

TO CONTINUE

We are bound to dispose of every pair Ladies' and Men's Pointed Toe shoes. Our price has been below anything ever offered. Best grade of Ladies' shoes, formerly sold at \$4.00 and \$5.00.

Our price while they last

\$2.09.



Men's Best Calf Good Welt with double or high soles, formerly sold at \$1.00 and \$1.50.

Our price while they last.

\$2.09.



Any size and width from 5 to 11. Look in our show window.

SCHANK & SPENCER,

410 SPRUCE STREET.

CITY NOTES.

This morning the sale of seats will open for Bann's concert at the Lyceum Friday night.

Professor W. E. Phinley, of the Lackawanna Institute, will speak at the Rescue mission tonight.

The funeral of the late E. S. Nichol will take place this afternoon at 2 o'clock from 218 Mulberry street.

Owing to the want of a quorum no meeting of the high and training school committee was held last night.

The Delaware and Hudson company paid dividends at the Plymouth, Nos. 2 and 3 shafts, all at \$100,000.

Seven tramps, arrested at the old tolling mill by the police early yesterday morning, were committed to the county jail yesterday.

Patrick Thomas, of Sixth street, was yesterday granted a back pension amounting to over \$200. Alderman Wright had charge of the case.

The bond of S. P. Gavin in the sum of \$200 as treasurer of the Emerald Benefit association was filed with Prothonotary Copeland yesterday.

Clark of the Courts Daniels yesterday granted marriage licenses to Charles Gallagher and Rose Alchenna, of Carbonado; Paul Crovianina and Walter Dragone, of Plainfield; John Ferguson and Maggie Purcell, of Carbonado.

Colonel E. H. Ripple delivered his very interesting lecture on rebel war prisons at the Railroad Young Men's Christian association hall last night, before an audience that overflowed the hall. A. V. Bower manipulated the stereopticon.

The Yokefellows band, of the Railroad Young Men's Christian association, will conduct special evangelistic services at the Simpson Methodist Episcopal church tonight, at the Scranton Street Baptist church, tomorrow night, and at Mrs. Lindsay's boarding house, 22 North Ninth street, Friday night.

WINDING UP ITS AFFAIRS.

Last Meeting of the County Board of Erin Held at Jermy.

At Jermy, Monday, the last meeting of the county officers of the Ancient Order of Hibernians, Board of Erin, was held at which the affairs of the county organization were placed in such shape that the formal amalgamation of the Board of Erin with the other branch of the order can take place on Sunday next as arranged.

As a tribute to the efficiency of the officers of the order, a committee consisting of William Peck, M. J. McAndrew, C. T. Boland and M. Lavette was appointed to present fountain pens to the secretaries, Messrs. Gaffney and McEade, and a gold-headed cane to the president, Hon. John P. Quinnan.

Hyland & Brown's shoe sale at the 5 Brothers' shoe store will be a regular January thaw in shoe prices. Opens Thursday of this week.

2

BARGAINS

- Succotash, Can, = 5c
- Succotash, Dozen, 50c
- Apricots, lb., = 5 1/2c

THE

SCRANTON CASH STORE

OPINIONS FROM THE SUPERIOR COURT

Large Number of Decisions Were Handed Down Yesterday.

PHOENIX CONTRACT COMPANY CASE

Conviction of Spencer and Aubrey is Affirmed and Incidentally Judge Wickham Pays His Respects to the Fake Company--Defendants Appeal to the Supreme Court--Two Wayne County Cases Are Argued and Court Adjourns Finally.

The Superior court concluded its session yesterday, at noon, and adjourned to meet in Williamsport, Feb. 14. Before adjourning a large number of orders and opinions were handed down, among them a unanimous opinion affirming the conviction in the famous conspiracy case of George W. Koons against A. L. Spencer and Thomas F. Aubrey.

