

LIVE NEWS OF THE INDUSTRIAL WORLD

MAKE UP OF THE D. L. & W. BOARD FOR TODAY.

Rumors with Reference to Changes the Delaware and Hudson Company Propose to Make at Archbald—Extensive Traffic of the Erie Company—Breaker Boys at the Taylor Colliery Go on Strike—Lehigh Valley Will Ask for More Time to Equip Cars.

Following is the Delaware, Lackawanna and Western board for today: Scranton, Pa., Dec. 5, 1899.

- Mr. 54—C. Townsend. Mr. 55—J. Duffy, with Bennett's men. Extra—J. Keenan. Mr. 56—J. Howe, with Wandall's men. Mr. 57—A. G. Hammit, with Polhamus' men. Extra—O. Miller. Mr. 58—Gerrity. Mr. 59—A. Hopkins. Extra—J. Mosler, with Finery's men. Mr. 60—W. McAllister. Mr. 61—O. Barrett, with E. Van Fleet's men. Mr. 62—W. H. Nichols, with V. Van Fleet's men. Mr. 63—H. V. Colvin. Extra—T. Nauman. Mr. 64—M. Herzig. Mr. 65—A. J. McDonnell. Mr. 66—James Gahagan. Extra—F. Singer. Mr. 67—E. M. Hallett. Mr. 68—T. Hopkins. Mr. 69—F. Stevens, with C. Bartholomew's men. Extra—F. D. Secor.

SUMMITS. 6 a. m. north—G. Frounfelker. 7:30 a. m. north—S. Carmody. 11 a. m. north—J. Gliny. 11 a. m. south—H. Bush. 2 p. m. south—O. Randolph. 6:30 p. m. south—M. Madigan.

PULLERS. 10 a. m.—Peckins. PUSHERS. 4 p. m. south—C. Lamping. 7 p. m. south—E. Duffy. 10 p. m. south—O. Case.

PASSENGER ENGINES. 7 a. m.—Widener. 10 p. m.—McGovern.

NORTH. Wild cat, 2 engines, 5 a. m.—A. Mullin. Wild cat, 2 engines, 6 a. m.—R. Casner. No. 25, 2 engines—T. Fitzpatrick. No. 29, 2 engines—J. Hennigan, with George Hill's men. Extra, 2 engines, 11:30 a. m.—J. O'Hara. No. 31, 2 engines—T. Doudle. Extra, 2 engines, 2 p. m.—C. Kingsley. Extra, 2 engines, 4:30 p. m.—J. Swartz. Wild cat, 2 engines, 6 p. m.—J. Gahagan. Extra, 2 engines, 7 p. m.—J. E. Masters. Wild cat, 2 engines, 8 p. m.—J. Ketchum. Wild cat, 2 engines, 10 p. m.—J. Duffy.

Delaware and Hudson Rumors.

It has been persistently rumored here for several weeks that the Delaware and Hudson company intended to build a round-house on the level tract of land near the foot of Plane B. The officials here knew nothing about it and on inquiry at the company's office at Scranton it was said by the officials that there is no necessity for such a change and that they knew nothing about it. It was also said during the week that the company would construct the abandoned gravity track near the foot of Plane B with the track now used in hauling coal from the breaker here and another connection would be made with the new line over the Moosic mountains to Homestead. This rumor rests on a more certain basis than that concerning the round-house. It is not unlikely that the company has such a project in view, as its completion would shorten the distance to Homestead to a considerable extent. At any rate, the matter has been under consideration by the officials of the company—Archibald Citizen.

Erie's Extensive Traffic.

Never before in the history of the Erie was the traffic greater than now. Every morning finds at least 1,000 cars of loaded freight in the Port Jervis yard bound east and every available engine is in demand, but the Erie gets there with them just the same.

One great item of traffic is the hauling of the Pennsylvania coal company. The Erie handles on an average daily 1,500 cars loaded and empty on the Scranton branch for the Pennsylvania and other coal companies. This extensive business occasions naturally more repairs to engines and cars and the Port Jervis shops are busy night and day. One day last week master mechanic Halmen received 100 tons of iron and steel for repair purposes.—Port Jervis Gazette.

