

## SUIT LAY DORMANT FOR MANY YEARS

JUDGE ARCHBALD GIVES NEW LIFE TO DEAN-WINTON CASE.

Because It Had Not Been Duly Prosecuted, in the Opinion of the Defendants, a Motion Was Made to Have It Dismissed-The Judge, However, Decides That It Shall Not Be So Summarily Disposed of-Fell Township Contest Likewise Refuses

In the long-standing equity suit of A. D. Dean, trustee, against W. W. Winton and others, Judge Archbald yesterday handed down an opinion, overruling the motion of the defendants to dismiss the bill for want of due prosecution.

The sult is a somewhat celebrated one, for the fact that it has been before the court for thirteen years and that much other litigation has grown

July 11, 1871, W. W. Winton, Joseph Church, Isaac Dean and Thomas Livey became the owners of the Griffin coa tract of fifty acres in the Second ward of Scranton. Mr. Winton took title and executed a declaration of trust to each of the others for a quarter inter-

The Church interest was sold by the sheriff, September 8, 1877, and the plaintiff claims it was bought in by W. W. Winton for a nominal sum, under an agreement with Isaac Dean, the lien creditor, that the proceeds should be applied to the liquidation of Church's debts. Isaac Dean being in debt as executor for the heirs of P. S. Dean, confessed judgment to Thomas Livey, as trustee for the heirs, and at the sheriff's sale the Dean quarter was bought in by Livey. A. D. Dean, the plaintiff in the present case, succeeded Livey as trustee, and in 1887 he instituted suit to secure an accounting to the Dean heirs, for the Dean and Church Interests.

Winton denied the allegation in reference to the terms of the purchase of the Church interest, and in defense of the fallure to account for the proceeds from the Dean quarter set up the claim that he was willing to account, but could not do so because of the unwillingness of the plaintiffs to allow him anything for his services in managing the property for twenty-two years, during which time it had earned

The story of the litigation is told by Judge Archbald in the opinion:

The bill was filed July 25, 1887, and has there fore been pending over thirfeen years. It is based on an alleged trust with regard to land, the purpose being to secure from the defendants an accounting for the proceeds. After an unction restraining the disposal of the property the suit was allowed to lie dormant without an further action until June 15, 1823, when a rule was taken on the defendants to plead, answer, or demur, in response to which an answer was put in July 21, following: There was then another delay of seven months

until February, 1894, when the case was put at issue by a replication, and referred by argument to W. W. Lathrope as examiner and master. This was the last that was done in the case and we are now moved to dismiss it for want of

Notwithstanding the delay we are not pre-pared to say that there should be a summary dismissal of the bill. The rights involved in it are important, and ought to be disposed of only on due proof. At one time, as appears by the agreement of July 16, 1850, there seems to have been an effort to adjust them, and for the last four years they have been the subject of litiga-tion in the orphans' court before the auditor appointed to distribute the effects in the hands of the executors of Catherina Winton, deceased. The auditor has disallowed the claim on the grounds that the trust asserted ought to be ca-tablished by bill, in the common pleas, which is just what we have here.

as just what we have here.

A motion to dismiss for the reason urged is largely addressed to the discretion of the court, and it should not prevail in on a judgment in the present instance. The delay is not chargeable to the plaintiffs alone. The defendants did not put in their answer until six years after the bill was filed and then only is a constant. bill was filed and then only in response to a rule to do so, and nearly a year later they agreed to to do so, and hearly a year later they agreed to a reference to a master, thus recognizing the suit as still in force and admitting their responsibility to meet and defend it. Since then they could have set it down at any time for a hearing and if the plaintiff failed to put in his case the master would have been bound to disudes it. Under the circumstances there has been such an acquiescence in the delay that the defendants are not in a position to take advantage of it.

We think the case should proceed to a hearing and be disposed of on its nearts. and be disposed of on its merits.

The motion to dismiss the bill for want of

due prosecution is overruled R. W. Archbald, P. J.

## It Refuses to Down.

Yesterday was the last day for taking testimony in the long-drawn-out Fell township election contest, but despite the refusal of Judge Archbald to grant another extension, the tak-ing of testimony will probably be con-park: tinued, by agreement of the attor-

The respondent's counsel, M. J. Walsh, claims that he had every reason to expect the granting of an extension, and relying on this, did not take any drastic measures for bringin the witnesses for whom subpoenas were issued. He now thinks that he should have an opportunity of having these witnesses heard and has appealed to the sense of fair play of the contestant's attorney, C. C. Donovan, to agree to have them heard. Mr. Donovan is considering the re-

So far, there have been 425 witnesses examined. This is almost equal in number to the total vote cast. There have been twenty-five hearings. The costs up to date amount to about

Caveat Proceeding Dismissed. The contest of the will of the late John Carey, of Taylor, instituted by Mining, Blasting, Sporting, Smokeless and the eldest son, Frank Carey, of 1310 the eldest son, Frank Carey, of 1310 Luzerne street, was abruptly terminated yesterday by the failure of the contestant to appear at the hearing on the caveat which he had filed. Register Koch dismissed the proceed-

The ground on which the contest was instituted was not disclosed, but it is to be judged from a reading of the THOS. FORD . 

