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CITY NOTES

BOARD OF HEALTH MEETING .- A regular meeting of the board of health will take place tomorrow night.

MEETING TODAY.-The Central Woman's Christian Temperance union will meet this afternoon at 3 o'clock in Guerasey's hall. A full attendance is required.

ART SECTION MEETS.-The first Green Ridge library Tuesday, October 3 at 4 p. m. All members are requested to

NO CREDITORS APPEARED.-There were no responses to the call for a meeting of the creditors of Joseph J. Klein, petitioner in bankruptey, schoduled to take place in Referee C. A. Van Wormer's

BUSINESS MEETING.-The Ladies' Abi of the Universalist church will have a business meeting and social Friday afternoon at the home of Mrs. A. B. Nicol, 1763 Sanderson avenue. The gentlemen 1761 Sanderson avenue. The gentlemen are cordially invited to take tea with

WEEK'S EXCHINGES.—The following were the exchanges at the Scranton Clearing house lost week: Monday, \$154.— 35836; Tuesday, 3234,751 10; Wednesday, \$251,501.24; Thursday, \$254,508.34; Friday \$172,080.00; Saturday, \$105.589.78; total, \$1,-

DEATH RATE.-Thirty-four deaths, two above the average, were reported last week to the board of health. Three of these were from diphtheria and one from typhoid fever. Twelve new cases of diphtheria were reported; two of typhoid fever and one of scarlet fever.

JUMPING ON CARS .- James Brown of 1806 Pittston avenue, was arrested a cars. The hoy was caught by Special Of-ticer Durkin and brought to this city. He was given a hearing before Alderman John T. Howe and was fined \$5 and costs. Brown was remanded until the fine was

BAPTIST PASTORS. - The regular weekly conferences of the Baptist Pastors' union were resumed yesterday in the Penn Avenue Baptist church. Rev J. R. Ells, presided. Rev. D. J. Williams, of Peckville, who recently returned from a visit abroad, spoke on "Echoes from the Hills of Wales." The talk was thoroughly enjoyed by the pasters present.

ELMHURST COUPLE MARRIED. of Elmhurst, came to the city yesterday and procured a marriage license from Clerk of the Courtz Thomas P. Daniels They immediately repaired to Alderman Millar's office where they were united. The ceremony was quietly performed, the couple being unattended. Mr. and Mrs. Weisel afterwards returned to Elmhurst

OVERCOME BY GAS .- A tramp who gave his name as William Tiernan, was found in an unconscious condition at the South mill of the Lackawanna Iron and Bteel company yesterday morning. The Lackawanna hospital ambulance was sent for and he was removed to the hospital An examination showed that he had been ome by gas while sleeping between the large beilers. Tiernan was in good chape last night.

Journeymen Plumbers, 540 Spruce street, telephone 1593.

LAST WEEK OF THE COMMON PLEAS TERM

A LARGE NUMBER OF CASES WERE CONTINUED.

The Only Case Put on Trial Yesterday was Charles H. Lowery Against Alexander Morrison-Patrick H. Bergen Objects to Being Ignored by the Borough Council of Mayfield and Appeals to the Court. Application for the Division of Old mitted. Forge Into Wards.

The third and last week of the present term of common pleas court opened yesterday morning, but owing to the numerous requests for the continu-ance of cases the court had only one case to try during the day. As the main court room is being used by the firemen, court was held in the Superior court room and in No. 2. Judge H. M. Edwards presided in the former and Judge F. W. Gunster in the latter. When the list was called in the morning cases were disposed of as follows: Settled-William Cook against M. T. wages; Thomas Sullivan against Kik Hill Coal and Iron company, wages; J. C. Miles against K. Ruth Stone, ejectment; George L. Timlin against John Swallow, appeal; Winifred Teeple against the New York, Ontario and Western Ralicoad company, trespass.

