to abrogate trial by jury.

TWELVE HEADS BETTER THAN ONE

When the evidence is conflicting the jury must ultimately determine the questions of fact; they are intelligent men accustomed to deal with business affairs and as competent to extract the truth from the ordinary conflict of evidence, or misunderstanding of parties, as the trial judge.

In his rulings or instructions, or by the jury, or where the jury have misunderstood the instructions, or misunderstood the same, such power should be exercised, but when the questions at issue have been fairly and honestly presented and the jury have deliberately determined the questions of fact which they are alone empowered to do, their conclusions will not be legally set aside. In this case there is no reason to suppose that the jury were misled by the instructions or that they failed to understand the issues, and the effect to be given the evidence relating thereto. Such being the case and the issues being entirely for the jury, I do not feel at liberty to disturb their verdict. Rule discharged. By the court. D. W. Searle, P. J., Thirty-fourth District, Presiding. Edward Thayne, on Jan. 5, 1895, was riding on the rear platform of a Providence car when it collided with another coming in the opposite direction near the Diamond Flat power house. His back was injured by his being thrown against a sharp corner and in his suit for damages the jury allowed him \$850. The defendant asked for a new trial on the ground that the trial judge erred in refusing to give binding instructions to the jury to find that Thayne was guilty of contributory negligence by reason of his riding on the platform when there were vacant seats inside and should not recover damages. After quoting a raft of decisions applicable to the case in point and Justice Agnew's definition that contributory negligence is that which co-operates in producing the injury, not merely the loss, Judge Searle finds: CONTRIBUTORY NEGLIGENCE. While the decisions of the supreme court of Pennsylvania hold that the riding upon the platform of a car when there is room to obtain seats inside is negligence, the question of whether such negligence contributed to the injuries received must always be a question of fact, and when such a question is verifiable from the evidence, binding instructions should be given. In the case at bar, while there were vacant seats inside the car, the plaintiff was not occupying, and he was negligent in not going in the car and sitting down, the question was whether such negligence contributed to the injury received. The collision was between two cars on the same track, plaintiff's position upon the rear platform was farther from the point of collision than if defendant had proper seat in the car, parties in the car were injured, and there is nothing in the evidence to show that the plaintiff was in a more dangerous position than if he had been in his proper place. Under these circumstances I think the question was properly left to the jury. Rule discharged. D. W. Searle, P. J., Thirty-fourth dist.

HER LONG-LOST SON FOUND IN SHAMOKIN

Has Been Living There for Nearly Quarter of a Century. YET SHE SUPPOSED HIM DEAD

Mrs. John Ash, Whose Boy Was Taken Away by His Uncle Twenty-Four Years Ago and from Whom She Never Heard During All This Time, Learned That He Is Alive and Well and Will Go and See Him Monday. Mrs. John Ash, living with her second husband at 112 Mica street, yesterday received a letter from her son, John, who 24 years ago, when only 4 years old, left her and since that time has been mourned as dead. He is at Shamokin and is married and the father of two children. The case, though not a direct kidnapping as reported, is as Mr. Ash said last night, "the next door to it." In 1873, when the boy was in his fourth year, his father, John Jones, died at Petersburg where the family lived. The news was sent to Thomas Jones, brother of the deceased, who lived at Shamokin and two days later the funeral was held at the city. Mrs. Jones, the widow, had two children to look after, one a two-year-old girl, the other the boy John. Mr. Jones, the uncle, offered to school and "bring up" the boy and it seems permission was freely granted. BOY TAKEN AWAY. He took the boy back to Shamokin and that was the last seen of him by his mother. Six months afterward the widow married John Ash, a blacksmith at the Dickson works. Mr. Ash sent several letters to Shamokin inquiring for the boy but no answer whatever was received. Last Sunday night, John Thomas, a West Scranton tailor, returned from Shamokin, and at once returned to the Ash house on Mica street. He informed Mrs. Ash that her son was living. A daughter of Thomas Jones had disclosed the secret of John Jones' parents and asked that when Mr. Thomas returned to Scranton he would tell the mother of her son's existence. Thomas accidentally mentioned that he was going to Scranton and she at once said: "If you do me the favor I ask I will never forget you." Thomas promised and she told him the story. The girl is 19 years old.

IN THE JURY'S HANDS.

Closing Arguments in the Jennings Case and the Charge of the Court—The Two Ejectment Cases.