#### cured the balance of the estate. Two Deserted Wives.

Phoebe Longcor, of Oakford court, y Attorney J. F. Gilroy, applied yeserday for a divorce from her alleged deserting husband, Herbert S. Longor. They were married July 9, 1895, and lived together just three years. Florence May Lippincott, of Scranton, asks to be divorced from Shepperd L. Lippincott, on the same grounds. Their married life extended over the brief period of twenty-five days. The period was from May 21. 1898, to June 15, 1898. E. H. Shurtleft is the libellant's attorney.

#### COURT HOUSE NEWS NOTES.

Judge John P. Kelly yesterday released fro ail Harry Walsh, charged with assault and but ory. Buil in the sum of \$300 was furnished by H. Jenhins. Attorney C. H. Soper vesterday filed with Pro-

onotary John Copeland a suit in trespose May E. Clarke. Damages in the sum of \$500 are A rule, returnable at argument court, was made

y Judge Archbald yesterday to show cause why he polling place in North Abington should not changed from the residence of Giles Roberts the new town ball, now nearing completion. Mr. Roberts was one of the signers of the pet!

#### TESTIMONY IN RUSSIAN CASE It Was Taken Yesterday Before Alderman Millar.

There was a hearing before Alderman Millar yesterday in the case of Mathias Lazar against the postmaster of Lipsk, Russia, whom he charges with embezzling over \$500, and the teslimony of Lazar and Notary of the Public Kiesel was taken down, and will be forwarded to the Russian consulate at New York.

La ar testified that in the latter part of August, 1899, he decided to go back to his home in Lipsk. He had worked in the Mt. Pleasant mine for several years, and had accumulated the sum of 1,600 roubles (\$800), with which he lecided he could now make himself and wife comfortable in the old coun-

Instead of taking the money with him, however, he sent it to his wife, Mrs. Sophia Lazar, Notary Kiesel taking charge of the negotiation.

Alderman Millar, who was reading to the witness a list of printed questions, sent on by the Russian government, here queried Lazar's reason for sending the money, to which he made the startling response that he was afraid that the soldiers on the boundary line between Russia and Prussia would hold him up and rob him.

The packet containing the money arrived in Russia after he arrived come, and on coming to his hands was intact. He carried it about with him for six days, without opening it, and when he did was astonished to find it contained but 510 roubles.

The postmaster of Lipsk was then arrested, at his instance, and is now awaiting the result of this taking of estimony, in a Russian prison.

The packet was traced all the way from New York, whence it was mailed. to Leipsic, Prussia, when the funds were all accounted for.

Notary Klesel was put on the stand, and in his testimony corroborated Lazar's statements. The hearing will be continued today. Attorney Bunnell represented Lazar yesterday.

## MARRIAGE AT JERMYN.

The marriage of Miss Mandane Rymer, the well-known daughter of Mr. and Mrs. H. A. Willman, of Jermyn, and Attorney C. Augustus Battenberg, of Archbald, took place at 8 o'clock last evening at the home of the bride's parents, on South Main street, Jermyn. in the presence of a few of the intimate relatives of both families. The rooms were tastily decorated with palms and potted plants, which were banked, and there was a profusion of cut flowers.

The ceremony was performed by Rev. M. D. Fuller, pastor of the Methodist Episcopal church. The young couple were unattended. The bride was most becomingly attired in a costume of peau de soie, with lace trimmings. At the conclusion of the ceremony they received the hearty congratulations of their friends and an elaborate repast was served. Mr. and Mrs. Battenberg left on the 10 o'clock train for Buffalo and will spend their honeymoon along the

Both the bride and groom are popular young people and enjoy the friendship of a large circle, whose wishes they have for a bright and happy future.

## CONCERT THIS AFTERNOON.

The following programme will be rendered by Bauer's band at a concert to be held this afternoon at Nay Aug

Briss quartette, (a) "The Girl I Should Have
Married Leng Age" W. F. Burke
(b) "Me Lady Sae." Mackie
Medley, "The Winner" Mackie

HENRY BELIN, JR.,

General Agent for the Wyoming

## High Explosives.

Safety Fuse, Caps and Exploders. Room 401 Con nell Building, Scranton.

## LIVE NEWS OF THE INDUSTRIAL WORLD

DILCHER WILL HAVE A POWER-FUL INFLUENCE.