Continued-J. W. Guernsey against W. C. Ford and others; J. S. Smith and others against F. E. Loomis and others; David Spruks against Rice, Levy & Co. interpleader, J. E. Cleveland against John T. Jones, appeal; John H. Snyder against Austin Coal company, assure; sit: Mary Barrett against John Pal mer and others, appeal; Kenney 1 rothers against James Davitt, appeal; Willium F. Brady against Mina Robinson. trespass; Catharine Sullivan against the City of Scranton, trespass; Charles Cavanaugh against Ellen Finnan and thers, electment; Lebeck & Corin against J. B. Woolsey & Co. and John Jermyn, trespass; J. O. Rogers against M. Hollander, appeal; Richard R. Willams against Isaac P. Hand and others, executors, assumpsit; Milton Zerfass igainst Scranton Traction company. In the case of Andrew Diskin against the Greenwood Coal company, limited, non-suit under the Act of 1812 was granted, the plaintiff failing to put in an appearance

The only case tried was heard before Judge Gunster. Charles H. Lowery is the plaintiff and Alexander Morrison he defendant. Lowery owns a farm at cort, which he leased to Morrison. He s now suing to recover \$197.50 rent, which he alleges is due him. Morrison produced receipts signed with Lowery's name for rent amounting to \$140 and he also alleges that he paid taxes for Lowery and furnished him with vegetables, so that in reality Lowery owes him \$30. The case was given to the jury \$1 4.30. Attorney W. S. Hulslander appeared for the plaintiff and Attorney C. W. Dawson for the de-

The Langstag Contest.

There will be no testimony taken this week in the Langstaff election con-The respondents closed their side of the case Saturday and the contestant was expected to begin yesterhaving allowed thirty-five days for that

Attorney R. H. Holgate, of counsel for the contestant, asked the court yesterday morning for permission to have their thirty-five days begin next Monday, as they were not ready at this time to begin to offer testimony, Court refused to grand the request, but said that at the expiration of the thirty-five days they will listen to a request for extension of time, if all the content's rebuttal testimony is not then in. The contestant will offer no testimony this week and take chances on an extension of time 'ale:

Decree in Coray-Jenkins Case.

In the matter of exceptions to findings of fact and conclusions of law in the case of E. A. Coray against John S. Jenkins. Judge Gunster yesterday handed down the following decree: That an account be taken between the parties of and concerning the matcomplained of in the bill of complaint; that the injunction heretofore granted in this case be in the meantime continued restaining the defendant from making any transfer or disposition of any property held by him in trust for the plaintiff, or if any property acquired by him by means of that placed in his hands by the plaintiff until said account is settled and the consideration of all other matters is reserved until the settlement of said account."

Evans Feels Aggrieved.

Daniel J. Evans, of West Scranton brought action against Davis and Herman Englehart because of slanderous words he alleg a they uttered against him.

In his declaration Evans charges Davis and Englehart with having public ly charged with him stealing potacoes and corn from Englehart's garden Evans asks \$2,000 damages from each of the defendants. He is represented by Attorney John R. Edwards. .

Old Forge Wants Wards.

Court is considering a petition to have a commission appointed to divide Old Forge borough into wards was presented yesterday by Attorney John H. Bonner, representing the council and about a score of property hold-

At present the borough is digide: into three election districts, the First, Second and Fourth, the Third having been merged with Taylor borouge.

Yesterday's Marriage Licenses.

William S. Prentiss, Minneapolis, Minn. ... Seranton

Frank Woodward .. Scranton. Winifred B. Ruddy Henry Weisel Frances Tooley .. Roaring Brook. John Henry Stirn Carbondale Anna ... HeekmanArchbald.

Court House News Notes.

Court yesterday approved of the charter of the Green Ridge Coal Company Accidental Fund. Civil Engineer Edward F. R'switt

esterday registered with W.Pard, Warren & Knapp as a student-at-law Attorney M. J. McAndrew was apcinted to take testimony in the dicorce case of Phoebe Millick against

Frank J. Mellick. In the case of Sarah A. Ord and others against John Gannon and others, Sarah A. Ord was allowed the land

in question at the valuation fixed by the commissioner, \$2,100.

In the case of John J. Fahey against the Enterprise Insurance company a rule was granted yesterday to show ause why a trial should not be awarded. The rule is returnable to argument court.

