THE SCRANTON TRIBUNE-WEDNESDAY, JANUARY 11, 1899.

CASES HEARD IN SUPERIOR COURT

IS WILKES-BARRE A CITY OF . THE THIRD CLASS?

That Was the Point on Which Argument Hinged in Case of ex-rel. Harry Liem Against R. P. Robinson, County Treasurer of Luzerne. Case in Which the Famous Louis S. Winterstein, of Bloomsburg, Was Mixed Up-Cases Nol-Prossed and Discontinued

Whether Wilkes-Barre was in 1897 a city of the third class or one of the "and others" cities which are not included in the statutory classification was the point at issue in one of the cases argued yesterday before the superior court.

It is the appeal of the commonwealth of Pennsylvania ex rel., Harry G. Liem appellant against 11, P. Robinson. treasurer of Luzerne county. The matter grows out of a case stated submitted to Judge Lynch to decide whether or not the plaintiff should pay \$350 or \$550 for his retail liquor license. The license law provides that in cities of the first and second class retail liquor dealers shall pay \$1,100 license in citles of the third class, \$550, and in all other cities \$350.

The plaintiff contended that inarmuch as Wilkes-Barre had been speclally chartered and that it had not accepted the provisions of the act of 1874 up to the time of the bringing of this suit, it did not come within the classification and must be considered one of the cities referred to as "all other cities." The act of 1874 provides that all cities of less than 100,000 population and more than 10,000 should be included among the cities of the third class, excepting by implication, such cities as had been specially chartered, but providing that they might come within the classification by accepting the provisions of the act. Wilkes-Barre, however, did not accept the act of 1874, and it is held does not come within the classification.

PURPOSE OF CLASSIFICATION. The purpose of the classifica population was argued tion by to be altogether foreign to the matter of liquor licenses. It was solely, the plaintiff contended, for the regulation of their municipal affairs. The act of 1889, which placed all cities of less than 100,000 population in the third class, was not applicable to this case, it was averred, because cities specially chartered were excluded from its operations. In conclusion, it was held, that the legislature which passed the classification legislation must have had in mind its own classification when it later passed the liquor license act.

The appellee's argument was in the main a contention that an exactly similar case had been decided in favor of the county treasurer by Judge Rice, ett. appeliant, quarter sessions, Luzerne when he was president judge of Luzerne county, and that the supreme court affirmed his finding. He held ban theat William Dawson against the Wilkes-Barre and Wyoming Valley Traction then that Wilkes-Barre, although specfally chartered, was, by reason of its zerne county. population, included in the category of third class cities, and retail liquor deal-ers should pay a fee of \$550. No sub-ing is Giles Stanton against the Scransequent legislation having changed the | ton Traction company, appellant, C. P., standing of the city as to classifica- Lackawanna county. Ex-Judge Wil-

a city of the third class. The suit, of course, antedates Wilkes-Barre's recent acceptance of the pro-

trees and shrubbery skirting the rail-WAN. He avers that he stopped on the bridge and surveyed the track up and down and listened for approaching trains, Neither seeing nor hearing any

structed by a tool shanty, and limbs of

train he drove down the hill and was about to cross the track when a long train of cars with the engine pushing them from behind bore down upon him. He turned his team quickly to the right but not in time to wholly escape the train. The corner of the first car struck the front wheel of his wagon

turning the wagon and throwing him heavily to the ground. ALLEGATION OF DEFENSE.

and grazed one of the horses, over-

The defense alleged contributory negligence, concluding that Wojochoski should have stopped at the edge of the railroad to "stop, look and listen," instead of taking this required pre-

judge of Wayne county, succeeded Judge Archbald in the main court caution at an unreasonable distance oom yesterday morning, and took up back from the railroad. As an evidence of conscious liability the intricate interpleader case of Charles Hill against S. C. Whitmore. on the part of the company evidence was presented at the trial in the court The property in question is a quantity elow to the effect that four men were of mill machinery purchased by Lewis Boyer & Son, of Mayfield, from the employed for three days immediately Sawyer Lumber company, of North succeeding the accident in clearing