In this case, it will be remembered, Aubrey and Spencer, who composed a fake concern styled the Phoenix Contract company, ordered a \$10,000 consignment of nails from Koons, which they disposed of at a price that convinced a jury that they never intended to pay for them. It was shown also that they were engaged quite generally in this kind of work and that many other shippers had dealt with the Phoenix company to their sorrow.

Spencer and Aubrey were tried in the Luzerne criminal courts in the spring of 1897 and convicted. A new trial was asked for, but refused and on June 30, Judge Bennett sentenced each to pay a fine of \$100 and undergo imprisonment in the county jail for one year. An appeal was taken to the Superior court by the defendants, and the defendants' attorneys, yesterday, when the appeal was dismissed, Mr. Burns appealed the case to the Supreme court, thereby securing another stay of sentence.

The opinion dismissing the appeal was written by Judge Wickham. It is an elaborate document and is very spicy in parts, particularly where it deals with the plans and purposes of the Phoenix contract company.

SPENCER-AUBREY OPINION.

The substance of the opinion is as follows: "The evidence in this case reveals the philosophy and methods of one of the dangerous forms of dishonesty peculiar to modern business life." Referring to that part of the evidence which told of the attempt of the defendants to secure a rating of \$50,000 in two commercial agencies, when the evidence showed that the assets or capital of the Phoenix contract company was \$3,000 temporarily deposited in the Traders' National bank of this city, Judge Wickham says that "a statement more boldly and nakedly false and, perhaps, never before sought to be imposed on a mercantile agency."

A motion for a new trial was made in the court below. One of the main reasons relied on being an affidavit made by Turner after the trial that he did not mean to say in his testimony that Spencer had directed him to sell the material furnished by the Koons' firm. This was not in accordance with his story told the counsel for the commonwealth or his testimony before the grand jury and the adverse jury, which was unimpaired by the defendants at the trial. His deposition was taken to be used at the argument of the motion, and it appears from it that after the trial Spencer had had Turner go to Scranton, and after talking to him secured the affidavit. Unfortunately for the defense.

Turner, on cross-examination, was compelled in his deposition to explain the affidavit, and his explanation when analyzed, seems to mean to use his own language, that Spencer did not actually and solely employ him to make the sales. But even if we accept the affidavit as true and maintaining all that it says, there is still enough left in the circumstances, the unassisted, uncontradicted testimony of Turner, and the other evidence to justify the conviction.

OBJECTION NOT GOOD.

It is urged by the defense that the commonwealth should not be permitted to go into the history and purposes of the Phoenix contract company, as by carrying a separate and indictable conspiracy. The objection is overruled. For the same reason it might be objected in behalf of one indicted by the commonwealth that the commonwealth should be debarred from proving that the prisoner for weeks before the conviction had been in the company contrary to our statutes, carried the weapon concealed on his person with the deliberate intention of using it against anyone whom he might select from a class of persons.

In order to comprehend the nature and circumstances of the particular conspiracy charged in the indictment and the motives and conduct of the two defendants, it was absolutely necessary to admit the evidence whereof complaint is made. Never in the history of English or American jurisprudence was there a time when an intelligent judge would have refused to admit the evidence which was part of the juggling machinery created by the defendants to delude their victims, and was deliberately, skillfully and successfully employed as a means of instrument in deceiving Koons. Had it not been so used by both defendants, there could be no reason for their objection. The case of Carroll and others against Com. St. Pa., 187, and kindred authorities fully sustain the admissibility of the evidence, but even before these cases were decided its relevancy could not have been fairly questioned.

Coming now to a direct consideration of the assignments of error, we find that the first falls to comply with rule 17 of this court, as it neither quotes the full substance of the bill of exceptions, nor copies the bill in immediate connection with the assignment. The offer of evidence and the ruling thereon are given, but the evidence itself is neither set forth nor incorporated by reference. The second assignment, at least so far as it relates to the evidence outside of the certificate therein mentioned, is open to the same objection and the further one that it even fails to show the ruling of the court on the offer. The letters referred to in the fourth assignment, only one of which is set forth or otherwise indicated, were so far as we can see, offered and admitted without objection, hence it is unfair to the court below as well as improper to assign their admission as error. The fifth, sixth and eighth assignments complain of the refusal of the court below to grant a new trial. No exception was taken to this action or the court.