A charter was granted yesterd iv by the court to the Callender Memorial association of Blakely, which has for its object the maintenance of a hall and library in Blakely in memor; of the late Samuel Callender.

Martin Burke, of this city, who was strawn as a juror for this week, failed to appear yesterday and was fined \$20. P. D. Manley, of Dunmore, was fined a similar amount, but he appeared later in the day and the fine was re

An application was made yesterday to the court for a charter for the Pyne Accidental fund. The subscrib-ers to the articles of incorporation are Joseph Marsh, Frank Dunston John Coombe, William J. Howelis and James Stone.

The hearing of the injunction case of R. E. Hurley against the president and managers of the Delaware and Hudson Canal company, which was begun in 1895, was set down for a hearing yesterday, but was continued until the second Monday of January next Judge Archbald yesterday fixed this afternoon at 1.30 o'clock as the time for a hearing in the case of John Kotch, who was committed by Justce of the Peace William Mason, of Blakely, on a charge of assault

FATHER LOUGHRAN'S WILL

enforce the payment of a debt.

man and Kotch alleges that he was

arrested for the purpose of trying to

battery.

The prosecutor is S. Mi idle-

Gives His Entire Estate of Over \$200,000 to Charities - Full Text of Will.

Register of Wills Koch yesterday adnitted to probate the will of Rev. John Loughran, late pastor of St. Joseph's Catholic church of Minooka. His entire estate amounting to over \$200,000 is given to charity. The full text of the will is as followffs:

Know all men by these presents: That John Loughran, paster of St. Joseph's congregation of the village of Minooka, ckawanna county, Pennsylvania, being of sound mind, nemory and understand-ng do make, publish and declare this to my last will and testament

the my fact win and testament.

I. I direct that all my just debts and uneral expenses be paid by my executors hereinafter named, as soon as convolently may be after my decease. II. I direct that my interment be in Minocka Catholic cemetery, and that a mple stone be crected over my grave 111. I bequeath to the Rt. Rev. Michael Hoban, bishop of Scranton, the sum of \$10,000 in trust for St. Joseph's congre-

ation of the village of Minooka; said um to be used and expended for the ullding of a parochial school or the im-rovement of the present church, or the rection of a new one as the bishop of Scranton shall deem for the best intersts of the congregation.

IV. I bequeath to the Sisters of the House of the Good Shepherd, Scranton,

Pa., the sum of one thousand (\$1,000) dol-V. I bequeath to the Sisters of St. Joseph's Foundling home Scranton, Pa., the sum of one thousand (\$1,000) dollars. VI. I bequeath to St. Patrick's Orphan

sylum, Scranton, Pa., the sum of five undred (\$500) dollars.

VII. I bequeath to the Lackawanna pital the sum of five hundred (\$500) VIII. I bequeath to Rt. Rev. Michael J.

oan, bishop of Scranton, the sum of thousand dollars to be distributed mong the necessary charities in the city IX. All the rest, residue and remainder my estate, real, personal and mixed, a ve. devise and bequeath to the Rt. Rev.

M. J. Hoban, bishop of Scranton, in trust for poor, infirm and aged priests of the diocese of Scranton and to be used for Lastly-I do hereby nominate and apoint Rev. E. J. Melley, Scranton, Pa., to e executor of this my last will and testament. In testimony whereof, I have

percento set my hand and seal this twen-y-fourth day of August, A. D., one thouand and eight hundred and ninety-nine John Loughran. Signed, scaled, published and disclosed to be the above named, John Loughran, as and for his last will and testament,

in the presence of us, who at his request, and in the presence of each other have hereunto subscribed our names as wittesses thereto.

John O'Malley, M. D. M. M. McGinley.

STOLE A DRESS SKIRT.

Boarding House Thief Arrested on Serious Charge.

A young woman giving the name of yesterday charged with the larceny of dress skirt valued at \$10 from Mrs. Keech's boarding house at 515 Mulerry street, belonging to Miss Mamle Cullen, another boarder.

