Special Inducements

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LUDWIG, BRIGGS, VOSE

And Others.

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SCRANTON

AMATEUR PHOTOGRAPHY

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KEMP'S, Wyoming Avenue

HUNTINGTON'S BAKERY CREAM, ICES AND FROZEN FRUITS

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In the City Who Is a Graduate in

420-422 SPRUCE STREET.

DR. H. B. WARE, SPECIALIST.

Eye, Ear, Nose and Throat

Office Hours-9 a. m. to 12,39 p. m.; 2 to 4, Williams Building, Opp. Postoffice.



CITY NOTES

POOR BOARD MEETING .- The poor board meets in regular session this af

RESCUE MISSION.-Secretary W. W. Adair will conduct the service at

PATENT GRANTED,-T. B. Howe, of valuable improvements on sand driers.

FUNERAL TODAY .- The funeral of

W. S. GOULD ELECTED.-The Scran ton Lodge of Elks held a meeting last evening in their rooms and elected W. S. Gould as secretary to fill the vacancy caused by the resignation of M. P. Mc

WILL HOLD AN INQUEST,-Coroner Roberts will hold an inquest this even-ing in the court house in the case of Ellen Shafter, who died from the result of in-juries received by being accidentally shot by Albert White.

AN INFORMAL SOCIAL -- An informal social and reception will be held to-night in the parlors of the Penn Avenue Haptist church. A musical programme will be given by John T. Watkins, Mrs. B. T. Jayne and others.

M'NALLY DAMAGE CLAIM .- A subcommittee of the auditing committee of councils has been appointed to pass upon the claim of E. J. McNally, for \$250, for damages done his property at the corner of Railroad avenue and Luzerne street by water overflowing from the street.

A NEW COMPANY.-A charter was issued by the state department on Tuesday for the Birdseye Paint company, of this city; capital stock, \$6.000; directors, Mark Simpson, Dan Powell, Fred D. Stevens, of Dunmore: Charles Morton, ton; Frank B. Benjamin, of Peckville.

FUNERAL OF JOHN ROLL.-The fuheral of John Roll was held yesterday cided to be public officers, under the norning at 8 o'clock from his late residence on Jefferson avenue. Short services recipients of the money of the public. were held, after which the remains were teken to the Lackawanna station, where

Lehigh County Fair at Allentown. On Thursday, Sept. 21st, via Central Railroad of New Jersey by special train leaving Scranton at 7.25 a. m. Fare for the round trip, adults, \$2.59; children, \$1.90.

West Pittston Fair, Sept. 19 to 22. Special on Friday, Silver Chimes, 2.08%, to beat track rec-

REPUBLICAN COUNTY CONVEN-

TION. In pursuance of a resolution of the Republican courty committee passed at a regular meeting held on Saturday, Aug. 19. 1859, the County convention will be held on Tuesday, September 26, at 2 p. m. in the court house, Scranton, for the purpuse of computing returns and transacting such other business as shall be brought before it.

brought before it.

Vigilance committees will hold primary elections on Saturday, September 21, 1836, between the hours of 4 and 7 p. m.
Each election district shall elect at said primary election three qualified persons to serve as vigilance committee for the next ensuing calendar year, whose names shall be certified to on the returns to the

county convention.

Candidates who have thus far registered their names with the secretary and those who are desirous of registering will observe the requirements of rule 7, which reads as follows: "Each candidate shall pay his assessment to the county chair-man at least twenty days before the prielection, or his name will not be Nk.fl mary election, or his name will not be printed on the official ballot." Saturday, September 2, is the last day for reg-letering and paying the assessment. E. N. Willard, Chairman.

J. E. Watkins, Secretary.

VOSBURG DECIDES AGAINST THE MAYOR

RENDERS AN OPINION IN LINE WITH TORREY DECISION.

Police Officers Are Not "Public Officers" Within the Meaning of the Constitution and Cannot Be Removed Like a Street Commissioner or Chief of the Fire Department. Select Council Must Be Consulted in Their Dismissal - Interesting Thorough Discussion of the Much Clouded Question.