OTHER ASSIGNMENTS.

The other assignments relating to the jurisdiction of the court and alleging in the charge cannot be sustained. The statement quoted from the charge in the third assignment of error, is fully warranted by Spencer's own uncontradicted and unexplained letter. The peculiar character of the case has led us as will be observed, to consider if more fully and broadly on its merits than a strict adherence to our rules relating to assignment of error, demands. In doing so we have reached the conclusion that the defendants were treated with the greatest fairness during the trial, every doubtful question raised by their counsel having been resolved in their favor, that the verdict was the only one the evidence would warrant. That a new trial was refused

for the reasons set forth by the learned trial judge in his opinion, and that the sentences were very merciful. All the specifications are overruled, the judgment is affirmed and the record remitted to the court below, to the end that the sentences imposed may be duly enforced. And it is ordered that the defendants surrender themselves forthwith to the custody of the keeper of the jail of Luzerne county and serve out so much of the periods of imprisonment prescribed by the said sentence as had not expired on June 30, 1897, the day that the suspensions allowed on this appeal took effect.

The other decisions were as follows: Building Association vs. Wampole, reversed. Forney vs. Huntington Co., appeal, quashed. Phillips vs. Mutual Aid society, reversed. Zion church vs. Light, Lebanon county, re-argument ordered.

The following reversals were also made by the court relating to returns days, etc.: An order fixing the session at Williamsport to begin second Monday of February. Commonwealth vs. Coble, Schuylkill county, continued to Philadelphia, the first Monday in December.

Orders to depositions in appeal of Millin county. The opinions of the court were as follows: By Rice, P. J. Heller estate, Philadelphia county, affirmed; Porter, J. disburse, Commonwealth vs. Rogers, Philadelphia county, affirmed; Leader vs. Dunlap, Philadelphia county, affirmed; Skinner vs. Chase, Philadelphia county, affirmed; Commonwealth vs. Yelley, Lancaster county, affirmed.

By Wickham, J.: Commonwealth vs. Sweeney, Luzerne county, affirmed; Fisher's estate, Schuylkill county, affirmed; Chester vs. McLaughlin, Delaware county, affirmed; Bilber vs. Bilber, Philadelphia county, affirmed; Commonwealth vs. Kemper, Philadelphia county, affirmed.

By Beaver, J.: Robinson vs. R. R. Co., Chester county, affirmed; Rodschid vs. McLaughlin, Delaware county, reversed with a venire. Snyder vs. Steinmetz, Northampton county, affirmed; Zimery vs. Harris, Philadelphia county, affirmed.

By Orland, J.: Collins vs. Morning News, Lancaster county, affirmed; Berger vs. Wiler, Philadelphia county, affirmed; Walker's License, Philadelphia county, reversed, appeal to pay costs. Adams vs. Noll, Berks county, affirmed; Commonwealth vs. Mitchell, Somerset county, affirmed.

By Smith, J.: Estate of Samuel Rogers, Lancaster county, affirmed; McLaughlin vs. Wilson, Huntingdon county, affirmed; Kelly vs. Bann, Philadelphia county, affirmed; Ferree vs. Young, Philadelphia county, affirmed; Sewell vs. Ackery, Bucks county, affirmed; Commonwealth vs. Hutchinson, Blair county, affirmed; Clements vs. Boister, Lancaster county, affirmed; Rodschid vs. Porter, J., affirmed.

By Porter, J.: Insurance Co. vs. Storage Co., Philadelphia county, reversed; Commercial Ice Co. vs. City of Philadelphia, Philadelphia county, affirmed; Karahuta vs. Traction Co., Schuylkill county, affirmed; North vs. York, Montgomery county, affirmed.