When arraigned before Alderman Howe, the woman could offer no defence, as the skirt was found in her trunk, which was left on the premises, and she was required to furnish \$300 bail for her appearance at court,

Bee Hive, of Wilkes-Barre, Pa., cor. Public Sq. and West Market street Surpassing all and equalled only by the largest New York Milliners. The Brilliant Fall Opening of English, French and American Hats and Bonnets. Opening Days Tuesday, Wednesday, Thursday, Oct. 3, 4, 5, 1899. Miss Mary Bristol extends a cordial invitation to her many friends and patrons of Scranton and vicinity.

Smoke the Popular Punch Cigar, 10c.



What does it do? It makes the hair soft and glossy, precisely as nature intended. It cleanses the scalp from dandruff and thus removes one of the great causes of baldness. It makes a better circulation in the scalp and stops the hair from coming out. And it re-istores color to gray or white hair. \$1.00 a bottle Sold by all druggists.

It Prevents and it **Gures Baldness**

If you do not obtain all the benefits you expected from the use of the Vigor, write the Doctor about it. Address, Da. J. C. AYER, Lowell, Mass.

INJUNCTION IS MADE PERMANENT

JUDGE GUNSTER'S OPINION IN PARK LOOP CASE.

He Says City Stood by for Weeks and Months and Years and Without Objection Permitted the Plaintiff Company to Continue Expending Money on the Grading of Streets and Laying Tracks-Believes Such Action Constituted a

Judge F. W. Gunster yesterday handed down his opinion in the equity case of the Scranton Railway company against the city of Scranton and James Moir, mayor, in which he makes

the injunction permanent. The injunction was asked to prevent the city from interfering with the construction of the Nay Aug park loop of the plaintiff company. The opinion in full is as follows:

From the pleading and evidence in the case I find the following:

FACTS.

First-The Scranton Railway company, the plaintiff, is a corporation duly incorporated under and by virtue of the laws of the state of Pennsylvania, having the right to construct and operate street way company or Valley Passenger Railrailways within the city of Scranton, and has succeeded to all the rights of the Nay Aug Crosstown Railway company, the Valley Passenger Railway company, Sixth—While the railway company conand the Scranton Traction company, in the matter hereinafter set forth.

Second-Mulberry street is a public street in the city of Scranton, and on the 18th of August, 1863, the easterly terminus of said Mulberry street was Pres-cott avenue, another public street running at right angles with Mulberry street, the land to the east of Prescott avenue be-ing owned by the Lackawanna Iron and Coal company, not laid out in blocks or lots, and without streets or other public thoroughfares. On the 16th of August, 1893, the Lackawanna Iron and Coal company, having in contemplation the opening up of the land to the eastward of Prescott avenue and the plotting of the same into lots and blocks with streets and alleys, made and entered into an agreement with the Scranton Traction company, whose rights thereunder have devolved upon the plaintiffs in this bill, Said contract is as follows:

THE AGREEMENT.

"This agreement entered into this sixteenth day of August, 1883, between the Lackawanna Iron and Coal company, of the first part, and the Scranton Traction

ompany, of the second part: "Witnesseth, that the Lackawanna Iron and Coal company, in consideration of the covenants on the part of the party of the second part, hereinafter contained, doth covenant and agree to and with the said Traction company, to grant the right of way for a single track railroad over the land of the said party of the first part, as follows, viz. Along the center line of a proposed extension of Mulberry street, from the center of Harrison avenue, southeasterly to the center of a proposed street called Arthur avenue; thence northeast along center line of said avenue, to the division line of lands of the Lackawanna Iron and Coal company, and

e so-called 'Beckett estate.' "And the said the Scranton Traction company, in consideration of the covenants on the part of the party of the first part, doth covenant and agree to and with the said the Lackawanna Iron and Coal company that they will grade Mul-berry street from Prescott avenue to Arthur syenue, and Arthur avenue from Mulberry street to the said division land line, for a width of thirty feet on each laid out, and second, because the plainside of the center lines of said Mulberry street and Arthur avenue, and in accordance with grade lines to be furnished by

Third-Pursuant to the terms of the said contract, during the years 1893 and 1894, the Scranton Traction company proceeded to carry out its part of said contract by grading Mulberry street east from Prescott avenue to Arthur avenue, and later the Scranton Railway company, acting in pursuance of said contract, proeeded to grade Arthur avenue from Mulberry street to Olive street. It is an un-disputed fact that the Scranton Traction company and the Scranton Railway company, its successor, have expended large sums of money in carrying out the contract mentioned, in opening up said streets and grading same. The amount expended by them is about seven thousand dollars. At the time the Scranton Traction company did the work on Mulberry street, in the years 1893 and 1894, the said street was entirely unopened and unimproved, and was simply a wild field, rocky, un-even, and in some places precipitous.