City Solicitor Vosburg in a lengthy pinion submitted to the police committee of select council last night, d :cides that Mayor Moir's removal of Patrolmen Saul and Dyer is ineffective without the consent of select council. Just as was held by ex-City Solicitor J. H. Torrey in the Anthony Walsh

The committee took no action on the matter, deciding to wait until the regular meeting next Thursday night.

Mr. Vosburg's opinion is most exhaustive, clear and concise. He deals with the whole matter of the mayor's appointive power and it will doubtless long stand as an authority for the guidance of the city. The opinion follows in

To the Honorable, the Members of the Select and Common Council of the City of Scranton, and the Police Com-

Gentlemen: Your inquiry of the 7th nst., as to the power of the mayor to remove patrolmen without the consent of the select council, raises an important and difficult question, and one that is worthy of careful consideration, and his must be my excuse for a somewhat

CONSTITUTIONAL PROVISION. As there has been some misappreension as to the extent of opinions furnished by me heretofore, I wish to state the distinction between the offices with respect to which those opinions were filed, and the office of patrolman. It seems perfectly clear to me that such officers as the chief of the fire depart-ment, street commissioner and building inspector may be removed by the mayor at his pleasure, with or with-out cause, and without any action upon

the part of the select council.

This opinion is based upon the fact that the Constitution of this state pro-vides that "Appointed officers other than judges of the courts of record, and the superintendent of public instruc-tion, may be removed at the pleasure of the power by which they shall have been appointed." In the case of Houseman vs. the Commonwealth, 100 Pa. page 222, this provision was held to apply to municipal officers, provided they were not petty officers. And it seems to be settled by the case of Lane vs. Commonwealth, 103 Pa., page 481, that the select council is no part of the appointive power, so far as public offi-cers are concerned. In that case it was held that the governor was the appointing vower, and hence had the power of removal, although Article 4, Section 8, of the Constitution declares that he shall nominate, "and by and with the advice and consent of twothird of all the members of the sen-ate appoint," certain officers therein

The power conferred upon the senate being similar to that conferred upon in applying that decision to a municipality, and therefore holding that so far as "public officers" are concerned. James Lynch will be held this morning at the mayor is the appointing power, and therefore has the power of removal. The test then as to whether this con-The test then as to whether this con-stitutional provision applies to a par-ticular officer, is whether or not that officer is a "public officer" within the meaning of the constitutional provis-

ion to which I have referred. It is difficult to determine in some cses just what constitutes a "public officer" within the meaning of the Con-stitution. Judge Simonton held that the street commissioner was a public offi-cer, and could therefore be removed by the mayor, because he has very important duties to perform; and in the case of Houseman vs. the Common-wealth, cited above, the receiver of taxes of Philadelphia was held to be such a public officer, because he was placed in a position of trust, handling large sums of the public money.

SOME "PUBLIC OFFICERS."

The same reasoning would apply in he case of the chief of the fire depart-ment and the building inspector, both of whom are placed in positions of trust, handling the public money to some extent, and directing public work, But when we come to consider whether a police officer is such a public officer as was meant by the framers of the Constitution, when they referred to "public officers," we find much conflict

Judge Biddle, of Philadelphia, said in the case of the Commonwealth against Stokley, 20 W. N. C. 215, "In both of the cases cited to us, one of a munici pality and the other of a state officer the ground upon which they are do

"It is very clear that no policeman can be brought within this category, they were taken to Penn Yan, N. Y., for Interment. He is simply a ministerial officer, with no power to judge of the matter to be done, but bound to obey and carry out the mandates of a superior. His prin-cipal function is that of a peace officer to maintain public tranquility among the citizens. His appointment and removal is therefore necessarily dependent, in our opinion, upon legislative action, and is in no way restricted by

> A full beard isn't much consolation to a man with a bald

Hair Vigor

will make hair grow.

the Constituional provision suggested. He is not a 'public officer' in the sense in which that term is used in the Con-

stitution of Pennsylvania."

In the case of Russell vs. Williamsport, 9 Pa., County Court Reports, 129, Judge Metzger heid that police officers are not public officers within the meaning of the Constitution.