Valley Wants More Time.

Edward A. Mosley, secretary of the Inter-State Commerce commission, has had posted in all the Lehigh Valley offices notices calling attention to the fact that the commission will meet in Washington on Dec. 6.

At this meeting the Lehigh Valley Railroad company's request for a hearing asking that they be granted an extension of time until Jan. 1, 1901 in which to equip their cars with all safety appliances. All persons interested for or against the extension are requested to be represented at the hearing in person or by counsel.

Lehigh Valley Trunk Line.

The Lehigh Valley railroad has finally met with success in the long drawn-out attempt to secure the right to lay its

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Are you nervous, restless, pale and easily tired? Perhaps the scales can tell you why. If your weight is below your average, that explains it.

Scott's Emulsion is a fat-producing food. You soon begin to gain and you keep on gaining long after you stop taking it. For all wasting diseases, in both young and old, it is the one standard remedy.

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tracks across Communisaw avenue, Jersey City.

An ordinance permitting the crossing was passed by the Jersey City authorities some time ago, but its operation was held up, owing to an objection from a technical legal standpoint, that was raised by its opposers. This legal objection was removed by the state court of errors and appeals, the decision being handed down at 2:15 p. m. on Nov. 20.

As soon as the decision was announced, the railroad people prepared to get started with the work of laying the tracks, which work was completed, four tracks being laid, by 12 o'clock midnight the same day. The street was cleared of all obstructions at 12:40 a. m., and the first train passed over the crossing at 12:50 a. m. A force of about 250 men was employed in doing the work.

New Engines.

The Schenectady Locomotive works have turned out six heavy consolidation pushing engines for the Delaware and Hudson coal company. The cylinders are 22x28, the "eight on drivers 157,500 pounds, and total weight 375,000 pounds. The total weight 375,000 pounds, and it was designed to get as much heating and grate surface as possible within the limits. The rods are of light channel section. Driving axles have enlarged wheel fits. Frames are cast steel. The grate surface is 30.19 square feet and the heating surface 3,248 square feet. This is believed to be the largest heating surface ever applied to a locomotive of this weight.

Eight Hours a Day.

The miners employed by the Delaware, Lackawanna and Western company worked a nine-hour shift each day until Wednesday, when an order was issued making eight hours a day's work.

It is not definitely known how long this order will be in effect, as a lull is noticeable in the coal market during the past few days, but the miners will only work eight hours at present. In the event of an increased demand for coal, the miners will be put back on full time. This order applies to all the mines operated by the Delaware, Lackawanna and Western company.

Strike of Breaker Boys.

The boys who pick slate at the Taylor colliery of the Delaware, Lackawanna and Western company went on strike yesterday morning because they allege they are not receiving pay for as many hours as they work.

The colliery was idle yesterday in consequence of the 400 hands who strike. It is probable that the matter will be amicably settled today.

This and That.

The Brotherhood of Railway Trainmen has just located its national headquarters at Cleveland, and the Firemen's Brotherhood is expected to follow, the Locomotive Engineers' Brotherhood having been there for years.

Within a short time the Pressed Steel Car company will have 300 steel cars ready to be shipped to the Egyptian State railroad, which is controlled by the British government. The cars will probably be forwarded to the Atlantic seaboard in about ten trains. At the present time the company has 100 of these cars completed.

President Fink, of the Norfolk and Western, says the prosperity of the South is as wonderful as it is real, and as real as he thinks, it will be lasting. New industries of all kinds are being established. His remarks are an example that iron furnaces along the line of the road which have been idle for a great many years are being put in blast, and six more are to be in operation by Jan. 1.

The Pennsylvania company is selling old steel rails at a profit. H. O. Hukill, purchasing agent for the railroad company, stated that last year the company contracted for 40,000 tons of steel rails at \$18 a ton, for delivery in 1899. The new rails replaced old ones on the main line west of Pittsburgh and the Panhandle system. The old rails that cost \$18 a ton are being sold for \$25 a ton and some of them have been shipped to Chicago and some of the rails have been taken up and replaced on certain divisions where the traffic is not so heavy as on the main line.