It Is Believed That His Report of Conditions Here to the Executive Board of Mine Workers Union at Indianapolis Will Do Much to Determine Action About the Proposed Strike-Make-up of the D., L. & W. Board-Miners Did Not Present Their Demand.

Tomorrow is the day set for the meeting of the executive board of the United Mine Workers of America at Indianapolis, at which will be considered the application of the local unions to strike next Saturday, in case the operators refuse to make concessions, demanded by the Hazleton convention.

Fred Dilcher, who has been here directing the work of organizing the mine workers, left Monday evening to attend the session of the executive board, of which he is a member. The action of the board will be governed in no small measure, it is said, by Mr. Dilcher's reports of the conditions existing here.

Secretary Dempsey, when seen yeserday at the local headquarters, 215 Lackawanna avenue, said it was imssible to anticipate the action of the national board, but he felt assured that should the application for authority to strike will take place as scheduled on Saturday next.

His personal opinion was that no one or two companies or small number of operators could escape the strike by acceding to the miners' demands. If strike comes, it will have to be a general one to be effective, Mr. Demp-sey says, and, while he would not say so authoritatively, his own belief was that nothing but a reasonably general accession to the demands would avert

There is very little expectation that the operators will take any action, and consequently everything depends on the action of the executive board tomorrow.

D., L. & W. Board for Today. Following is the make-up of the Delaware, Lackawanna and Western

WILD CATS, SOUTH. .30 p. m.—McDonnell. 0.30 p. m.—J. Hennigan, Singer's men.

Wednesday, Sept. 5. WILD CATS, SOUTH.

- Hammitt, with J. J. Daffy's me m.—Ratura, m.—Raterry, m.—Larkin

. m.—Larkin.
a.—Henry Gilligan,
m.—E. M. Halbett,
m.—F. F. Stevens,
m.—H. Doherty, with Van Vleit's men. m.-J. Ennis. m.-Mosier.

 p. m.—Fitzpatrick.
 p. m.—E. McAllister. SUMMITS. -Fromfelker.

PULLER. PESHERS

p. m.-M. Finnerty.

WILD CATS, NORTH. m.-S. Carmody. m.-John Gahagan.

Stack, with Hammitt's men. m.—Masters. m.—Wall. m.—Daudican.

NOTICE. J. H. McCann and crew. South, with two 800 class engines or three 700 class engines, at 6 p. n., to work as Summit from Scranton, 894, 5 Brakenian Patrick Hemigan will go cut with Henry Gilligan instead of James Decker.

No Conference Yesterday. The committee from the Lackawanna union, which was expected to wait on Superintendent Loomis, of the coal de-

# Restore Vitality, Lost Vigor and Manhood

Cure Impotency, Night Emissions, Loss of Memory, all wasting diseases, all effects of relf-abuse or excess and indiscretion.

A nerve tonic and blood builder. Brings the pink glow to pale checks and restores the fire of youth. By mail \$2.50, with our bankable gaurantee to cure or refund the money paid. Send for circular and copy of our bankable gaurantee bond.

Nervita Tablets EXTRA STRENGTH Immediate Results (VELLOW LABEL)

Positively guaranteed cure for Loss of Power, Varicoccie, Undeveloped or Shrunken Organs, Paresis, Locomotor Ataxia, Nervous Prostration, Hysteria, Fits, Insanity, Paralysis and the Hesults of Excessive Use of Tobacco, Opium or Liquor. By mail in plain package, \$1.00 a box, 6 for \$5.00 with our bankable guarantee bond to cure in 30 days or refund money paid. Address

NERVITA MEDICAL CO. Clinton & Jackson Sts., CHICACO, ILL. Sold by McGarrah & Thomas, Drug-gists,, 209 Lackawanna ave., Scranton, Pa.

partment, yesterday, in reference to making a demand for an increase of ten per cent, in the wages of all the employes of the company in and around the eighteen collieries, did not

put in an appearance. Superintendent Leomis had not returned from his vacation, and is not expected until today. It was stated at the headquarters of the United Mine Workers of America, on Lackawanna avenue, that the committee would wan until Saturday before making their

#### Firemen Promoted to Engineers.

The following firemen, who have passed the examinations, are now running engines on the Lackawanna rall-

Hallstead-Samuel Wells, A. McLeod, A. Slicker, F. Tingley, Elwood Edinger, Barney Phillips, Bert Maynard Allen Ward, W. B. Ferguson. Scranton-Samuel Pipher, Gillingham, Emory Setzer, Reuber Jones, Frank Stanton, William May Josiah Richmond, David Bryant, Will iam Washburn, James Robertson, F. Wilcox, M. Whitford, C. Peck, Henry Morgan, Thomas Durr, Frank Melick.