Once more a jury is out wrestling with the Jennings-Lehigh Valley case. Judge Searle finished his charge at noon yesterday and when the jury retired those about court conjectured an early verdict. At midnight the jury was still out and that they had not retired indicated that no agreement had been reached. Major Warren made the closing argument to the jury for the defense and his colleague, Mr. Burns, argued the law points to the court. He succeeded in securing Judge Searle's concurrence in two important matters, one that the plaintiff could not legally claim compensation for services rendered to the injured boy by the mother and other immediate members of the household, and again in arriving at the loss of wages the jury would have to take into consideration the number of days the mines have worked hereabouts and not the number of possible working days in the year. Mr. Mahon, in closing for the plaintiff, said that in his opinion the moment of corporations "that have not hearts to be racked or souls to be damned," and pleaded with the jury that when it had an opportunity to make the heartless, soulless thing known as a corporation, respect the rights of the individual should not be remiss in its duty even as much as a hairbreadth. The three speeches and Judge Searle's charge occupied exactly three hours. The jury in the case of John Flack against Bret Kenney and Mary Kenney came in at the opening of court with a verdict for the defendant. The suit was to secure possession of a lot of land in the Third ward of this city. The case of Edmund Gumaer against Pardon T. Barber was given to the jury at 5 o'clock yesterday afternoon. H. S. Smith, James Eckersley, William P. Evans, Thomas Mullen and William Stevens were empaneled as a jury to inquire into the sanity of Ann Mullen before Judge Edwards, yesterday. They found that she is a lunatic without lucid intervals, and that her only income is a pension of \$3 a month.

BIG SPECTACULAR COMPANY.

Will Hold the Boards for Three Days at Davis' Theatre. On Monday next, beginning with the usual matinee, the celebrated Everett and Marks, Wood Sister's big spectacular burlesque, will hold sway for three days at Davis' theatre.

THE FELTS-HOYSDRAD CASE.

Local Court, It is Alleged, Acted Without Jurisdiction. In the case of Isaac E. Felts against Hoystradt and others, Judge Archibald yesterday granted a rule to show cause why the non-suit entered for non-appearance should not be stricken off. The reasons given in the motion for the rule by A. H. Kerstis and E. Merrifield, attorneys for Mr. Felts, are that the case had been duly removed to Pike county under the act of 1834, and that the local court was without jurisdiction to proceed in any way in the matter. Dallas Fair, Tuesday to Friday, Sept. 28, to Oct. 1, 1897. No other fair in the week and all the best race horses in the country are entered at Dallas. The fastest races over the best track and such accommodations for the comfort of the people as never before understood. Do not forget to note the herd of Shetland ponies. They will have yard enclosed by wire netting. A great treat for the children. More stable room is being prepared for the great entries of horses and cattle.

MONSTER MEETING OF MUTUAL AID.

Hall Too Small and Court House Had to Be Secured. A most unusual meeting was that of the Delaware, Lackawanna and Western Car and Machine Shops Mutual Aid association last night, when officers were elected for the next year. The meeting was called for the hall over Powell's music store, on Wyoming avenue, but at 8 o'clock it was discovered that the room was too small to accommodate the crowd of members, and it was decided to adjourn to the arbitration room at the court house. After the necessary permission was obtained the members in a long line moved to the court house. Here it was discovered that the arbitration room was too small and adjournment was then made to the main corridor, where business was transacted. President J. B. McConnon called the members to order. Officers were chosen and there were several spirited fights. In the contest of financial secretary William O'Connor withdrew in favor of Norman Griggs, who was elected by an unanimous vote. No opposition was made to the following: William H. Collins, correspond-

ing secretary: William Conwell, treasurer; Michael Walters, trustee for three years; James Riggles, vice president. The contest for president aroused much interest. Mr. McConnon, the retiring president, and William Shiffer were the candidates. The vote was taken by the members walking in a line from the south end of the corridor to the north end and dropping their ballots in a box on a table in the center of the hall. Tellers James Brogan, Thomas Langan and Lindsay McMillan retired to the arbitration room, and counted the vote. Mr. Shiffer was elected by a vote of 121 to Mr. McConnon's 94. The result was received with loud cheers. The new president is also district deputy of the Knights of Pythias. There are over 700 members in the Mutual Aid.

AMUSEMENTS.

Gus Hill's "World of Novelities" will appear at the Academy of Music three nights, commencing Monday next. Stowe's "Uncle Tom's Cabin" company will appear a matinee this afternoon and regular performance this evening at the Lyceum. Monday evening Keller will be the attraction.

Card of Thanks.

