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CITY NOTES

THE WELCOME DANCING CLASS will hold a masked ball in Snover's hall, Wednesday evening, Nov. 3.

PAY DAYS—The Delaware, Lackawanna and Western company paid yesterday at Storrs' No. 1. Today the men at the Cayuga and British mines will be paid. The Delaware and Hudson company paid yesterday at the Baltimore slope and Conyngam mines, Wilkes-Barre.

MCCARTHY WILL RECOVER—James McCarthy, who was taken to the Lackawanna hospital, being accidentally shot, last Sunday, and there had his leg amputated, is making rapid progress on the road to health and the doctors are now confident of pulling him through.

BANK DIRECTORS CHOSEN—At a meeting of the stockholders of the Merchants and Mechanics' bank, Monday, the following board of directors was elected: James J. Williams, P. M. Jordan, Thomas E. Jones, A. J. Casey and Franklin Howell. The bank's report for the past year was a very encouraging one to all stockholders.

MRS. KEMBLE OUT OF DANGER. She Was Trying to Take a Bullet from the Revolver.

From what could be learned yesterday it now transpires that Mrs. Kimble, of Avoca, who was shot on Monday afternoon had the revolver in her own hands endeavoring to extract the bullet when the weapon went off.

The statement was generally current on Monday that one of the board members, Frank Frye, had shot her. It can now be stated that he had nothing whatever to do with the affair.

The bullet has been extracted and the woman is now said to be out of danger.

Try a "Hotel Jermyn" cigar, 10c.

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Improved Dining Car Service. Nickel Plate train No. 1 leaving Buffalo at 11:0 a. m. daily, has a dining car attached, serving breakfast immediately after departure from Buffalo. Luncheon and dinner will also be served at convenient hours. The meals on the Nickel Plate dining cars have already a national reputation for excellence, and this improved service will no doubt be appreciated by the patrons of the popular Nickel Plate road.

Smoke the Popular Punch cigar, 10c.

DISCUSSED LEADING QUESTIONS

Young Men's Forum Has an Interesting and Profitable Evening. The Young Men's Forum held their regular meeting last night in the Guernsey building. In a quiz on current topics by F. C. Baker, B. S., the colonial department and management of the new colonies, was thoroughly discussed by Messrs. Sholl and Price.

The latest phase of the situation in South Africa was taken up by C. Zimmerman and L. Carter. Owing to the many complications in which the European nations are at present interested it was concluded that European intervention in the Transvaal would be probably a disaster. C. Seltzer gave a very interesting recitation and a paper on "The Spanish Character" was read by Mr. Albert E. Sholl.

In a debate, "Resolved, That Cities Should Own and Control the Franchise Generally Granted to Private Corporations," Attorney W. J. Douglas and F. A. Kaiser argued for the affirmative. The negative was upheld by A. E. Sholl and R. M. C. Michael. Both sides were thoroughly presented with illustrations and statistics. The judges, Ralph Weeks, G. Switzer and Truman Surdam, gave their decision in favor of the negative.

AS TO OFFICERS' PAY.

Mr. Vosburg Believes That Hockenberry and Davis Became Regular Patrolmen When Appointed.

Appended is the opinion of City Solicitor A. A. Vosburg on the question submitted to him by City Controller Edoras Howell regarding the pay of Patrolmen Hockenberry and Davis. These patrolmen were nominated by Mayor Moir August 18, but were not confirmed by select council until last Thursday. For forty days of the interim a bill was submitted for their pay as special officers, under appointment of the mayor, for ten days period. This bill was approved by the mayor. The controller asked the solicitor to enlighten him as to how he should pay them, as regular or special officers. The solicitor's answer follows:

Scranton, Nov. 7, 1899. Edoras Howell, esq., City Controller. Dear Sir: Replying to your communication of the 2d inst., with respect to the right of compensation of Police Officers David J. Davis and W. S. Hockenberry, I would say, that, of course, these officers cannot collect as special and regular officers, and therefore it is necessary to consider first, whether they are entitled to compensation as regular police officers of this city.

In an opinion previously furnished by me, I held that under the provisions of Article 7, Section 4, of the act of May 22, 1880, P. L. 27, police officers could only be removed by the select council with the advice and consent of the select council. The same rule applies to the appointment of police officers under the act of May 22, 1880, P. L. 27. The mayor of the city of Scranton sent a communication to the select council removing Officers Dyer and Saul, and appointing David J. Davis and W. S. Hockenberry as police officers, to fill the position of the police officers removed. At first, the select council refused to concur in this action of the mayor, but afterwards, on Nov. 2, 1899, action was taken by that body concurring both in the removal of Officers Dyer and Saul, and the appointment of Officers Davis and Hockenberry.

