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Office Hours—9 a. m. to 12:30 p. m.; 2 to 4, Williams Building, Opp. Postoffice.



CITY NOTES

FOUR BOARD MEETING.—The poor board meets in regular session this afternoon.

RESCUE MISSION.—Secretary W. W. Adair will conduct the service at the Rescue Mission tonight.

PATENT GRANTED.—T. B. Howe, of this city, has been granted a patent on valuable improvements on sand driers.

FUNERAL TODAY.—The funeral of James Lynch will be held this morning at 9 o'clock from Holy Cross church, Bellevue, Intermont in Cathedral cemetery.

W. S. GOULD ELECTED.—The Scranton 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. McCum.

WILL HOLD AN INQUEST.—Coroner Roberts will hold an inquest this evening in the court house in the case of Eliza Shafter, who died from the result of injuries received by being accidentally shot by Albert White.

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

MINALLY DAMAGE CLAIM.—A submission of the auditing committee of council has been appointed to pass upon the claim of E. J. McNally, for \$35, for damages done by a fire on 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 Hixson Paint Company, of this city, capital stock, \$5,000; directors, Mark Simonsen, Dan Fox, Fred D. Stevens, of Dunmore; Charles Morton, of Scranton; Frank B. Benjamin, of Peckville.

FUNERAL OF JOHN ROLL.—The funeral of John Roll was held yesterday morning at 8 o'clock from his late residence on Jefferson avenue. Short services were held after which the remains were taken to the Lackawanna station, where they were taken to Penn Yan, N. Y., for interment.

Lehigh County Fair at Allentown. On Thursday, Sept. 14th, via Central Railroad of New Jersey by special train leaving Scranton at 7.25 a. m. Fare for the round trip, adults, \$2.50; children, \$1.50.

West Pittston Fair, Sept. 19 to 22. Special on Friday, Silver Chimes, 2,634, to beat track record.

REPUBLICAN COUNTY CONVENTION. In pursuance of a resolution of the Republican county committee passed at a regular meeting held on Saturday, Aug. 13, 1899, the county convention will be held on Tuesday, September 19, at 2 p. m. in the court house, Scranton, for the purpose of completing returns and transacting such other business as shall be brought before it.

Vigilance committees will hold primary elections on Saturday, September 23, 1899, between the hours of 4 and 7 p. m. Each election district shall elect one 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 primary election, or his name will not be placed on the official ballot." Saturday, September 2, is the last day for registering 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 opinion submitted to the police committee of select council last night, decides that Mayor Moir's removal of Patrolmen Saul and Dyer is ineffective without the consent of select council.

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 full:

To the Honorable, the Members of the Select and Common Council of the City of Scranton, and the Police Committee:

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

CONSTITUTIONAL PROVISION. As there has been some misapprehension as to the extent of opinions furnished by me heretofore, I wish to state the distinction between the officers 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 department, street commissioner and building inspector may be removed by the mayor at his pleasure, with or without 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 provides that "the select council, other than judges of the courts of record, and the superintendent of public instruction, may be removed at the pleasure of the power by which they shall have been appointed."

In the case of Houseman vs. the Commonwealth, 109 Pa. page 222, this provision was held to apply to municipal officers, provided they were not police officers. And it seems to be settled by the case of Lane vs. Commonwealth, 103 Pa. page 481, that a select council is not a part of the appointive power, so far as public officers are concerned. In that case it was held that the governor was the appointing power, and hence had the power of removal, although Article 4, Section 5, of the Constitution declares that he shall nominate, "and by and with the advice and consent of two-thirds of the senate, shall appoint," certain officers therein named.

The power conferred upon the senate being similar to that conferred upon the select council, I have no hesitation in applying that decision to a municipality, and therefore holding that so far as public officers are concerned, the mayor is the appointing power, and therefore has the power of removal.

The text then as to whether this constitutional provision applies to a particular officer, is whether or not that officer is a "public officer" within the meaning of the constitutional provision to which I have referred.

It is difficult to determine in some cases just what constitutes a "public officer" within the meaning of the Constitution. Judge Simonton held that the mayor is a public officer, and could therefore be removed by the mayor, because he has very important duties to perform; and in the case of Houseman vs. the Commonwealth, it was held that the superintendent of public instruction was placed in a position of trust, handling large sums of the public money.

SOME "PUBLIC OFFICERS." The same reasoning would apply in the case of the chief of the fire department 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 among the authorities.

Judge Biddle, of Philadelphia, said in the case of the Commonwealth against Stokes, 20 W. N. C. 315, "In both of the cases cited to us, one of a municipality and the other of a state officer, the ground upon which they are decided is the nature of their office. 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 mandate of a superior. His principal function is that of a peace officer to maintain public tranquility among the citizens. His appointment and removal is the more necessarily dependent, in our opinion, upon legislative action, and is in no way restricted by the Constitution."

EMPLOYEES RESUME WORK. Stage Hands at the Gaiety Theater Granted Their Demands.

The difficulty which existed between the stage hands and Manager Walsh, of the Gaiety, has been amicably adjusted and the employees have been reinstated and the union scale of wages signed.

Through the efforts of Matt J. Boland, stage manager of the Rents-Santley company, a settlement was brought about.