ONLY TWO APPEALS.

Only two appeals remained to be heard yesterday morning, both were from Wayne county. In one of them Gaston W. Ames, of Hawley, appealed from the decision of Judge Archibald, specially presiding, by which he was directed to allow his wife \$35 counsel fees and \$20 a month alimony during the pendency of divorce proceedings which she instituted against him.

The defense which Ames offered at the hearing was that he was not financially capable to contribute anything to his wife. It was argued by his counsel that he was weak minded and that the position which he held as cashier in his father's bank was merely given him to divert and occupy his mind and that a lady clerk transacted the business. Judge Archibald said in his opinion in the matter, that all this might be true but he was not prepared to believe it on the testimony offered.

Ames was filling the position of cashier and it was not his fault, or the fault of those who are entitled to his support, if he is not receiving a cashier's salary. The judge gave alimony on the basis of the husband retaining a cashier's salary and from this the appeal was taken.

F. P. Kimble and H. Wilson argued for the appellants, and W. H. Lee appeared for the appellee.

The last case of the test was that of Menner & Co., of Homestead, against the Duke and Hines, of Carbonado, spurious appellants. The company was carrying a consignment of goods to Homestead for the plaintiffs. Among the articles were two barrels of New Orleans molasses. At Carbonado one of the molasses was being trucked to the gravity cars the head of one of the barrels was discovered to be leaking and before the barrel could be turned on end the head gave way and the molasses was lost.

JUDGMENT RECOVERED.

Menner & Co. recovered judgment for the value of the molasses before Judge Peacock. The first class of the company held that the molasses had fermented and caused the barrel to burst and that the accident was not due to any negligence on the company's part. It also contended that it was not an insurer of the goods. Homer Green argued for the appellants, and F. P. Kimble and H. Wilson represented the company.

The out-of-town judges left for their respective homes on the early afternoon train. Judge Beaver stopped at Wilkes-Barre to be the guest of Judge Rice for today. Court Crier W. K. Taylor and Messenger Samuel Wilson will leave this morning for Philadelphia.

BOWLING NOTES.

A handicap bowling contest is now being conducted at the Elk's alley under the auspices of the Elk bowling club, of which County Surveyor Edmund Bartl is president. There are four classes in the handicap. The first class embraces the scratch men; the second class are given ten pins; third class, twenty pins; fourth class, thirty pins. The prizes are as follows: First, handsome parlor lamp; second, marble clock; third, ornamental tobacco jar. A special prize is to be given Mr. Bartl. It will be kept secret until the contest closes Feb. 3 at 12 p. m.

The Elk Bowling club would like to bow any time in Lackawanna county. Backus' team preferred to be played in Elk's alley and five games in alley of opposing team. Answer through The Tribune.

Steam Heating and Plumbing, P. F. & M. T. Howley, 231 Wyoming ave.

Saves the cost of a wash boiler does FELS-NAPTHA soap. Winter or Summer it does the work without boiling or scalding. Use lukewarm water in cold weather. FELS & CO., Philadelphia.

DEMOCRATS ARE WOEFULLY DIVIDED

Jennings' People Oppose Nominating a Poor Board Ticket.

IT IS NOMINATED NEVERTHELESS

Fahey-Gibbons End of the School Board Ticket Calls and Conducts a Meeting at Which Poor Directors are Nominated and Officers of the City Committee are Chosen--D. J. Campbell is Chairman--M. J. Walsh Secretary, and M. T. Howley, Treasurer.

Despite the protests of the Jennings people the Fahey-Gibbons faction of the city Democracy proceeded yesterday to nominate candidates for the poor board.

The purpose of nominating a poor board ticket is to cure, in a measure, the defect in the school board ticket--its racial topheaviness. For some reason that they do not make clear, the Jennings people do not consider this a desirable move. In fact they openly express the strongest kind of opposition, Convention Chairman Durkin, even going so far as to say he would not certify to the nomination if they were made. The Fahey-Gibbons people ignoring all this set themselves about the work of forming a ticket, and at a meeting in the St. Charles yesterday morning selected what they considered would be an acceptable slate.