Tonawanda, N. Y., for \$446.67. away the brush and trees skirting the track and which it is alleged made it The Boyers could not make payment and to effect a settlement agreed to impossible to see an approaching train from the north without getting directturn over the machinery to the agent of the Sawyer company, the plaintiff ly on the crossing

The case of itself was very dry but in the present case. A bill of sale its presentation by Hon. John M. was made out by Attorney Carey at Garman for the plaintiff and A, H, his office in Jermyn and delivered to McClintock and Hon, H. W. Palmer Mr. Hill. An effort was made by Mr. for the company, made it one of the Hill to sell the machinery to some lomost interesting features of the session cal mill, but failing in this, he prothus far. The quips and good natured ceeded, after a few days, to cart the bantering of the opposing counsel machinery away. As he was loading it more than once made the court relax on dray wagons, S. C. Whitmore apits austerity and join in the general peared upon the scene with judgment

Hon.

executions against Boyer & Son and The conclusion of the arguments in held up the machinery. The sult is the case of Schwab against Bickel to determine who is the rightful owner. took up most of the first hour of the Boyer's conflicting statements to the Mr. Strauss, who parties in the case make the case a very complicated one. Attorneys E. argued against the defendant appellant's claim of squatter sovereignty C. Newcomb and H. L. Carey reprecontended that the tenants of the sent the plaintiff and Attorney W. J. Beckel property used the narrow pas-sageway in question by the permission Hand, the defendant. TRESPASS CASE. and with the knowledge of the orig-

inal owner J. D. L. Harvey, in conse-quence of which there was no adverse Judge Gunster spent the greater part of the day in trying the trespass case possession. The little "passageway in of Michael Wrobelowski, against the question" was used principally at borough of Archbald, in which the night time. It led to the premises of a plaintiff seeks to recover for the loss of a horse. The plaintiff is represent-At the opening of court Charles B. ed by Carpenter & Fleitz, and the bor-

mechanics' lien for \$195.

Little was admitted on motion of J. ough personified in President William H. Torrey, and Ernest K. Little, of Hunt and Philip Barley, of the coun-Wilkes-Barre, on motion of John Mecil, is looked after by C. A. Batten-Gahren. berg, borough solicitor. On Jan. 13, 1897, the plaintiff's boy

SOME OTHER CASES.

laughter,

morning session.

Miss Bonnie Reed.

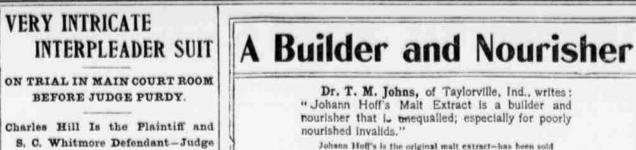
was driving along Wayne street with Other cases were disposed of as fola load of grocerles, when the horse broke through a patch of ice, that had

formed on the roadway, and broke Nol-Prossed-Borough of Dorranceton ppellant, against the Wilkes-Darre Ath-tic Park company, common pleas Luone of his legs. The defense was that the horse fell rerne county; Ida Case Brown agrinst Thomas Atkinson, executor, appellant, and James Martin, sheriff, common pleas, by reason of being compelled to haul an excessive load and in trying to regain its feet broke its leg. It was also Luzerne county; Hagerstown Mazaine company, to the use of William Krickcontended that the plaintiff was guilty of contributary negligence in driving baum, appellant, against Johnry,

common pleas, Columbia county, Discontinued-Commonwealth ex, rel., over a dangerous street when safet routes were open to him. In the case of Ansley and Son against Tewksbury, the jury yesterday aftercounty noon found a verdict for the plaintiff in the sum of \$\$1. It was a suit on a Submitted-Washington Le Grand and

company, appellant, common pleas, Lu

The first case to be called this mornsuit had been pending for several years tion, it must remain, it was contended, lard, as representative of the appellant, will be heard arguing before his



Gunster Spent the Greater Part of the Day with the Trespass Suit of Michael Wrobelowski Against the Borough of Archbald-Case of Ellen Moore Against City of Scranton

George S. Purdy, president

nourisher that is mequalled; especially for poorly nourished invalids.' Johann Hoff's is the original malt extract-has been sold ance 1847. Heware of substitutes. Johann Hoff's Malt Extract

the improvement of Jackson, Robin- and asked to have the judgment son and Ninth streets. Mrs. Moore stricken off,

It appears that the defendants live owns a hotel property near the interin Wyoming county. The plaintiff served the summons on Attorney C. R. retaining wall at that point has divers- Pitcher as their agent. They deny that ed travel from her side of the street he is their agent and further aver that and depreciated the value of her build- even if he was the proper proceedings was not followed.