From the time of their removal by the mayor, Officers Dyer and Saul did not actually perform any work as police officers, but the newly appointed officers, Davis and Hockenberry, at once entered upon the duties of their appointment, and have served as police officers from that time to the present. Although the action of the mayor in appointing and removing police officers does not become fully effective until the advice and consent of the select council is obtained, yet, in my opinion, the mayor is the appointing and removing officer, and the select council is limited to advice and consent to such action. This being the case, I am of the opinion that when an appointment or removal by the mayor is approved by the select council, it becomes operative as of the date when such action was taken by the mayor, and that therefore, as the matter now stands, the appointment of Officers Davis and Hockenberry, and the removal of Officers Dyer and Saul, takes effect on the day when the mayor appointed and removed these officers.

I may add, that I am unable to find any case in which this precise question has been ruled, but upon principle, I believe my conclusion is correct. Furthermore, as stated above, the actual work appertaining to the office of the policeman has been performed by Officers Davis and Hockenberry, who are now claiming compensation, while Officers Saul and Dyer have performed no work whatever for the city during that period.

It is stated in Amer. & Eng. Ency of Law, page 21, that "No claim can be brought for the salary or emoluments of an office for any period during which the claimant was not actually in office, even though wrongfully hindered from occupying the position, the salary being the reward for express or implied services." And in the same authority on page 332, it is further stated that "A payment of the salary to the officer de facto, however, while the title to the office is in controversy, but before it is determined, is a good defence to a claim by the legal officer. It seems to me that the authorities so applied to the facts of this case, that Officers Hockenberry and Davis are entitled to compensation from the time they were appointed by the mayor.

Of course it will be necessary for them to withdraw any application for pay as special officers. It is true as you suggested, that a case stated has been practically agreed upon in a suit brought by the removed officers, James A. Saul, against the city, but owing to the action taken by the select council at the last meeting of that body, it is necessary that this case-stated, should be modified and enlarged so as to include all the facts and this Mr. Torrey has agreed to, although the formal supplemental agreement has not yet been filed. I cannot say when the case-stated will be argued. Mr. Torrey and myself asked that it be heard this week, but the members of the court were too busy upon other matters to hear it at this time.

Having that this opinion will cover the points about which you inquired, I remain, A. A. Vosburg, City Solicitor.

VIOLENT DEATH OF ZELINSKI

Thomas J. Foley Is Charged with Murder.

IS IN THE COUNTY JAIL

He is a Hotel Keeper of Priceburg and a Well-known Citizen of That Place—Friends of Zelinski Allege That Foley Shoved Him Down the Steps in Front of Fadden's Hotel and That Because of the Push Zelinski Received the Injuries from Which He Died.

Frank Zelinski died in a very mysterious manner last evening at Priceburg and Thomas J. Foley, proprietor of Fadden's hotel, that borough, is at the county jail charged with being responsible for his death. Zelinski is about 21 years of age and resided with his parents. From what could be gathered last night he was around drinking all day yesterday and into several minor scrapes. About 7:45 o'clock last night he came to Fadden's hotel, which is located at the corner of Main and Storrs street, in a state of intoxication.

Foley, William Shea, his father-in-law, and John McGowan, a young man of the village, were sitting in the front room of the hotel at the time and according to the story of the last two, Foley went out and ordered the man away. The latter refused and started to enter the hotel, asking for a drink.

REFUSED A DRINK. Foley refused him a drink and again ordered him away and, according to the story told by Shea and McGowan, the man turned on him with a vile expression. Foley thereupon shut the door in the man's face. McGowan says that he then lurched down the front steps and fell, striking his back on the edge of the porch.

He immediately became unconscious and quite a crowd gathered. Several went for physicians and Dr. Myers responded. The man was almost dead when he arrived, however, and he passed away before medical attention could be given him.

Dr. Myers made a cursory examination, but was unable to discover any fracture of the skull. He is inclined to the belief that death was caused by alcoholism, it being well known that Zelinski has been a hard drinker for years past. The doctor is not thoroughly satisfied with this and says the exact cause can only be determined when Coroner Roberts, who has been notified, makes a post-mortem examination today.

About an hour after the death of Zelinski, Foley was placed under arrest charged with being responsible for the man's death. A warrant was issued by Justice Williams on information furnished by several of the relatives of the deceased, who allege that Foley threw Zelinski out of the hotel. He was arraigned before the county jail without bail and he was brought to this city and locked up late last evening.

FOLEY WELL KNOWN.