Ideal Home Site. The sale of West Park lots goes merrily on with unprecedented rapidity.

West Pittston Fair, Sept. 21, 22, Japanese troupe every day. Free.

Smoke the Hotel Jermyn Cigar, 100.

A full beard isn't much consolation to a man with a bald head—Ajzer's Hair Vigor will make hair grow.

ALL DAY OCCUPIED WITH SEWER CASES

OLYPHANT'S SQUABBLE OCCUPIES 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 company 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 reason of its failure to begin the work as provided in the charter.

To this Mr. O'Malley made reply that the commonwealth alone can pass upon charter rights and consequently the defendants are without standing in court.

In the suit of C. P. O'Malley and John P. Kelly against the Borough and Burgess McNulty, the court decided that the assessment is illegal, because the borough's indebtedness was beyond the two per cent. limit before this debt was contracted.

Attorneys John P. Kelly and W. S. Halstead 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 H. 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.

The fence was erected on the line where the Kellys formerly resided, the posts being on the Kelly side and the board 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.

The old house removed the old house which was part of the fence and erected a new house. Mr. Donnelly thereupon undertook to fill the gap in the fence by erecting a fence to connect with the fence on the line in the front and 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 side of the line.

Each must contribute a share towards the fence. The question is does not Donnelly'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 others 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 profits 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 company leased to Mr. Hughes the Diamond vein of coal in 1887 and that he in turn made an assignment of one-half interest in the mine to Thomas Watkins and that up to the time the mine was leased to him there were no profits paid 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 allegations 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 damages for injury done the plaintiff's property by the change of grade on Luzerne street.

Barthia Fleegeman, by Attorneys Comeya & Bryan, brought suit against the Roaring Brook Turpicks company and the Borough of Dunmore to recover \$1,000 damages, which she alleges 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. Hofferker, who recently fled a petition in bankruptcy, went before Judge Edwards yesterday morning and asked that executions granted to other creditors be stayed on the ground that no other court but the United States bankruptcy 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 election contest.

Fifth ward, Fourth district—Edward Jones.

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.

NEW STREET RAILWAY. 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 avenue 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 Ridge Row to Webster avenue; thence along Webster avenue to Linden street; thence along Linden street to Arthur avenue; thence in an easterly direction along the bluff above the Lackawanna, 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 over 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 Wyoming road above grade to a point between the lands of the Consumers' Powder company and Cella Hill, about 200 feet from the boulevard; thence northeasterly following 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 extension beyond the city line must be secured from the property owners whose lands will be taken.

The contemplated loops and extensions are as follows: Beginning at the intersection of Ridge Row and Monroe 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 Washington, and then on the Valley passenger railway company's tracks a distance less than 2,500 feet to Center; also from the intersection of Linden street and Coffax avenue to Gibson also from the intersection of Wyoming and Vine, westerly on Vine to Millin, to Spruce to Franklin.

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 any table. Four shapes, three sizes—small, 45c; medium, 55c; large, 65c.

China Hall. Millar & Peck, 134 Wyoming Ave. "Walk in and look around."

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., Neeps Building, 140-142 Washington Ave.

Steam and Hot Water Heating

Estimates cheerfully furnished on Electrical and Heating Work. Most complete line of Gas and Electric Fixtures in the city. Repair work given prompt attention.

Chas. B. Scott 119 Franklin Avenue.

The ordinance provides that the company shall pay into the Nay Aug Park fund two per cent of the gross receipts of the road and that it shall grade all streets not now graded over which its lines shall pass. The road must be in operation within two years or the franchise become null and void.

The directors of the company are J. L. Crawford, Major T. F. Fenman, Dr. C. E. Hill, Colonel Herman Cashaus, G. F. Reynolds and E. Reynolds.

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 sold for \$22.50. Sale price.....\$17.95

With single pedestal—42 inches wide. Cash or Credit. \$14.98.

Our Couch and Morris Chair Sale of this week has met with a warm and warranted welcome. Such an ovation, in view of the values offered, was not surprising. 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 or cobbler seats—very noble design—"a good \$4.75 rocker," you'd say. Sale price—cash \$2.79 or credit.....\$2.79

Mahogany Finished Bedroom Suit 24x30, French pattern mirror, swell drawer fronts in dresser and commode, finely carved, worth \$35.80. Our price, \$23.50. Cash or Credit.

A Couch Covered in Velum

Thirty inches wide—finely upholstered—not a lumpy affair—worth \$16.00. Our 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.

Three-Piece Parlor Suits in great variety. Polished Mahogany and Glazed Green, Silk Tapestry \$16.75

Five-Piece Parlor Suit, Silk 24.97

Our full assortment of LACE CURTAINS and PORTIERES is now complete, consisting of the best patterns and colorings.

A complete line of Kitchen and Heating Stoves on sale. Many patterns and grades of Dinner, Tea and Toilet Sets.

Morris Chairs, in oak or mahogany frames, with stitched edge velum cushions, complete.....\$6.75

With Denim Cushions.....\$3.95

An elegant assortment of Morris Chairs and other comfortable giving Chairs, up to.....\$50.00

Cash or Credit. 221-223-225-227 Wyoming Ave.