THE SCRANTON TRIBUNE-FRIDAY MORNING, DECEMBER 17, 1897.

THAT STONE CASE AGAIN COMES UP

Four Lawyers Argue on It for Four Hours.

CLAIM THE TRIAL JUDGE ERRED

Submitted the Case to the Jury and When the Jury Would Not Agree Took It from Them and Directed a Verdict -- Mr. Soper Entertains with One of His Characteristic Arguments -- Arguments in the Marshall-Rice Ejectment Case.

Four hours of yesterday's session of argument court were consumed by the speeches of the four attorneys in the celebrated case of M. O. Webster against Fred. J. Widmayer,

The suit grows out of a deal between the Scranton Store company and the Lackawanna Store company, by which the latter swallowed up the former. Mr. Webster, one of the directors of the Scranton company, claims that there is \$7,000 owing him for his stock in the old company. He brought suit against the company, but when the case came to bar he elected to make F. J. Widmayer, defendant, Mr. Widmayer having signed as president of the company the paper on which the suit was based

The case was tried at the November term of common pleas. Judge Archbald reserved the point as to whether or not Widmayer was individually re-sponsible and told the jury that it should find for the defendant for \$7,000, subject to the reserved point. The jury declined to follow the directions of court, and after keeping them to-gether over Thanksgiving he sent for them on the morning following, took the case out of their hands and directed a verdict to enter for the plaintin in the sum of \$7,000.

Yesterday the case came up for ar-gument on the point reserved. Attorneys R. H. Holgate and Major Everett Warren appeared for the plaintiff and J. H. Burns and M. J. Martin for the defense

MR. MARTIN'S ARGUMENT.

Mr. Martin opened for the defendaut, Widmayer. He claimed that the court erred in directing a verdict after the jury had failed to agree. That if there was no question of fact it should not have been submitted at all, but having once been submitted the jury the jury itself could not agree and brought in no verdict at all.

Mr. Burns followed in support of Widmayer's claim and argued that the question before the court at the trial was whether the paper signed by Widmyer as president of the Lackawanna Store company could be used to hold bim individually liable, especially in view of the fact brought out by the plaintiff that Widmyer was duly authorized by the Store company to make the agreement on which suit was brought. Mr. Burns also attacked the validity of the point reserved, claiming that the facts on which such a point must be based had not been ascertained either by the jury or by agreement of parties and were no where in the case definitely stated by the court.

Mr. Warren and Mr. Holgate, for the plaintiff, contended that there was really no disputed question of fact in

case before a jury of three. I don't see any reason for trying the matter over again. The case was fairly and thoroughly tried. The charge of the learned court was without error. Mr. Newcomb thought so well of it that he withdrew his yard-long string of exceptions to it and then I thought so well of it I withdrew mine, I don't know how this jury of three will view the case, but I know that you will rever find a jury of twelve in Lackawahna county mean enough to give a verdict for the defendant. The verdict or us was justified. I only wish to

the Lord it was three times as much. Mr. Soper was the soul and embodi-ment of earnestness all through his argument. He never smilled or indicated in any way that he knew he was saying funny things-if indeed he did

In the case of J. J. Marshall against Simon Rice, the application for a new

trial, made by Mr. Newcomb was based mainly upon an alleged error of the trial judge in not allowing him to comment on a feature of Marshall's deed. The deed was secured from E. Morris and unlike its predecessors was a quit claim deed. This Mr. Newcomb wanted to show to the jury was evidence that Morris, the former owner, recognized Rice's claim to the disputed torney for the plaintiff, repeated the contention on which the trial judge forbade the comment, that the contents of a deed is for the court and not for the jury.

Ex-Judge Stanton appeared in sup-port of a motion to set aside the ver-

dict of \$500 in the breach of promise case of Mary Marvel against George Phillips. The plaintiff being a minor brought the suit by her next friend, her uncle. Before the case came to trial the girl, with some friends, came to Judge Stanton's office and agreed to the filing of a discontinuance. Judge Stanton would not take part in the trial, claiming that judgment in the same case could not go on record.

MR. MURPHY'S CONTENTION. J. J. Murphy, attorney for the plain-

tiff, held that the girl could not discontinue the case, as she did not bring it, and that it could only be discontinued by the next friend with consent of the girl.