His friends are not only surprised but many of them are exceedingly angry at his arrest and commitment, and the facts to be learned last evening certainly bear them out in this stand. Foley is well known in this city, having been bartender at the Grand Central hotel for a number of years.

Coroner Roberts will investigate the cause of this morning and will probably decide to hold an inquest.

THE DIXIE BENEFIT.

An Exceptionally Fine Entertainment Given Last Night in the St. Luke's Parish House.

A large audience enjoyed the delightful entertainment given in compliment to Mr. and Mrs. Harry F. Dixie last evening at St. Luke's parish house. The affair was managed by a committee consisting of Messrs. James Gardner, James Blair, Jr., E. W. Hollander, Ralph A. Williams and H. B. Merrill and went off much more smoothly than the average first night of a professional drama under the most favorable circumstances. People left the house after the performance congratulating each other on the splendid talent possessed by Scranton and particularly was the clever dramatization of Mr. James Gardner Sanderson the subject of great praise.

To Miss Florence Richmond is due

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much of the success of the evening in her piano accompaniment. Miss Grace Spencer secured a flattering triumph both with her dramatic work and her beautiful solo at the finale.

Miss Richmond played the overture which was followed by a pretty little sketch given with much spirit and taste by Mr. and Mrs. Dixie and called "My Aunt's Legacy." The intermezzo was a solo by Ralph A. Williams, who sang with excellent effect and was heartily cheered. Mr. and Mrs. Dixie also gave an original musical comedy entitled "My Sweetheart," which contained a number of bright specialties, including a bell-ringing number, very well performed indeed, and solos by both performers which were enthusiastically applauded.

The greatest hit of the evening was made in "The Chance of the Season" the little play adapted by Mr. Sanderson. The stage was prettily set and two fair maids, Miss Anderson and Miss Spencer were discovered seated at the tea table where the kettle was boiling for a social cup of tea. Both ladies presented a most attractive appearance. Miss Anderson wore a charming blue gown which was especially becoming to her tall graceful figure. Miss Spencer was handsomely gowned in old rose.

The plot of the sketch lies in the confession of Miss Dale (Miss Spencer) to her friend of other years, Mrs. Jack Creighton in the person of Miss Anderson, regarding a love affair by which she had discarded the man, to whom she was devotedly attached because of mutual recrimination, bringing out explanations, which shows the terrible mistake which has been made and reveals the perfidy of Creighton's friend.

As the young lady is being urged by her former lover to accept him on the former footing and she is wildly refusing to blight another's life, Mr. Creighton enters and the well kept secret comes out to the effect that Jack Creighton the lover is not her husband but her husband's cousin of the same name.

In the finale Miss Anderson did some clever work in both attitude and expression. Miss Spencer displayed all the abilities which her friends have long known she possesses in the realm of histrionics, and Mr. Sanderson's delineation of a difficult role and one likely to be overdone, was artistic to a degree.

It is to be hoped that other dramatic productions from his pen will be seen in the near future.

MISS DUNN'S LECTURE.

Listened to by a Large Audience at the Bicycle Club House—Exhibition of Her Water Colors.

That Scranton people like art lectures is not a new thing. In the past seven days three lectures by as many different speakers on subjects of artistic interest, have been delivered in this city, and in every instance before large audiences made up of leading representatives of culture and intelligence.

Last night at the Bicycle club one of the finest assemblages of the season, despite many attractions elsewhere, listened to Miss Emeline A. Dunn and enjoyed the exhibition of water colors which she presented.

L. H. Torrey made a characteristic, if not a happy address, introducing Miss Dunn, in which he said that the people present had come there to travel with her, commenting on the fact that ladies usually travel in order to get away from domestic science, but on this occasion the travel was in the interest of that science, as the lectures were for the benefit of a cooking class at the Young Women's Christian association. Miss Dunn had also offered to duplicate any of the pictures shown for the same object.

Miss Cordelia Freeman sang a beautiful solo, accompanied by Miss Blackman as pianist, Miss Julia Allen playing violin obligatos with charming effect. Miss Dunn is a stately, handsome young woman, who has exceptional command of voice and manner. She spoke most entertainingly of the spots illustrated by the exquisite water colors, which were placed one by one on the easel at the front of the palm-wooded platform. She explained that the collection was made largely with an educational purpose, as she had long ago discovered that children learn color best from actual objects in natural tints and are more interested in colored pictures than in black and white representations.

Miss Du-n's water color work is characterized by excellent technique and a faithful, delicate touch, a tender gamut of color that strikes no harsh notes. She has a surprising versatility ranging from soft, pastel-like effects to strong, masterly portrayals, keen and true as portraits of beauty of landscape and classic spots.