GRADED THE STREET.

The Scranton Traction company did a large amount of work upon the said streets in leveling it off, removing stones and rocks, and putting it in good con-dition for public travel. The city of May Davis was arrested in Moosle Scranton has never by any formal accepted the said Mulberry street from Prescott avenue to Arthur avenue, but the street was undoubtedly dedicated to public use by the Lackawanna Iron and Coal company, and its existence repeat-edly recognized by the city authorities, and it has now come to be regarded as

ne of the public streets of the city. In 189, when the Scranton Railway npany opened and graded Arthur avenue from Mulberry street to Olive street, that also was simply a field; nothing had ever been done by anybody to make it a street, and although the Lackawanna Iron and Coal company undoubtedly ded cated it to the public use, the city of Scranton never, by any formal act, accepted it as such, although it recognized its existence in different ways. It is menned as one of the boundaries of part of the land conveyed by the Lackawanna Iron and Coal company to the city for Owing to the work done thereon by the

Scranton Railway company it is now open and fit for public travel.

Fourth-The plaintiff has for many ears operated its road on Mulberry street as far east as Prescott avenue, and dur-ing the present year, acting under and upon the authority and permission grant-ed by the agreement with the Lacka-wanna Iron and Coal company, already mentioned, and claiming to act with the consent of the city, extended its street railway easterly on Mulberry street from Prescott avenue to Aribur avenue aforesaid, and also constructed its street railway on Arthur avenue northcasterly to Olive street.

TRACKS WERE LAID. At the time the bill was filed the 'racks vere all laid, the poles were erected, and the wires were strung, and it requires only five or six hours' work to join the calls at the corners so as to make the road ready for active operation. On the 29th of August, 1839, while the plaintiffs with their workmen and employes were engaged in finishing this line, a police-man of the city of Scranton came u; on the ground and represented that he was irected by the mayor of the city, one of he defendants, to stop the said work, and to entirely prevent the plaintiffs or and to entirely prevent the plaintiffs or any of their workmen, agents or em-ployes from proceeding any further to finish its said line of railway, and to put the streets in preper condition so that the same might be operated; and the mayor, by virtue of his affice as mayor aforesaid, and by virtue of his hav-ing control of the policemen of the city, prevented the plaintiffs from proceeding with their work until they were restrained by injunction in the present case. y Injunction in the present case.

Fifth-By an ordinance approved April 1887, the city of Scranton gave to the Nay Aug Crosstown Railway company,

ne of the plaintiffs' predecessors, permission to construct and operate their road through certain streets of the city of Scranton, including, among others, a portion of Mulberry street. The second section of this ordinance provided that "the construction of this road shall be ommenced within one year from the

The ordinance is set forth in the ap-endix to the plaintiffs' bill; I do not con-ider it necessary to quote it at length. By an ordinance approved the 18th of Innuary, 1895, the city of Scranton or-inined that the Valley Passenger Railway mpany be permitted to extend their acks and to erect all necessary applinces to operate said extension with electricity as a motive power, to lay out the necessary passing branches over and along certain routes, including Mulberry street from Prescott avenue to Arthur avenue, and Arthur avenue from Mul-Waiver of Rights on the Part of the ground now in dispute.

ORDINANCE CONSIDERED.