The case went to the jury, a \$500 verdict was returned for the plaintiff. Judge Stanton thereupon secured a rule to show cause why the verdict should not be s t aside.

The story of the case is that Phillips engaged to marry the girl, and after they had been called out in hurch and had gone even so far as to get out a marriage license, he cast must agree or be discharged, and that the court erred in finally directing a The defense is that the marriage converdict for plaintiff, notwithstanding tract was, in fact, made with the uncle that Phillips was coerced into it, and that at the last moment he decided not to marry a girl he did not care

> In the case of W. A. McDowill against William P. Joyce, the rule for a new trial applied for by the defendants was discharged, the defense oftering no opposition.

The exceptions to the report of viewers in the case of P. A. Walker against the city of Carbondale were dismissed. Other cases argued were; H. J. Collins vs. J. D. Hackett, rule for bill of costs; Harrison Brothers against J. D. Williams & Brothers, exceptions to report of refereet E. May Cokeley and Anna Jurisch against the Sterling Cycle works, rule for a new trial.

The Law and Wall divorce cases were handed up, and in the divorce case of Lavid T. Hand against J. M. Hand, Attorney J. W. Walker argued fees and



Scranton's Great Department Store is just one week old, and its progress has been phenomenal. The grand army of buyers have already extended to us the hand of fellowship, and our reception has been a cordial one. It is for us now to show you by every act, that it's to your interest to buy here. Our stocks are new. The assortment is great. Our qualities cannot be surpassed in any store in the State. Every article is backed by our strongest guarantee. Prices lower than all others, or money strip at the end of the lot, over which the alleyway extended. Mr. Price, at-

This Is Our Standard of Business.

Read our bargain list for today, and remember the early comers get the pick and choice of the Big. gest Values ever offered in Scranton.

We sell for cash and deliver purchases to all points FREE of charge.



THREE BARGAINS in shoes to open your eyes with wonderment. Positively the greatest inducements sharp, we will place on specever offered in Scranton. We will lose hundreds of jal counter, main aisle, Lackadollars on this day's sale, but we're bound you'll wanna avenue entrance, 3,000 know our shoe store better.

Bargain No. 1

Ladies' Vici Kid Button or Lace Shoes, in twenty different styles. Cloth or kid taps. Sizes 2 1-2 to 8, Widths B to E, Heavy or light soles. Patent leather or kid tips. Perfect fitting. Never sold under \$2.50 and \$3.00.

For one day only \$1.69

SHOES.

Bargain No. 2

Busy mothers will appreci-Boys' and Youths' Satin Calf Lace Shoes. English and Yale toe. ate this offering. Knee Pants Solid leather soles, insoles and counters. Sizes 11 to 5 1-2. Regin sizes 3 to 15 years, made ular price everywhere \$1.50. up in plain and fancy Chev-

For one day only **89c**

For one day only \$2.49

Bargain No. 3

Men's Winter Shoes-double and single soles in Box Calf. Har- bands of the best quality vard Calf, Vici Kid and Wax Calf. Hand-sewed welts and every One day only at popular style of toe. Worth at the least \$4.00.

yards of all silk Roman Striped Ribbons, quality guaranteed, and worth fully 25c yard, at

GROCERIES. THE GREAT RESPONSE to our Grocery advertisement

vesterday prompts further efforts in that department today. The public are quick to seize opportunities like those presented here. They know that what we advertise is true. Just three more bargains to help fill your savings bank:

Jonas Long's Sons' Tea

Oolong, English Breakfast and Mixed Teas of the choicest Purltan chop. We guarantee every pound of our Tea to be the finest growth that can be obtained. Here regularly at 50c, lb.

Today only **19c** ½ lb. package

Home-Made Mince Meat

The kind that makes the Christmas dinner complete. Made from the finest fruits with seeded raisins. Put up in 5-pound pails at 50 cents.

Today only 43c pail

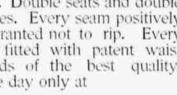


The mince meat must have company and here it is. New? Yes. But fine. Enough in each package for two pies. Mix with a little water. Bake in a small oven. Presto ! Pie. Sold regularly at 10 cents package.





Boys' Knee Pants



iots. Double seats and double knees. Every seam positively pair fitted with patent wais

hat the paper itself for the court to construe and that Wei stor supposed he was dealing with Mr Widmayer in his individual capacity The court listened with much appar ent interest and asked several que tions, apparently with the idea of get ting a clear understanding of what appeared to the ordinary layman to be very complex case. The case occupied about half the day and the court finally breathed a sigh of relief as the papers were handed up.