There were many interesting sketches from Rome, including a glimpse of the Forum and the Arch of Severus built above the Lammatine prison where Paul was incarcerated. Views on the Campagna and the baths of Caracalla. Many pictures about Venice and Italy in general, England, particularly Shakespearean subjects, were given.

This afternoon an entirely new lot will be shown, and the ladies who furnished the musical programme last night will again appear. The much cannot be said in praise of the lectures and exhibition.

DIED.

BURDICK—In Scranton, Pa., Nov. 7, 1899, Helen E., the infant daughter of Mr. and Mrs. H. G. Burdick. Funeral Thursday morning at 10 o'clock.

CORPORATIONS IN

A BIG LEGAL FIGHT

MT. PLEASANT COAL CO. FITTED AGAINST LACKAWANNA.

Equity Suit to Restrain the Railroad Company from Interfering with the Coal Company's Construction of an Overhead Bridge Across the Former Right-of-Way—Contest Grows Out of the Ontario and Western's Bid for a Bigger Share of the Coal Carrying Business.

Seldom does a law suit have such an array of prominent witnesses as those who were present yesterday in the superior court room to give testimony in the equity case of the Mt. Pleasant Coal company against the Delaware, Lackawanna and Western Railroad company, which Judge Archbold called for hearing just after the noon adjournment.

W. F. Hallstead, second vice-president; E. E. Loomis, superintendent of mining; A. C. Salisbury, division superintendent; Garret Robert, former superintendent, James Archbold, former chief engineer and John Snyder, chief mining engineer, were some of the officials and ex-officials of the Lackawanna who were numbered in this array. E. L. Fuller, president of the Mt. Pleasant company, Edward Merrill, A. S. Jones ex-acting manager John Cawley, Dominick Healey and a number of the old time miners who worked at the Mt. Pleasant in its earliest days were other of the witnesses.

RECORD TESTIMONY.

The testimony yesterday was mainly of a record character, the plaintiff relying mainly on deeds and like conveyances to establish its contention. The defendant will present about twenty witnesses to give oral testimony and it is probable the case will consume all of today and a good portion of tomorrow.

The suit grows out of the determination of the Mt. Pleasant company to divert its shipments from the Lackawanna to the Ontario and Western. Its breaker is on the westerly side of the Lackawanna tracks, and the Ontario and Western spur which will take the coal to the main line is to have its terminal at Chutes to be erected on the opposite side.

To carry the coal from the breaker to the chutes it is proposed to construct a bridge over the tracks which will support a series of belt conveyors. The Lackawanna company denies the right of the plaintiff to cross its right of way in this manner and also contends that the present narrow bridge connecting the breaker and dump must be removed by January 1, 1900, when the shipping contract between the two companies expires.

The Lackawanna company avers that the plaintiff has no rights in the premises excepting those which enjoy through the sufferance of the Lackawanna. It claims that the present culm bridge was permitted to be erected solely in consideration of the contract between the two companies and that when the contract expires the right to the overhead crossing lapses.

PLAINTIFF'S CONTENTION.

The Mt. Pleasant company denies any such understanding and holds that its predecessors in title to the Mt. Pleasant property, owned the present Lackawanna right of way and in disposing of it to the Lackawanna stipulated that it should hold it for railroad purposes only. It is also contended by the plaintiff that the franchise of the Lackawanna prescribes that wherever its tracks divide a property the owner shall have an overhead right of way, to be erected at the expense of the railroad company.

Further than this, the plaintiff contends that it had a right of way at grade over the tracks and maintained it for years, abandoning it only in consideration of the overhead right of way.

There are any number of lateral connections.

(Continued on Page 10)

Wedding Gifts. Why waste time, discussing what you will get when we can save you a great deal of time and worry, as our line is so large and varied that it is an easy matter to make selections; we have been opening up many new and beautiful goods in China, Cut Glass, Brics-a-Brac, etc. SCRANTON'S CHINA AND LAMP HEADQUARTERS. China Mall. 134 Wyoming Ave. "Walk in and look around."

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LOOK! At \$10 A Ladies' Jacket. Made from fine kersey cloth, shield front, nicely tailored with four rows of stitching back and front, in blue, castor and fawn. 50 Ladies' Jackets. Just arrived an entire line of sample coats, all different styles. They are better made than regular stock garments and the price is one-third less. FINE DISPLAY OF New Golf Capes, Rainy Day Skirts, Tailor Suits. For Children. Unusual bargains in Reefer Coats and Jackets—\$2.50, \$3.50, \$3.95, \$5.50, \$7.50. Fur Collarettes and Capes in great variety at special prices.

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