J. K. Smith was chosen as representing the First, Second and Thirteenth wards; Fred W. Berge, the Third and Twenty-first wards; M. P. Wymbs, the Fourth, Fifth, Sixth, Fourteenth, Fifteenth and Eighteenth wards; Morris Schwartzkopf, the Seventh, Eighth and Sixteenth wards; D. J. Campbell, the Ninth, Tenth and Seventeenth wards, and John J. Murphy, the Eleventh, Twelfth, Nineteenth and Twentieth wards. What is to be done with the Dunmore end of the poor district was not discussed, as far as could be learned, if indeed it was considered at all.

NOMINATIONS NOT CERTIFIED.

The nomination were not certified to up to the time the county commissioners' office closed last evening, and as yesterday was the last day for filing certificates from cities, the poor board candidates will have to go on the ballot on nomination papers. In fact it was decided by those who made the nominations to use the nomination paper method of getting on the official ballot. They did not want to jeopardize the school director part of ticket in the event of a fight in court over the poor board nominations.

The meeting also named D. J. Campbell for city chairman; M. J. Walsh for secretary, and M. T. Howley for treasurer. It was also given out that the following city committeemen had been named up to date: First ward, James Neary; Second ward, James Riley; Third ward, William H. Cusick; James J. Grier; Seventh ward, James Padon; Eighth ward, John Walsh; Ninth ward, John J. Fahey; Eleventh ward, Charles Tosar; Thirteenth ward, James J. Rowley; Sixteenth ward, M. T. Howley; Seventeenth ward, M. J. Walsh; Nineteenth ward John J. Murphy; Twentieth ward, John Gibbons.

NOT MORE THAN ONE HUNDRED OF THE IMPORTED CHINA PLATES LEFT THAT SOLD FOR MUCH MORE, AND NOW CLOSING OUT AT

5c

NOT MORE THAN FIFTY BOHEMIAN AND DOMESTIC GLASS VASES REMAIN--NOW SELLING AT, CHOICE,

5c

Just twenty-nine Exactly toilet sets buys a \$3 set; \$5 buys a \$10 set; \$7 buys a \$13 set.

It would take a page to tell of the many bargains--come and see them.

THE REXFORD CO.

303 Lackawanna Ave.

NON SUIT IS ASKED.

Arguments Were Heard Before Judge Gunster Yesterday.

In the case of Thomas O'Malley against the Scranton Traction company, which is being tried before Judge Gunster, the presentation of evidence for the plaintiff was concluded at 2 o'clock p. m. yesterday and ex-Judge Jessup, of counsel for the company, began an argument for a compulsory non-suit. The remainder of the afternoon was taken up with his argument and the beginning of Mr. O'Brien's response.

The reasons advanced for a non-suit are contributory negligence on the part of O'Malley and the claim that he was an employee of the Traction company and therefore not entitled to recover under the co-employees' liability act of 1893.

It was contended by ex-Judge Jessup that according to the plaintiff's own testimony he knew that a car was expected from the north at any minute, yet he went to work in the middle of the track, with his back turned towards the direction whence the car was expected, relying for protection entirely upon the warning of the motor-man.

In support of the contention that O'Malley was an employee of the Traction company it was pointed out that on cross-examination certain of the plaintiff's witnesses testified that a Traction company foreman supervised and directed the work of repairing the pavement between the tracks.

At the former trial of the case, Judge Archibald dismissed this latter reason from consideration, but granted a non-suit on the grounds of contributory negligence. Afterwards the non-suit was taken off and a re-trial directed. Mr. O'Brien's arguments against the motion for a non-suit will be resumed the first thing this morning.