The same doctrine is held in New

York state. See Shawley vs. Brooklyn, 30 Hun., 396. It is true that it was held by Judge Weiss in the case of Commonwealth vs. Rutherford, 8 Dist. Reps., 349, inferentially at least, that policemen are lic officers within the meaning of Constitution, but that question only arose incidentally, the main point at issue being the constitutionality of the Act of 1897, prohibiting the removal of honorably discharged soldiers. The other case which has been referred to as sustaining the same point, viz., the decision by Judge Simonton in Commonwealth vs. Lynch, 8 Dist. Reps., 347, only decides that the street commissioner is a public officer within the Constitutional provides

NOT A PUBLIC OFFICER. seems then, from the weight of suthority, that a police officer cannot be regarded as a public officer within meaning of the Constitution. If the removal of police officers is not controlled by the Constitution, we must look to the next highest author-ity, viz., the legislative enactments of this state. Referring to the Act of May 23, 1889. P. L., page 277, we find

Constituional provision.

that it has two apparently contradicprovisions.
Section 4, Article 7, it is provided at "the mayor shall nominate, and and with the advice and consent of the select council appoint, suspend, or dismiss the said policemen, any or all of them, and in like manner all vacancles shall be filled." By Section 6, of the same article, it is provided that "the mayor shall nominate, and by and with the advice and consent of the elect council appoint, all subordinate officers of the city, whose offices are created by ordinance, except the city

Adopting the familiar rule of con-struction that an Act of Assembly must be so constructed, it possible, that all parts of it may stand, I am of the opinion that Section 6 refers to those officers of the city whose offices are created by ordinance and not by law; for example, the chief of the fire de-partment, building inspector and street commissioner; while Section 4 refers specifically to police officers, which office is fixed by law instead of by arthrense.

This being the case, a simple analysis of Section 4 makes it plain that the consent of the select council must be btained to make operative the suspension or dismissal of policemen, as well as the appointment of them by the

This construction of that section was eld by Judge Metzger in the case of Russell vs. Williamsport, to which I have referred. In the following language: "He (the policeman) can be re-tained or dismissed at any time by the mayor, with the consent of the select council, with or without cause."

OPINION IN BRIEF. In brief my opinion is: 1. That under the Constitution, the mayor is the appointing power, and therefore has the right of removal, without consulting the select council of all public officers, i. e., all public officers within the meaning of the Constitution, such as the street commis-sioner and the chief of the fire depart-

2. That police officers are not public efficers within the meaning of the Constitutional provisions.

3. That under the Act of 1889, police officers can only be removed by the

mayor with the advice and consent of the select council. Upon the question of salary, there is not much to be said. In my opinion, when a police officer is removed by the mayor, and this removal is confirmed by the select council, it becomes operative as of the date of his removal by salary from that time. Hence, if the select council concur in the removal of Officers Dyer and Saul, I do not think they can recover any compensation from the city from the time they were

removed by the mayor.
On the other hand, the officers appointed by the mayor who have been acting as such, and are therefore de facto officers, viz., Officers Hockenberry and Davis, as soon as their ap-pointment is confirmed by the select council, will be entitled to pay from the time of their appointment by the mayor. This opinion is based in part upon the apparently well settled proposition of law, that where a municipality pays the acting or de facto officer, ending any litigation with respect his title to the office, it is not liable to pay it over again, even though his title to the office should be at any future time found to be invalid, and

another, or de jure officer, be installed n his place. See 19 American and English Ency-lopaedia of Law, page 532, and cases there cited.

Of course, should the select council fail to approve the action of the mayor, omplications will arise, which it is not low necessary to consider.

Hoping that I have made myself clear as to the respective powers of the mayor and select council in the matter of the removal of police officers, and as to their right to compensation, I re-Very truly yours, A. A. Vosburg, City Solicitor.

FIREMEN MAY GO TO CHURCH.

Mayor Moir Believes That They, Too, Are Incinerable.

Mayor Moir has issued an order to Chief Walker to arrange a two hours ay-off every Sunday for the permanent men of the fire department that they may have an opportunity of attending church. At present they are scheduled to work twenty-three hours a day,

It is only fair, the mayor doubtlessly time and labor to having others from fire should have a little time for following the behests of the first law of

EMPLOYES RESUME WORK.