MYERS-LITTS CASE.

Mr. Newcomb appeared for a rule for a new trial in the case of A. S. Myers against W. P. Litts, in which \$750 dam ages were awarded the plaintiff at the last term of civil court for false imprisonment. Mr. Soper opposed the rule and as is his wont in making arguments, he kept the hearers in coars of laughter.

It is a case of son against son-In law. Myers' mother owns the farm adjoining his own in Clark's Summit, She lives with her daughter, Mrs. Litts. Mr. Litts decided to fence off the mother's land and placed ninetyfive fence posts on the ground. Myers removed the posts and threw them into the road, he having previously given notice, it is claimed, of his in-tention to do so if an attempt was made to build the fence. Litts secured a search warrant and had Myers arrested for the larceny of the posts. He was taken before a justice of the pence and in default of \$500 ball committee to the county jail, where he was in carcerated twenty-four hours, While he was in jail the fence was erected. The plaintiff alleged that the proceedings were bregular and that the arrest was nothing less than perse-cution. The defense was that Myers is a bad man and that the only safe way to deal with him in securing the return

of the posts was to handle him without gloves. Mr. Soper claimed that The West Scranton police were noti-Litts knew where the fence posts were field and Patrolmen Gurrell. Marker, and that there was no element of lar-Your Henors, Byron Akerly secured tance from team and wagon and couldn't get anybody to say aught against A. S. Myers except his men, who had a grudge against him.

NOTHING TO ARGUE.

"There is nothing before us to argue." said Mr. Soper in winding up speech. "We are simply re-trying the



stantly relieved by a warm bath with CCT. CURA SOAP, a single application of CUTICURA (ointment), the great akin cure, and a full dow-of CUTECEA RESOLVENT, greatest of black purifiers and humor cures, when all else fails.



Lathrope, opposing.

FOUR MEN TRAPPED. They Entered a House on Luzerne Street

For the Purpose of Burglarizing It. Two of Them Injured.

John and Stephen Reap. 17 and 20 Sundays and thought nothing of doing into and amalgamate with each othyears of age respectively, and residing so in this instance with his friends. on Jackson street; John Dacey, 20 years Dacey is a brother of John Dacey, who old, of Luzerre street, and John Phil- is now under heavy ball for an alleged this time on it is a struggle of life and ips, 29 years old, of Price street, were assault upon a Polander near the Con- death between the forest giant and the ommitted to the county jail yesterday | tinental about a month ago. morning by Alderman Davies at a hearing in police court. The charge against the young men was the serious one of burglary.

They Are Known as the Cannibal As was exclusively stated in yester-Tree, the Grapple Plant and the day morning's issue of the Tribune, Python. the young men were caught, after having entered the dwelling house owned 'rom the Los Angeles Herald. Anthony McNulty, at 1908 Luzerne Three of the most dangerous of vege street, at 2 o'clock yesterday morning. The house is a two-story frame dwelltative plants in the world are the "caning, with a basement. The upper floors nibal tree" of Australia, the "death" or "grapple plant" of South Africa. are occupied by the family of John Kuniski, and John Brown uses part and the "vegetable python" of New Zealand. of the basement. The remaining portion, or rear part, Kuniski uses as a The "cannibal tree" grows in the shape of a huge pineapple and attains