The right of a lover to serenade his sweetheart with a steam whistle is seriously questioned by the people of Berry on the West Pennsylvania railroad. At the next meeting of the town council the matter may be acted upon by declaring the noise a nuisance. A good many of the knights of the throttle are single men and have neat girls in the pretty mountain town. It may be after midnight, but the engine pulls the whistle just the same and awakens the whole town with a blast that lets the girl know that he is safe. It is very romantic, the lovers think, but to others along the line and to the councilmen whose counting days are over it is only a hideous sound that spoils their rest and makes them feel as gloomy as a November night. There is also objection to the whistling at Millwood, Pa.

Receivers Appointed.

Philadelphia, Dec. 7.—Judge McPherson in the United States district court appointed James Dobson, of the firm of James and John Dobson, carpet manufacturers, and Townsend Sharpless, receivers for H. Wunderlich & Co., trading as the Chicago Merchandise company, who failed on Tuesday. The joint bond of the receivers was fixed at \$100,000. The liabilities of the company are not yet known but it is stated they will reach \$200,000.

OPINION ON THE WATER ORDINANCE

READ AT LAST NIGHT'S MEETING OF SELECT COUNCIL.

Scranton Gas and Water Company Enjoys Privileges and Franchises That Makes its Business Quasi Public and the Company May Therefore Be Subject to Police Regulations Within Reasonable Limits. Things That Must Be Considered in the Exercise of This Power.

When the Melvin ordinance regulating the charges for water in this city was presented to the council several weeks ago City Solicitor A. A. Vosburg was asked to give an opinion as to the right of council to pass such a measure and also the validity of the ordinance in question.

Mr. Vosburg's opinion was read at last night's meeting of the select council and is as follows: Scranton, Pa., Dec. 6, 1899. To the Honorable the Members of the Select and Common Council, and the Select Water Committee of the Select Council.

Gentlemen: Your inquiry as to the validity of the ordinance proposing a limitation of the charges for water within the city of Scranton, raises an important question, and I therefore answer it somewhat at length. It is an important question, because neither the state nor municipal government should be allowed to interfere improperly with the management of private enterprises, but, on the other hand, there must be some supervisory power to prevent monopoly and oppression in the conduct of business enterprises which deal with the public at large. It is a part of the natural and civil liberty to form business relations, free from the dictation of the state, and the like freedom should be secured and enjoyed in determining the conditions and terms of the contract which constitutes the basis of the business relation or transaction.

It is, therefore, the general rule that a man is free to ask for his wares or his services, whatever price he is able to get, and others are willing to pay; but there are some cases in which which can be justified on constitutional grounds.

BUSINESS MUST BE PRIVATE.

This general freedom from the state regulation of prices and charges must only be claimed as a natural right, so far as the business is itself of a private character, and is not connected with or considered more valuable by the enjoyment of some special privilege or franchise. Whenever the business is itself a privilege or franchise, not enjoyed by all alike, or the business is materially benefited by the gift by the state of some special privilege or franchise, it ceases to be strictly private, and becomes a quasi public business, and to that extent may be subject to police regulations.

The general privilege or franchise is granted to individuals because of some supposed benefit to the public, and in order that the benefit may be assured to the public, the state may justly institute regulations to that end. The regulation of prices in such cases will therefore be legitimate and constitutional. In support of this view of the matter, I cite Railroad Co. vs. Iowa, 94 U. S. 155; Peck vs. Railroad Co., 5 U. S. 151; Sluiterhouse Cases, 14 Wall. 85; Waterworks vs. Schotter, 110 U. S. 347.