Stage Hands at the Gaiety Theater Granted Their Demands. The difficulty which existed between

the stage hands and Manager Walsh, of the Galety, has been amicably adjusted and the employes have been reinstated and the union scale of wages signed. Through the efforts of Matt J. Bol-

and, stage manager of the Rentz-Santley company, a settlement was brought about.

Ideal Home Site.

The sale of West Park lots goes merily on with unprecedented rapidity. It is not strange that they should when one considers the unparallelled location and easy terms on which these lots are being sold.

You are invited to inspect this plot at your earliest convenience. prices, terms, etc., apply at newly erected office on the plot.

West Pittston Fair, Sept. 20, 21, 22, Japanese troupe every

Smoke the Hotel Jermyn Cigar, 10c

ALL DAY OCCUPIED WITH SEWER CASES

OLYPHANT'S SQUABBLE OCCU-PIES ATTENTION OF COURT.

Sewage Company Alleges That the Borough Had No Right to Assume to Pass Upon the Company's Charter Rights as This Is Reserved Solely to the Commonwealth-Valuable Assignment That Is Alleged to Be a Forgery-Number of New Suits Instituted.

The Olyphant sewer cases occupied all of Judge Edwards' attention in

equity court yesterday.

The suit of the Sewage-Drainage ompany against the Borough and Burgess McNulty was concluded with arguments by Hon, C. P. O'Malley for the plaintiff, and Hon. John P. Kelly and Borough Solicitor Frank M. Lynch for the defense.

The allegation of the defendants in support of their action in stopping the work of constructing the sewer was that the company's rights lapsed by cason of its fallure to begin the work in two years and complete it in five, as provided in the charter. To this Mr. O'Malley made reply that

the commonwealth alone can pass upon harter rights and consequently the defendants are without standing in court. In the suit of C. P. O'Malley and thers against the borough and Contractors Flanaghan & O'Hara, to prevent the collection of the borough's share of the assessment on the First district sewer, built under an ordinance of the borough, after the Sewage company's rights are alleged to have elapsed, was taken up at the conclusion of the first case and is still on.

The plaintiffs in this case allege that the assessment is illegal, because the borough's indebtedness was beyond the two per cent, limit before this debt was contracted.

Owing to the failure of the borough secretary, M. P. O'Malley, to bring along the books showing the borough's indebtedness, the case had to go over

The Judge Must Figure.

Attorneys John P. Kelly and W. S. Hulslander on the one side and George M. Watson and Thomas P. Duffy on the other, have submitted a knotty mathematical problem to Judge Gunster to unravel. It comes up in a line fence dispute in equity court, in which Ellen C. Kelly is plaintiff and James F. Donnelly defendant. The plaintiff owns a lot on Madison

avenue adjoining the defendant's property. Ten years ago they erected a division fence on the line, each contributing towards the expense. fence was erected on the line where fence formerly stood, the posts being on the Kelly side and the boards on the Donnelly side and the Kelly house was utilized as a fence, the boards joining it, thereby saving the expense of a fence for a distance of about thirty feet.

Mrs. Kelly removed the old house which was part of the fence and erected a new house. Mr. Donnelly there-upon undertook to fill the gap in the fence by erecting a fence to connect with the fence on the line in the front and the rear. The posts of the old fence were on the Kelly side of the lot, but she objects to the posts for the new portion being put on her eld

Each must contribute a share towards the fence. The question is does not Donelly's one inch of land for a distance of thirty feet amount to more than that covered by the posts on Kelly's land.

Alleged It Was a Forgery.

The case of Daniel R. Watkins and thers against Benjamin Hughes as argued before Judge Gunster in chambers yesterday morning.

It is an equity suit in which the heirs of Thomas E. Watkins are suing Hughes to recover one-half the prod.s in a mining scheme in which both were interested. The plaintiff by his lawyer, C. L.

Hawley, in his bill alleges that the Delaware, Lackawanna and Western ompany leased to Mr. Hughes the Diamond vein of coal in 1887 and that he in turn made an assignment of onehalf interest in the mine to Thomas Watkins and that up to the time the latter died in 1889 that there were no profits pald him.