Judge Edwards sustained this contention and says that the act of 1851 provides a specific method for a proceeding of this character.

RITTER WAS REMEMBERED.

Grand Jury Presented Him with a Valuable Pipe.

old yesterday. The grand jury, which he has had charge of for the last ten days, learned of this and taking up a collection presented the veteran court officer with a handsome combination

Mr. Ritter is the oldest of the court tipstaves both in age and point of service. He was appointed twenty years ago this month by the late Judge Handley and has served continuously teemed as well as venerated by every-

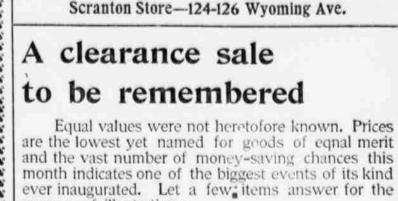


Organization of Teams Will Be Effected Thursday Night.

A meeting of the young men who are to compose the Scranton basket ball team in the Pennsylvania Basket Ball league will be held Thursday evening at Charles Zang's cafe, on Linder street. This meeting was to be held last Friday night, but was postponed on account of the disagreeable weather, The prospects for basket ball are very bright at present. There will be two teams.

There is some very good material they may make some of the other among the young blood this year, and players hustle to retain their place on the team. The teams will be conducted on a more systematic basis than in years past. John McGrath, of Wyoming avenue, will have charge of the physical welfare of the teams, which will start practice next week. The following players are requested to report at the meeting Thursday evening: Charles Zang, Wallace Moir, Theodore Fahrenholt, Julius Posner, Edward Bircher, Nelson Teets, George Koch, 1. 5 Joseph McDonald, James McGoldrick, Steve Rhule, Adolph Heisner, Charles Neuls, Henry Reidenback, Delsing, Smith, Tuttle, Bull, Thomas Gilleran, Lisk, Garrel, Hill, Kurtz, Rosa, Simpson and Campbell. The club is now ready to receive challenges from all basket ball teams in the state, barring none.





purpose of illustration :

2

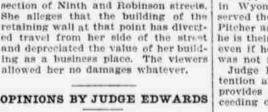
\$

8

发列我的时间的的时候的时候的时候的时候的时候的时候的时候的时候的时候的时候的

THE LEADER

Ladies' \$5 cloth jackets	15c dress goods, yard wide8c Quite a little of this on hand, but not so very much when you consider the price. Half wool and a yard wide8c
Ladies' \$2 dress	Ladies' 75c wrappers,
skirts, at only89c	special at33c
Several lots all wool skirts,	Fast color calico, cut extra
in large and small figures and	large in blue and red. These
black and white checks, per-	wrappers are of the regular
caline lined, price was	75 cent kind and go
up to \$2.50	only for a few days at. 33C
25c bisque dolls,	25c net top
special at10c	laces for 6c
All of these are jointea,	This is a lot in cream and
have moving eyes and are the	white and of a quality that al-
same as we sold during the	ways brought from 15c to 25c,
holidays at 25c. Spe-	Special clearance sale
cial during this sale 10c	price while they last 6C
Men's 29c merino	59c muslin gowns,
shirts and drawers 12c	special at33c
Excellent value at 29c, as	Only about 200 in the lot so
you will see. They are in	they cannot last very long. Of
white only, odd sizes and only	fine muslin, mother hubbard
limited quantity, so	yoke, trimmed with
call early 12c	lace and embroidery. 33c
Ladies' 50c	Men's 50c negligee
walking hats5c	shirts, at only19c
Several lots of ladies' and	These have collar and cuffs
children's walking hats and	attached, are laundered, well
sailors, all in one lot, price was	made and come in nice pat-
up to 50c, no less than	terns; sizes 16½, 17
four weeks ago, now 5c	17½,18; while they last 19c
Men's 10c seamless	Ladies' \$5 silk
half hose3c	waists, special1.98
A bargain that you will	High class waists in plain
have to go far and wide to	and striped taffetas and some
find the equal of. Several hun-	very rich block effects and
dred pairs of these were	checks. Price was up
sold first day of this sale 3c	to six dollars, special 1.98