There does not appear to be any provision in the charter of the state under which the Scranton Gas and Water company is authorized to do business, which grants it immunity from the general rule stated above, therefore this subject can be decided upon general principles. As has been said, this principle is not new, but was known to the common law, as seen in Aldred vs. Tynes, 12 East, 577. "There is no doubt the general principle is favored both in law and justice, that every man has a right to what he pleases upon his own property for the use of it; but if for a particular purpose the public have a right to restrict to his exercise and make use of them and he have a monopoly in them, if he will take the benefit of that monopoly he must, as an equivalent, perform the duty attached to it on reasonable terms."

POWER EARLY RECOGNIZED.

It is thus apparent that at that early day the power of the state to enforce the charging of reasonable rates was recognized, and both the United States Supreme court and the state Supreme courts, have gone even further in enunciating the same doctrine. In addition to the decisions of the United States Supreme court to which I have already called your attention, I cite: Mobile vs. Gulf, 3 Ala. N. S. 10; Munn vs. People, 92 U. S. 113. Chief Justice Waite in the last cited case says: "Looking, then, to the common law, from whence came the right which the constitution protects, we find that when private property is affected with a public interest it ceases to be purely private. Property does become clothed with a public interest when used in a manner that affects the public consequence, and affect the community at large. When, therefore, one devotes his property to a use in which the public has an interest, he in effect grants to the public an interest in that use, and must submit to be controlled by the common good, to the extent of the interest he has thus created. He may withdraw his grant by discontinuing the use; but so long as he maintains the use, he must submit to the control."

It is evident that the interest of the public in the business, and the necessity for preventing monopolies in the use of public property, are the considerations which move the court to withhold proper restriction and limitations upon the use of articles dealt in. It seems manifest from the decisions cited that the state or nation has the right to regulate prices in a proper manner for the prevention of extortion and monopoly, and I am of the opinion that the same authority is vested in the municipality by delegation from a state.

CITIES HAVE THE POWER.

The Act of May 13, 1889, Article 6, Section 6, provides that cities of the third class have the power "To make all such ordinances, by-laws, rules and regulations, not inconsistent with the Constitution and laws of this commonwealth, as may be expedient or necessary, in addition to the special powers in this section granted, for the management, care and control of the city and its finances, and the maintenance of the peace, good government and welfare of the city, and the trade, commerce and manufactures, and the same to alter, modify and repeal at pleasure. Under these provisions, the powers of the state are delegated to the city of Scranton, and therefore, whatever power the state might exercise in the regulation of the water rates of this

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city, may be exercised by this municipality.

It certainly must be conceded that the exercise of such a power is something which concerns the public at large, and that it is necessary for the preservation of the city from fire, and for the furnishing of water to its inhabitants. It is also plainly apparent that the Scranton Gas and Water company has a great many privileges, and that competition is practically impossible. In other words, this company enjoys a virtual monopoly of the business in which it is engaged, in certain sections of the city, and enjoys privileges and franchises which were the result of the state; so that it is a quasi public business, and may therefore be subject to police regulations within reasonable limits.

REASONABLE LIMITATION.

What may be held to be a reasonable limitation upon the prices charged by this company, must rest largely in the exercise of good sound discretion and judgment. If it be held that the power of regulation exists, the manner of regulation must be fixed by the municipality, having a due regard of the rights of the stockholders of this company. In this connection, it is proper to consider the amount of capital invested, the expense of maintaining the business, the income from the business, the dividends earned, and any other matter which will throw light upon the question whether or not the company is charging an exorbitant rate for water furnished by it to the people of this community.

Its stockholders are entitled to a fair return for their money invested; and on the other hand, the people should not be compelled to pay a higher rate than will give to these stockholders a fair and honest dividend upon the cash invested by them in this enterprise.

After the opinion was read for the benefit of the members last night, it was ordered filed.

SHOW WINDOW BROKEN.

Large Amount of Jewelry Was Removed from It.

The large show window in K. Radin's Penn avenue jewelry store, was broken early yesterday morning and about \$25 worth of goods abstracted. It is worth thought that the burglary was committed about 2:30 o'clock. The window was smashed with a large stone and a good sized hole made through which the various articles were taken. Bracelets, rings, small clocks and things of like value were removed.



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