Major Warren in the argument for the defense denounced the assignment as a forgery and claimed that the only agreement entered into between the two parties was an arrangement whereby Mr. Watkins was to receive one half of the profits if he would supervise the work of mining. Mr. Hawley in reply denied the alegations of forgery and stated that

the assignment was legitimately made. Two New Grading Suits.

Attorneys R. J. Beamish and John H. Jordan, acting for James Flynn, of Luzerne street, instituted a suit against the city yesterday to recover \$2,000 damges for injury done the plaintiff's property by the change of grade on

Bertha Plageman, by Attorneys Comegys & Bevan, brought sult against believes, that men who devote so much the Roaring Brook Turnpike company and the Borough of Dunmore to re-cover \$4,000 damages, which she aileges was done her property on Drinker street by the grading done jointly by the defendants.

Question of Jurisdiction.

A number of the creditors of L. W. Hoffecker, who recently filed a petition in bankruptcy, went before Judge Edwards yesterday morning and asked that executions granted to other crediters be stayed on the ground that no ther court but the United States ankruptcy court has jurisdiction. Judge Edwards took the petition, but has not yet ruled on the question.

Election Contest.

The following witnesses were examined yesterday in the Langstaff elecion contest: Fifth ward, Fourth district-Edward

Thirteenth ward, Second district-Andrew Brandt, Dr. A. Van Cleft, Henry Lutz, Fred Heckman, Archie

Horsford's Acid Phosphate promotes digestion and corrects

acidity of the stomach.

Genuine bears name Horsford's on wrapper.

Baldwin, Fred Bartz, George Beaman, Oscar Payne, George Mehue, William

Marriage Licenses.

Owen Mullaney 2234 Pittston avenue Ella Lally......2302 Pittston avenue Francis C. FeeneyJermyn Margaret G. McDonnell.....Archbald John F. Burke......Archbald Catherine A. McDonnell....Archbald Frederick D. Rutty......Oll City Cora A. Preston......721 Court street

Court House News Notes. David C. Phillips was yesterday apcointed judge of election for the Sec and ward of Blakely to succeed Gwilym

Evans, resigned.

The bond of P. J. Hoban, tax collector of Olyphant, was approved by Judge Edwards. It was in the sum of \$54,-

NEW STREET RAILWAY.

Company of Maryland, as surety,

It Is to Extend Along the Southern Edge of Nay Aug Park and Out to Elmhurst Along Mountain.

At last night's meeting of select council an ordinance was introduced by Mr. Lansing, granting a franchise to the Nay Aug Park street railway company to construct and operate a line from Lackawanna avenue to and through Nay Aug Park with loops and extensions through the territory comprised in the Ninth and Seventeenth wards. It is the road that is to run to Elmhurst.

The route on which the company wishes to lay its tracks begins at the intersection of Washington gyenue with Lackawanna, thence extends northerly on Washington to Center street and through the one block of Center street back of the Lackawanna Iron and Coal company's store, to Ridge Row; thence along Rilgs Row to Webster avenue; thence along Webster avenue to Linden street; thence glong Linden street to Arthur avenue; thence in an easterly direction along the bluff above the Pelaware, Luckawanna & Western tracks skirting Nay Aug Park, thence under the near end of the boulevard bridge to a point 200 feet east of the western pier of the bridge thence across Roaring brook above the falls; thence aver the tunnel, on a line 200 feet from its eastern end; thence easterly to a line between the lands of the Consumers' Powder company and Reynolds Bros.' thence southerly over the Erie and Wycming road above grade to a point between the lands of the Consumers' Powder company and Celia Hill, about 200 feet from the boulevard: thence northeasterly fellowing the course of the boulevard and skirting it on the north to the

Roaring Brook township line, The road, of course, will extend farther on but the franchise for the exten-sion beyond the city line must be secured from the property owners whos

lands will be taken The contemplated loops and extensions are as follows: Beginning at the intersection of Ridge Row and Monro avenue, along Monroe to Linden to Webster; also from the intersection of the above route with Gibson street along Gibson to Wyoming to Vine, to distance less than 2,309 feet to Conter; also from the intersection of Lintien street and Colfax avenue to Gibson | The directors of the company are J. also from the intersection of Wyoming L. Crawford, Major T. F. Penman, Dr. and Vine, westerly on Vine to Mifflin, G. F. Hill, Colonel Herman Csthaus, TRIBUNE WANT ADS. to Spruce to Franklin.