The case of the McCoy Glass company against the Lackawanna Hardware company will likely be given to the jury this morning. The arguments of the attorneys were concluded at adjourning time and the judge's charge will be made this morning. Judge Archibald disposed of two small cases in the main court room during the morning. A slander case from Dun-

SOME FOOLISH PEOPLE

Allow a cough to run until it gets beyond the reach of medicine. They often say, "Oh, it will wear away," but in most cases it wears them away. Could they be induced to try the successful medicine called Kemp's Balsam, which is sold on a positive guarantee to cure, they would immediately see the excellent effect after taking the first dose. Price 25c. and 50c. Trial size free. At all druggists.

TWO HUNDRED MEN SUSPENDED.

D. L. & W. Car Shops Laid Off Another Hundred Hands Yesterday.

On account of the scarcity of work one hundred men were laid off in the new car shops of the Delaware, Lackawanna and Western company yesterday.

This makes 200 men that have been suspended from the shops recently, one hundred having been laid off last Friday.

BEECHAM'S PILLS for wind and distress after eating.

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A Rare Chance

To get a good lamp cheap.

China Mall.

MILLAR & PECK

134 Wyoming Ave.

"Walk in and look around"

Fair Warning

News about the crockery sale:

Not more than one hundred of the imported China plates left that sold for much more, and now closing out at

5c

Not more than fifty Bohemian and domestic glass vases remain--now selling at, choice,

5c

Just twenty-nine Exactly toilet sets buys a \$3 set; \$5 buys a \$10 set; \$7 buys a \$13 set.

It would take a page to tell of the many bargains--come and see them.

THE REXFORD CO.

303 Lackawanna Ave.

FOR A FEW DAYS WE CONTINUE OUR GREAT SALE OF DRY GOODS

Remember

You can buy a Stylish Coat or Cape

Cheaper of Us Than Elsewhere. Come and See.

MEARS & HAGEN,

415 and 417 Lackawanna Avenue, Scranton, Pa.

TOILET SETS

and Toilet Sets, some are sold cheaper, some are sold for more than the prices we are quoting below.

6 piece set, neat designs..... \$1.39

6 piece set, gold decorations..... 1.98

10 piece set, 3 colors and gold stiple, 10 patterns to select from. This is the one that worries our competitors..... \$2.98

10 piece set, Harvard shape decorations of roses, honeysuckles and geraniums, 3 patterns, with gold and stiplled edge... \$3.49

12 piece set, solid blue body with gold and tint decorations..... \$9.98

See the most complete housefurnishing department in the city.

Down stairs,

THE GREAT

4c. STORE

310 Lackawanna Ave.

J. H. LADWIG.

KIMBALL PIANO

Great musicians use Kimball's. The testimony of musicians who command a salary of from \$1,000 to \$2,000 for each performance must be accepted as having weight. They, at least, escape the charge of not knowing what they are talking about. Lillian Nordica says: "The more I use my Kimball piano the better I like it." Jean De Reszke says: "We have concluded to purchase Kimball pianos for our personal use." John Philip Sousa claims: "The Kimball piano is first-class in every respect." Some of the most beautiful cases in walnut, mahogany and oak can be seen here. I have some fine large pianos, all colors, from \$250 to \$500, on easy terms, and a term of lessons free. George H. Ives, 9 West Market street, Wilkes-Barre, general agent; W. S. Foote, local agent, 122 Page Place.

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9 West Market Street, Wilkes-Barre.

W. S. FOOTE, Local Agent,

122 Page Place, Scranton, Pa.

ATTEND TO YOUR EYES NOW

DR. SHIMBERG, 305 Spruce Street.

Dyspepsia, Heartburn, Gas, indigestion, and all stomach troubles are cured by Grover's Dyspepsia Remedy. It is a specific. One dose relieves distress and a permanent cure of the most chronic and severe cases is guaranteed. Do not suffer! A 50-cent bottle will convince the most skeptical. Matthews Bros., Druggists, 320 Lackawanna Avenue.

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