Four Decisions in More or Less Important Cases. Four opinions were handed down by

Judge Edwards yesterday morning. In the case of N. B. Levy & Bro. against A. L. Schiller he made abso-Tipstaff Jacob Ritter was 77 years lute the rule to dissolve an attachment founded on the fraudulent debtors' net, Schiller owed Levy & Bro. \$293,39. They feared he intended to decamp

had him attached under the meerschaum and briar pipe. fraudulent debtors act. He denied all this and asked to have the attachment

In his opinion in the case Judge Edwards says:

"While the conduct of the defendant, Schiller, in the proceedings before ever since. He is a faithful, efficient Alderman Millar, may be open to sus- and obliging efficer and is highly espicion, we think the evidence is insufficient to impress the taint of fraud body about the court house, on the transaction involving the judg-

ment on which defendant's property was sold at sheriff's sale * * * * To prolong the controversy between parties to this case would result only in taking from the judgment creditor a sum of money for costs and

expenses, which could not in any way benefit the attaching creditor." The rule to open judgment in the case of R. C. Wills against Ellen Long and James McGovern, was made ab-solute and an order was entered diecting that the plaintiff, within ten days' file a declaration or statement of the amount and nature of his claim. The suit is on a judgment note for \$200. The defendants signed it so they allege, believing it to be for only \$50. They never knew of its being for \$200 until it was entered up against them. They also aver that after the note was signed it was altered by the addition of these words: This note is given to secure payment of any account which we now owe or may hereafter owe the Keystone Brewery Co, or R. C. Wills," A small book account and \$50 for borrowed money is all they owe the plaintiff, so the defendants allege. In the case of W. G. Miller against Cure & Cramer the exceptions to the

report of the trial judge were dis-missed and judgment ordered to be A verdict of \$8.66 was returned in the case of Leonard Brothers against entered for the defendant according to M. W. Guernsey, in which the claim was for \$10 worth of stove repairs. The The rule to strike off judgment in the case of Avery B, Brown against and a jury was occupied two days with Frank E. Proper and Hiram Proper .ts trial, one day in hearing the testi- executors, was made absolute. The

plaintiff claims \$1,089.37 of the demony, and another in deliberating upon a verdict. fendants as being due him up to date from the carnings of his brother CITY THE DEFENDANT tate of which he is an heir of which The case of Ellen Moore against the they are executors. He secured judgcity of Scranton was called before Judge ment in that amount by default of the Love just previous to adjournment. It defendants to make answer. Later is an appeal from the award of view- they came in and alleged that the surers in the damage claims arising from mons had never been served on them

the

Me shi

Lad wa

S chil saile up t

visions of the act of 1874 and the sur render of her special charter.

Hon. John M. Garman and John Mc Gahren appeared for the appellant. County Solicitor George S. Ferris, Charles S. Keck and Charles F. Mc Hugh represented the appelled

ALLEGED FRAUDULENT DEAL. An alleged fraudulent deal, engineered by the celebrated ex-Bloomsburg lawyer, Louis S. Winterstein, of dynamite and drugged-coffee fame, was the subject of two half-hour speeches during the afternoon. The deal formed the basis of the suit of Myron L Low and George Ivey against Edward Ivey, appellant, C. P., Columbia county, Attorney Fred. Ikeler appeared for the plaintiffs, and the defendant appellant was represented by Hon, Andrew L. Fritz, who will be remembered as a candidate for speaker of the house o representatives in 1895. It appears that Richard Ivey owned a farm and owed a lot of money, Low and his brother Edward Ivey, the defendant, being his principal creditors. When it was apparent that he was about to go under. Richard accepted a proposition from Low that if he should mortgage the farm to him he might remain upon it. tilling it, taking his own living out of It and turning over to the mortgagee whatever would be left over and above the cost of running the farm and Richard's living expenses. The brother, Edward Ivey, and the other creditors, however, would not agree to this and brought the sheriff and an interpleader down upon them. Winterstein figured in the case as attorney for Low. George Ivey is a young son of Richard. He was given possession of some

minor property. Low won in the lower court. Ivey's appeal is based on the principle that a debtor prefering a certain creditor can not benefit by the preference. The plaintiff contended that there was no fraud or illegal dealing; that Low simply made the deal in question out of pure charity for the bankrupt Ivey.