The cellar proved a trap for the four a height of eleven feet. It has a series of broad, board-like leaves, young men, as it was through the door ading into the cellar from the outside growing in a fringe at the apex, which that the entrance was effected. The forcibly brings to mind a gigantic Cen- excellent dinner, sat down to smoke a discovery of their presence was made tral American agave, and these board- good eigar while his wife ran upstairs Kuniski, who, taking a revolver, like leaves, from ten to twelve feer to make her toilet for the theater. ale quietly out of the house and found in the smaller specimens and from his fears were confirmed. The fifteen to twenty feet in the larger, that he did not aren look accusingly. McNultys were aroused and were soon hang to the ground and are easily at his watch when, after the promdownstairs and some neighbors also strong enough to bear the weight of | ised "minute" had developed into sixty. The burghers a man 140 pounds or more. In the she entered the room hurried to the scene. were fast indeed, for Kuniski had fast- ancient times this tree was, worshipened the door through which they had ped by the native savages under the very nice tonight, my dear," he reintered and closed, from the outside, name of the "devil tree," a part of the interesting ecremony being the sacrifice of one of their number to its all. Of course, I care more for your adand Constable Jerry Driscoll soon ar- too-ready embrace. The victim to be miration than that of any one else, Reeeny in the case whatever. As to minimum arry fraction such as a sacrificed was driven up the leaves of sides, the Skiners sit right behind us the tree to the apex and the instant this evening, and this dress will give the station house been the so-called "pistils" of the monster Buckwheat Hill for two days with a greater, so that the officers would have were touched the leaves would dy toeen longer in getting there, a lynchgether like a trup, crushing the life or something nearly as had might out of the intruder. In this way the have happened. As it was, shots were tree would hold its victim until every fired into the cellar: Stephen Reap reparticle of flesh would disappear from ceived a gash on his upper lip by being his bones struck with a revolver as he attempted to get out of a window, which they herb, growing in South Africa. had broken out, in a vain attempt to flowers are purple and shaped like the escape. Then, too, when the people English forgiove. Its fruit has formidutside opened the door the two Reap able hooks, which by clinging to any by needed so many things. Then an boys and Dacey made a dash for libpasser-by is conveyed to situations orty, and Dacey got a clip on the head

which drew blood and deterred them from any further attempt to flee from says it has been known to kill lions, the inevitable The crowd, which had been augmentknown to the naturalists as the clusta I wouldn't have one of them myself, ed and were nearly all foreigners, were or fig, is the strangler of trees. The but it seemed a pity for them to be growing turbulent and the men were hauled out. Just at this moment the a pulp and very pleasant to the tropi-cal birds which feed thereon, are car-silver-backed mirror and cleaned it up police officers arrived and none too for already all four had been ried from tree to tree and deposited until it locked just like new, and then rolled in the mud and roughly tumbled

gins. The leafy stem slowly rises up-At the hearing Kuniski, the McNuttys, and several others testified against the alleged burglars. The young mea ward, while the roots flow, as it were, down the trunk until the soll disclaimed any intent to do anything wrong and claimed that it was the changing their course according to the best wishes. Won't she be surprised, noise they made by rattling an inside Meanwhile from these rootlets leafy door, which led into Brown's liquor branches have been developed, which, right; Marie will, no doubt, he much parlor but had been locked, that aroused Kuniski, instead of Brown, as they intended. Kuniski claims he locked the door through which they entered, but they claim that the door was only fastened by an ordinary latch. Dacey inhitherto soft aerial plants begin to dividually stated that he had been in the habit of going through that door throwing out side branches which flow Reynolds Bros.

Demonstration of Tetley's Famous India and Ceylon Teas in the basement. Try a sample cup here. You're sure to like it.

THREE CURIOUS PLANTS.

The "grapple plant" is a prostrate

where its seed may find suitable con-

The

"vegetable python," which is

on the branches. Here germination he- 1-"

reached. Here and there they branch,

pushing themselves through the can-

a metamorphosis takes place. For the

py above, get into the light, and er-

concousiy accelerate their growth. Now that is all."



or until the whole tree is bound in a

series of irregular living hoops. Fron

entwining clusia. Like an athlete the

ters, causing the bark to hulge be-

tree tries to expand and burst its fet-

allowed expansion the tree soon with-

ers and dies, and the strangler is soon

expanded into a great bush, almost as

large as the mass of branches and fol-

lage it has effaced. It is truly a trag-

MARIE'S MIRROR.

And How It Served a Back-Action

Move as a Birthday Present.

Young Mr. Smithers, having caten an

So peaceful was his state of mind

"I am so glad you think so, durling,

edy in the world of vegetation.

From the Brooklyn Citizen

ond net is half over.

"But how did you earn-

"Sold it to buy the dress. I see!

"Nothing of the kind. I bought the

dress with the money you gave me.

The mirror I sent to Marle with our

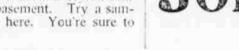
"Not at all, my dear. You are quite

good enough?

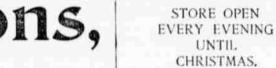
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seeds of the clusta, being provided with there, so 1 went upstairs and looked

direction of any obstruction met with, and-why, Freddie, are you ill?"