The ordinance is set out in the appen-ix to the plaintiffs' bill of complaint, do not consider it necessary to quote he same at length. The sixth section of he ordinance, however, provides, "Whenever said Passenger Railway company shall not have completed the construction of the lines mentioned above or of the lines mentioned in the ordinance ap-proved the 18th day of January, 1833, to which this is a supplement, within two years from the approval of this ordinance, the franchise granted on the portions of any street where such tracks have not been completed, shall be forfeited to the city." Neither of the ordinances mentioned appear to have been repealed by by the city in any way, nor has any action ever been taken by the city to declare any rights thereby granted forfeited, nor has any demand ever been made by the city upon the Crosstown Passenger Rail. way company or Valley Passenger Rail-

tinued its work of grading Mulbern street and Arthur avenue, it did not cor struct its railroad upon portions of Mul-berry street and Arthur avenue now in question within the two years mentioned by the ordinance, and I believe it was not until early in the summer of 1899 that they commenced laying their tracks there; and as has already been said the work was within a few hours of comple tion when the plaintiffs were stopped by the mayor and the police of the city, the only work remaining to be done being the ecting of the rails at the corners. Numerous requests for findings of fact and conclusions of law have been submitted by counsel for both parties. As there are practically no facts in dispute in the case I do not think it is necessar to quote or review them at length; they ere inclosed herewith and are hereby made a part of this opinion. I find as re-quested in the plaintiffs' thirteen requests or findings of fact.
Of the plaintiffs' requests for conclu-

sions of law, the first, second and third are affirmed with the qualification that after the streets in question become pube streets, before the plaintiffs constructfor the plaintiffs to obtain the consent of the city to such construction. The fourth, fifth, sixth, seventh, eighth and ninth requests are affirmed. Eighth—The defendants do not appear

to have separated requests for findings of fact and conclusions of law. Without re-viewing them at length the first, second. third fourth and sixth are affirmed. I decline to affirm the fifth and seventh. GENERAL DISCUSSION AND CON-CLUSIONS.

It is not intended by the brief disposition made of the requests of the counsel for findings of fact and conclusion of law to dismiss them without consideration, but as the case appears to me the ques-tions in dispute are questions of law and not of fact. Briefly stated, the plaintiffs contend that they have the right to construct the road on the streets mentioned on two grounds, first, because the right was granted to them by the owner of the aid out, and second, because the plain tiffs have obtained from the city the con sent to such construction.

As to the first contention, if the Traction company has constructed its road be fore these proposed streets had becom actual and public highways, I do not doubt at all but that the plaintiffs would be correct, but they did-not constructheir railway before the streets in ques-tion became public highways, and the rights of the parties must be determined by the condition of affairs as they exist ow, when it is proposed to construct the

It appears that on the 16th of August 193, the date of the contract between the Lackawanna Iron and Coal company and the "Traction company, Prescott avenue was the easterly terminus of Mulberry street. Between Prescott avenue and the Roaring brook the Iron company had no laid out any public roads nor sold any

MANAMAN MANAMA ONE OF THE THINGS

We can talk about day in and day out and not be declared out of order, is Our Open Stock Dinner Sets. We will sell such pieces as you want. If you need a few plates or cups and saucers selact from such patterns as you like, replace broken pieces from time to time and eventually you will have a nice Dinner set. You don't have to ray more buying this way. One of our new patterns is a Haviland & Co., large roses around border, soft delicate colors. It is not a high cost as French China goes.

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Yes, we always keep repairs in stock.

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324 Lackawanna Ave. Raw Furs Bought.

my granted to the Traction company the right of way for a single track railroad ver the land of the Iron company, "along he center line of a proposed extension

lots, though probably they had been plot-

ted. The consent itself contemplates the extension of Mulberry street and the

opening of Arthur avenue. The Iron com-

[Continued on Page 10.1

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Black Crepons, high lustre, mohair top, over fifty different designs, all new, 95c to \$3.50 per yard.

Double-Faced Plaid Black Shirtings, greys, Oxfords, browns, blues, etc. Compare line of styles and p.ices.

Polka Spot French Flannels, very desirable.

Golf Cloakings, heavy, double-faced, in exclusive

Taffeta Silks that will wear, plain and changeable, very large range of new colors, violet, helio, plum, berry, cerese, russet, dahlia, poppy, pumpkin, etc.

Black Taffeta Silks, Cheney Bros. and Haskell's justly celebrated goods, peau de soie, Duchess, satins, Marveliux, satin luxor, etc.

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