LAST CASE HEARD.

The last case heard was that of Conrad Lee, appellant, against the Excter club owner or reputed owner and William O'Malley & Son, contractors. It is a suit to recover on a mechanic's lien for \$546.65. The plaintiff was dethe lien being defective. The appeal below erred in declaring the lien defective. James R. Scanton represented the appellant and George S. Ferris, the appellee

The first new case taken up yesterlay was that of Dominick Wojochoski igainst the Central Railroad of New Jersey, appellants. The plaintiff sesured \$550 damages in the Luzerne courts for personal injuries and damages to his horse and wagon sustained in a grade crossing accident at Lee Mine station near Nanticoke on Oct. 1892.

He was driving along the road to-wards Wanamie in a closed butcher wagon. The road crosses a branch of the Jersey Central by an overhead bridge, and, about seventy-five feet farther, passes over the main line at the main avenue: John Hogan and Mary Gaughan, of Scranton. farther, passes over the main line at The following prisoners were yesterday grade. As is evident, there is a steep discharged from the county jail, the hills decline between the end of the bridge and the grade crossing. From the bridge there is a clear view of the track for a long distance but at the foot of the hill, according to the plaintiff's con-tention the view to the north is ob-

ARGUED FOR A NEW TRIAL Attorney for Miglin Want Another

Chance for Their Client. President Judge Edwin M. Dunham,

of the Wyoming-Sullivan district, heard arguments in the law library, yesteray, on the rule for a new trial for Joseph Miglin, convicted before him of robbery, when he sat here in quarter ssions, last June.

Attorney C, Comegys argued for the rule. It was opposed by District Attorney John R. Jones and Attorney John J. Murphy, private counsel for the prosecution. Insufficiency of the judge's charge was the main ground for the plea for a new trial. Miglin was found guilty of robbing Sioney Rene at the Ridge, in Archbald borough, last spring.

WERE REFUSED A LICENSE.

Bride-Elect Was a Minor and Without Parents' Consent.

Henry R. Wolfe and Blanche E Moore, of Syracuse, applied for a marriage license yesterday, but as she was only twenty years of age and not possessed of the necessary consent of parents or guardian they were refused. They left the clerk's office with the intention of going to Binghamton. The bridegroom stated that he has

resided here for several months and that he was employed as an engineer by the Scranton Packing company, She said she came here two weeks ago. Both gave their present residence as 433 Webster avenue. They stated that it was their intention to be married here and go to their Syracuse home or their wedding trip.

KNOWN AS THE CARD CASE.

Divorce Proceedings Follow a Nine Years Desertion.

Through Attorney Michael F. Gilroy, Bina Card, of this city, yesterday brought divorce proceedings against her husband, Fred C. Card, of West Nicholson, alleging long continued desertion.

They were married Oct. 7, 1879, and on Christmas day, 1888, the husband feated in the court below because of withdrew from his home and has ever since refused to live with his wife, s made on the ground that the court The hearing promises some racy testimony.