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Scranton's Great Department Store.

FLOREY'S.

FLOREY'S.

FLOREY'S.

Low Prices.

Magic Lanterns

Regular price, \$3.00,

Air Guns

STORE OPEN

UNTIL

CHRISTMAS.

Your Attention

tween every interlacing; but success is respectfully called to the unusually large display of Holiday Goods we are now and freedom are not for the captive showing-and selling. tree, for the monster clusia has made its bands very numerous and wide. Not

New Goods.

To give you an idea of our immense stock of holiday and other things, we itemize as many as space permits. Here they are:

Indoor Games

We have an immense variety of Large assortment, all sizes, rang-Many rare bargains in new and second-hand bicycles. Among these goods-all new. We must ing in price from them being a couple bran new sell them and consequently have spaldings, "97" model, regular marked them way down.

price \$100. Our price \$45.00 Our stock includes the following: Also a few new Keatings, '197' Checkers and Boards, Dominoes,

model marked from \$100.00 down Playing Cards, Cribbage Boards,

"Seems to me that you are looking Skates

Bicycles

We have just opened a new skate | lar games run from 5 cents to \$3.00. department with the largest stock ever carried in this city, consisting of Peck & Snyder, Union Hard-

"N-not quite, my dear. Resides, I earned the money for this one myself."

"Oh. after you left, I fell to thinking Sweaters and what a lot \$25 was to spend upon a birthday present for Marie when 1 real-Golf Hose

idea struck me. I remembered all All colors and sizes. those pretty things I found in our blg Sweaters \$1.00 to \$3.00 ditions for growth. Sir John Lubbock trunk after we were married-the ones Golf Stockings...... 50e to \$2.50 that horid girl, whoever she was, sent back when the engagement was broken,

Boys' small sweaters a specialty.

The above is surely a choice list, but is only a small part of what we have. "Come in and Look Around,"

Dumb Bells and Foot Balls.

C. M. FLOREY, Agent,

Y. M. C. A. Building,

WEEDING OUT THE DROSS.

surprised, for, you see, she herself was the girl who returned those presents-The great throng of holiday shoppers were expected to give some work to the police. Yesterday several persons

Handsomest line of Pocketbooks, who could not make much progress harden and spread wider and wider, Card Cases. Letter Cases in the city at through the crowds were landed in the police station

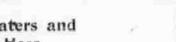
222 Wyoming Avenue.

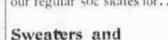
Patrolman John Hawks snatched one lew who couldn't find the door and staggerer from the crowd at the cortwo others were discovered drinking ner of Lackawanna and Wyoming ave- beer from a keg in a box car in the nue. Another unsteady pedestrian was Delaware, Lackawanna and Western found on Lackawanna avenue by Pa- yard.

trolman Peuster, These latter, of course, were not in-At the Delaware, Lackawanna and terfering with any person. But the Western station Patrofman Peters and keg looks suspicious, and peuding an Special Officer Williams captured a fel- investigation, the men were lock d up,

Fish Pond, Nellie Bly, Parlor Repeating Air Gun Golf, and others too numerous to mention. The price of these popu-

We also have a nice line of Spelling and Building Blocks for the children.





Mrs. S. a bad headache before the sec-Mr. Smithers looked anxious. "So from 50c 10 \$5.00. this is new, is H? Wasn't the old one

ware and U.S. Club goods. These

three makes are the standard ones. The price of these skates are

SPECIAL-We are closing out our regular 50c skates for 25c

in this line of goods, and have decided to further increase the lead. We have therefore greatly augmented our stock for holiday sell-

sizes of the following in stock:

Athletic Goods We have always been the leaders | \$2.00 and \$3.00 coats Pocket Cutlery ing, and now have all grades and acceptable Christmas gift for small

boy or adult.

We have them. Nice ones, too. Indian Clubs, Striking Bags, All grades, and are able to offer Boxing Gloves, Fencing Sticks, some exceptional bargains in these goods. We invite your in-Prices Right spection.

For \$1.09 and \$1.50 A good pocket knife makes a most

our Price, \$2.50

59 cents upwards

At \$5 cents

Hunting Coats Closing out our entire stock of hunting coats, and will sell our

Now selling the well known

This wonderful gun shoots 100

B. B. shot without reloading.

King Air Rifle, worth \$1.00,