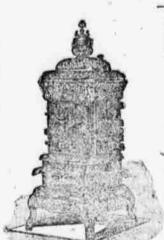
TARRESTRANCES FRENCH SEREN FRENCH REPRESENTATION OF THE PROPERTY OF THE PROPER Ye Old Time **English Teapots**

> Tea tastes and is better when brewed in an earthen vessel, No taint of metal. Just opened a crate of English Rockingham and Jet Teapots, enamel and spray decorations, pretty enough to grace y table. Four shapes, three sizes-small, 45c; mediu 55c; large, 65c.

> > China Wall.

Millar & Peck, 134 Wyoming Ave. THE REPORT OF THE PROPERTY OF

THE POPULAR HOUSE-FURNISHING STORE.



Dockash Stoves and Ranges

Don't put off buying the heating stove you need for this winter till snow flies. Cold weather will be here on time. We should be pleased to have you call now and inspect our line of Dockash Heating Stoves.

Repairs Always in Stock.

FOOTE & FULLER CO.,

Mears Building, 140-142 Washington Ave.

Steam and Hot Water Heating

Estimates cheerfully furnished n Electrical and Heating Work. Most complete line of Gas and Electric Fixtures in the city.

Repair work given prompt atten-

Chas. B. Scott 119 Franklin Avenue.

The ordinance provides that the comony shall pay into the Nay Aug Park fund two per cent of the gross receipts of the road and that it shall grade all Washington, and then on the Valley streets not now graded over which its passenger railway company's tracks a lines shall pass. The road must be in operation within two years or the franchise become null and void.

G. F. Reynolds an E. Reynolds.

THE POPULAR HOUSE-FURNISH"

ING STORE.

Just in

A large assortment of fine baskets. Some specials in

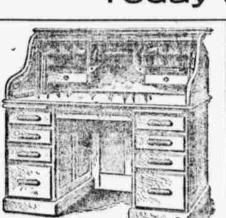
FANCY FRUIT BASKETS

see them in our windows, & and be convinced that we o carry the finest and largest o line in the city.

FOOTE & FULLER CO., Mears Building, 140-142 Washington Ave.

BRING QUICK RETURNS.

Opening Sale of Fall Home Furnishings Today and Tomorrow.



Golden Oak finished 50-inch desk, with dust-proof curtain, roll-top, drawers on both sides, regularly \$17

sold for \$22.50. Sale price..... With single pedestal - 42

inches wide. Cash or Credit.

We repeat some, with new offerings added.



Two Great Rocker Values

Came to us by chance; a "close-out" - highly polished mahogany finish only-genuine leather cobbler seats-very nobby design-"a good \$4.75 rocker," you'd say. Sale \$7 70

or credit ...

ranted welcome. Such an ovation, in view of the values offered, was not surprising.



Bedroom Suit 24x30, French pattern mirror, swell drawer fronts in dresser and commode, finely carved, worth \$35.80. Our price,

Cash or Credit. Our Couch and Morris Chair Sale of this week has met with a warm and war-



Covered in Velum Thirty inches wide-finely upholstered-not a lumpy affairworth \$16.00. Our

A Couch

price..... \$10.98 Couch of odd and pretty design, mahogany finished frame-six feet long, twenty-eight inches wide..... 9.25

Denim Covered Couch, \$3.98. Cash or Credit. Our Fall Lines of Carpets embrace the

best grades of floor coverings. Largest

Ingrain Stock in the city.

Three-Piece Parlor Suits in great variety. Pollshed Mahogany and finished frame, Silk Tapestry \$16.75 Five-Piece Parlor Sutt, Silk 24.97 Dannisk covering, See it! ... Our full assertment of LACE CUR-TAINS and PORTIERRES is now com-plete, consisting of the best patterns and colorises.



221-223-225-227 Wyoming Ava

With Denim Cushions.....\$3.95

An elegant assortment of Morris Chairs and other comfortgiving Chairs, to \$50.00

Morris Chairs, in

oak or mahogany

frames, with stitched

edge velum cushions,

complete\$6.75

Cash or Credit.