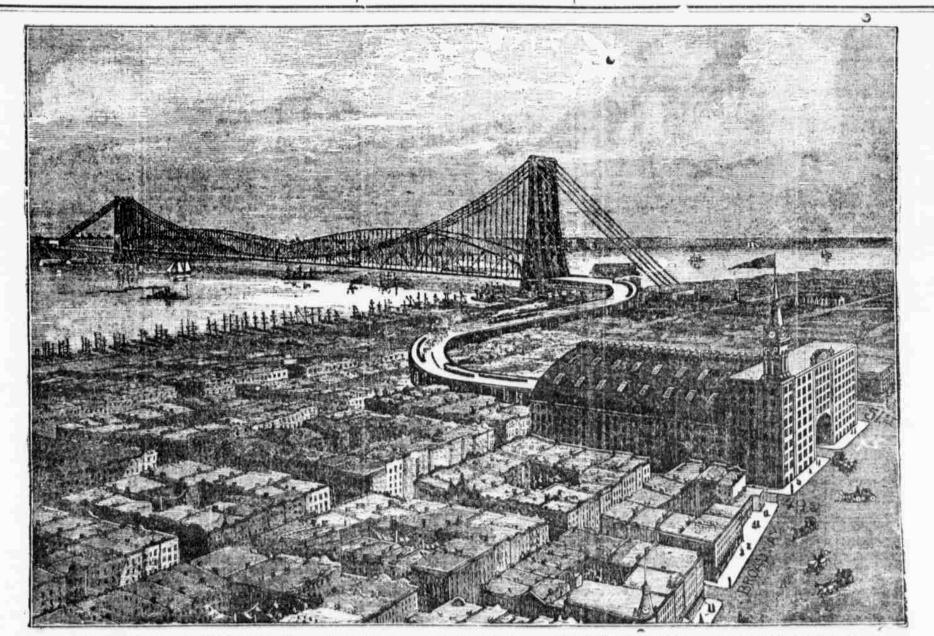
COURT HOUSE NEWS NOTES.

On motion of Attorney T. P. Duffy rule for a decree in divorce was yester-lay granted by Judge Archbald, and January 20 at 2 o'clock p. m., was itsed

s the time for taking depositions. Marriage licenses were yesterday grant. d to Edward Meledy, of Carbondale and Lucy Kennan, of Greenfield, Pa.; An-theory McNuity and Bridget L. Harrison of Scranton; Ralph E. Balley, of Chin chills, and Elizabeth A. Davies, o

Republicans. Vote for Jadwin and good pavements on the 14th. "The Red Ball is up" on the boards.

Lebeck & Corin



YORK BRIDGE NEW JERSEY NEW AND

Greatest Engineering Project of the Kind Ever Undertaken-The Bonds for This Structure Are Now About All Underwritten, and Work Will Be Commenced on the Bridge in the Spring-How It Will Benefit New Orange-Bird's Eye View of the New Depot Which Will Front on Broadway-It Will Be the Finest Terminal Property in the World.

bonds will be issued. Of all the great bridges planned and

a large section of the city which is now ford.

points on the Jersey shore,

In addition to this, it will probably be now under way, by far the most impos- made the terminus of the New York high, or more than twice as high as removed by the easy access which the miles from N

The cost of the bridge itself is esti-mated at \$25,000,000. The cost of the uestionably be the largest and finest. Fifty-ninih street. Tracks will run to the great union station, which will be reaching consequences in the way of a will hardly be a New Jersey hamlet mated at \$20,000,000. The cost of the rallway station in the world. Under the approaches, etc., is estimated at \$20,- single glass roof of this enormous ninth to Fifty-first street. The im- ity of Broadway and Fiftieth street. will not be in guick and comfortable 900,000. This makes the total cost ap-proximate \$50,000,000. To meet the ex-great trunk lines which now distribute and have forty tracks to accommodate will happen, of course, on the Jersey the great city. penditures at least \$70,000,000 worth of their passengers by ferry from various all the trains now running into Jersey side of the river. Suburban residents City and Hoboken.

The bridge towers will be 557 feet Jersey railroads will find all obstacles is especially but

This will greatly increase the value will be greatly increased. The New of New Orange property. New Orange situated only 1849

The new bridge ing is the one over the North River. It Central, the Long Island (via the East those of the Brooklyn bridge. The bridge will afford to the very heart of will mean dir st trains to this section is not only the most important archi- River bridge) and the New England structure will be of a single span, about the city. Theatres and all evening en- and will build up the Orange Mountain tecturally but also from the effect it system of railroads as represented by 8,200 feet in length, with two decks and tertainments and social functions will region as the Deboldyn bridge built will have commercially as well as upon the New York, New Haven and Hart- a capacity for fourteen railway tracks be easily within the reach of persons up Erockien. New Orange will a large section of the city which is now comparatively stagnant from a business point of view. To begin with, it will 180 feet wide and will cross the river at sections of the bridge will be very cheap.

New Orange lots, \$325. For information call or address local office, 308 and 309 Mears Building, Scranton, Pa.