Superintendent Sanborn, of the Rescue Mission, desires to return his thanks to the ladies of the Woman's Relief Corps, No. 50, who furnished the mission with such a bountiful supply of food at the close of the reunion of last evening. The food will be distributed today among the needy. G. G. Sanborn.

Up with the Times.

The Dallas Fair management, realizing that the day has gone by when people will attend a fair merely to meet other people, have prepared a treat for the patrons of their fair. Nothing is too good for Dallas this year. The Myrtle Peck combination alone is a great show. The racing programme cannot be excelled, and no expense is being spared to give to Dallas the greatest Fair ever held in this part of the country. Tuesday to Friday, Sept. 28 to Oct. 1. To Cure a Cold in One Day. Take laxative Bromo Quinine Tablets. All druggists refund the money if it fails to cure. 25 cents.

Now For Jardinieres

The heavy frosts have come with the time to take up the house plants and bring them in-doors. OUR NEW JARDINIERS are here just in time for you. How much better they look than the unsightly earthen flower pot, and real cheap, too—Pretty ones as low as 25c. Many entirely new effects in our large assortment.

China Wall.

MILLAR & PECK, 131 WYOMING AVENUE. Walk in and look around.

THE KLINE SHOE CO

Our Store will be Closed Monday, September 27, on Account of a Holiday.

THE KLINE SHOE CO

The Rexford Co., 303 Lacka. Ave. 326 Lackawanna Avenue.

THE GREAT 4c. STORE

310 Lackawanna Ave. Another Car-Load of MASON'S 1-Quart Fruit Jars. Porcelain Lined Tops, The Best Make.

In Order to Get These We Had to Pay More for Them. Our Price Now

50c Dozen, with Top Rubbers and All Complete.

TEETH EXTRACTED WITHOUT PAIN

By the use of my new local anesthetic. No sleep-proof agent. It is simply applied to the gums and the teeth extracted without a particle of pain. All other dental operations performed positively without pain.

TEETH \$8 FULL SET

WARRANTED 5 YEARS. These are the same teeth other dentists charge from \$15 to \$25 a set for.

TEETH WITHOUT PLATES.

Gold and Porcelain Crowns; Gold, Silver and Cement Fillings, at one-half the usual cost. Examination free. Open evenings 7 to 8. Sundays 9 to 11 a. m.

DR. BARRETT, DENTIST

316 Spruce Street, Next Door to Hotel Jersey.

LOOK---MONDAY BARGAINS---LOOK.

NEW GOODS.

Your attention is invited to our large assortment of Dress Goods. All the latest weaves. Our Checks, Clan Plaids, Black Checks, Bourrettes, Cotelines, Whipcords, French Flannels, etc. Kid Gloves—Never have we shown a more complete stock of Gloves. Our \$1.00 Gloves are superior in fit and quality. Buy Table Linens and Napkins now. There has been big advance in values. All our goods at old prices. Special reduction for Monday.

White Blankets, slightly soiled, \$2.25 Blankets for \$1.90. \$1.75 Blankets for \$1.39. White Cotton Blankets, extra large, 79c goods, for \$9c. White Wool Blankets, splendid assortment, ranging in price from \$4.00 to \$5.00. Men's Heavy All Wool Underwear, positive-worth \$1.25. Monday's price—89c. Ladies' Underwear, finely fleeced, without seams, well made, perfect fitting—25c. Children's Black Hose, high spliced heels and toes, regular 15c goods. Monday—11c. Boys' Extra Heavy Black Hose, 6 to 10, double knees and soles, 25c and 30c goods, for—21c. Men's Fine Black Hose, Hermsdorf dye, double soles, regular 25c goods, for—17c.

SPECIAL BARGAINS IN

Broken lots of Men's, Women's and Children's Underwear. You can buy them at half price.

No Wonder

We're busy. Such values show the cause—such selling the effect. 'Twill pay to buy while the bargains last. A few at random. They'll go in a jiffy: Ladies' Cute little things that look you in the face and truthfully port you as to time. Movement warranted. Case hand-engraved silver—Special price is \$3.90.

Gold Rings Different colored stones price, which is 50c. Ladies' and Children's. Boys' Solid nickel case. Good Watch timepiece. That boy should not be late at school. A watch for so little is a good investment. Today \$2.50. Stem Wind, Stem Set.

Euchre Prizes We sell the most. We ought to. Just got in lots of new little things in sterling silver and china. Inexpensive, but look the opposite. Special values at 25c, 50c, 75c.

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