#### This and That.

Master Car Builder Canfield, of the Luckawanna railroad, is in Dayton, Ohio, on business for the company. President Truesdale, Superintendent Clarke and Chief Engineer McFarlan, of the Lackawanna railroad, went to Buffalo yesterday on a tour of inspec

Lackawanna division, No. 12, Order of Railway Conductors, will meet Friday afternoon to elect delegates to a union meeting to be held in Binghamton on Sunday next.

The Cayuga mine of the Delaware, strike be favored by the board, the Lackawanna and Western company resumed operations yesterday morning, after an enforced idleness of two months, due to make necessary repairs and alterations.

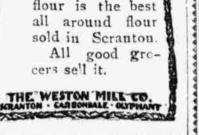
M. B. Casey, chief clerk to Superintendent of Transportation J. M. Daly, is spending a few days in Louisvill dium and large dots; an exceptional fine lot of goods, Ky. During his absence Chief Car Accountant Robert Sproul is attending to suitable for waists and house gowns. Price, yard, ... Mr. Casey's duties.

The grievance committee from the Brotherhood of Railroad Trainmen on the main line division was in the city yesterday in consultation with the officials. The committeemen are J. Baxter, M. Sullivan and T. N. Wood.

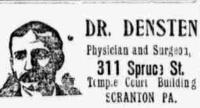
Commencing at 12.01 a. m. September 30, 1990, and thereafter, the double track on the Bloomsburg branch or the Lackawanna railroad from Scran ton to a point near Nanticoke will be operated the opposite to what it is now perated. After that date all trains will turn to the right instead of to the



cers se'l it.



SCRANTON PA.



All acute and chronic diseases of men, women and children, CHRONIC NERVOUS,
RRAIN AND WASTING DISEASES A SPECIALITY, All diseases of the Liver, Kidneys,
Bladder, Skin, Blood, Nerves, Womb, Eye, Far,
Nose, Throat, and Longs, Cancers, Tumors,
Piles, Rupture, Goitre, Rheamatism, Asthma,
Catarrh, Variococele, Lost Manhood, Nightly
Emissions, all Female Diseases, Leucorrhoea, stetion and youthful babits obliterated, Surgery,
Fits, Epilersy, Tape and Stomach Worms, CATARRHIGZONE, Specific for Catarrh, Three
months' treatment only \$5.00. Trial free in
office, Consultation and examination free. office. Consultation and examination fre

DR. DENSTEN



at \$1.98.

# Connolly and Wallac E

SCRANTON'S SHOPPING CENTER.

# French Flannels

The most complete and comprehensive assortment shown in Scranton and at the lowest prices.

Plain colored twilled French Flannels in twentyeight of the leading and most wanted shades, of the very best quality and strictly All Wool. Price, yard,

A special lot of Silk Stripe French Flannels is

also shown in various leading colors, a popular fabric for waists. Price, yard, . . . . . . . . . . . . . The finest quality of All Wool French Flannels, in the various colors, in polka dot effects, small, me-

Twenty-five different combinations of the same grade of Flannel in silk embroidered effects, very new and stylish, positively correct. Price, yard,

The Saturday Half Holiday Season is over. We will b open Saturdays as usual, until 9.30 p. m.

CONNOLLY & WALLACE, WASHINGTON AVENUE



ORGANIZED 1872 DEPOSITARY OF THE UNITED STATES.

-\$200,000

WM. CONNELL, President. HENRY BELIN, Jr., Vice-Pres. WILLIAM H. PECK, Cashler.

Special attention given to busi-ness accornts. Three per cent. in-terest pai on interest deposits.



Coal of the best quality for domestic use and of all sizes, including Buckwheat and Birdseye, delivered in any part of the city, at the lowest price.

Orders received at the office, Connell building, Room 808; telephone No. 1762, or at the mine, telephone No. 272, will be promptly attended to. Dealers supplied at the mine.

At Retail.

MOUNT PLEASANT COAL CO

at the facility C, maring field.

46 pairs Ladies' Russet Shoes, worth \$2 to \$3, at 98c and \$1.49.

68 pairs Ladies' Fine Dongola Button and Lace Shoes, worth \$2.50,

72 pairs Ladies' Vici Kid Lace and Button Fine Shoes, worth \$3.00,

200 pairs of odd sizes of Ladies' Shoes, worth \$2.00 to \$2.50, at

Men's Shoes-68 pairs Men s Russia Calf hand-sewed \$3 Shoes

140 pairs Men's Vici Kid and Calf Heavy Sole Shoes, worth \$2.50,

200 pairs Men's Russet and Black Shoes at 98c and \$1.29.

Boys' School Shoes at 99c, \$1.29 and \$1.49.

Misses' School Shoes at 75c, 98c, \$1.29 and \$1.49.

## The second secon Burglar Sale. It is the custom now-a-days to have all kinds of sales, such as fire sales, clearing sales, smoke sales, boat sails, etc., but we have a few show cases, counters, desks, etc., that the burglars did not carry off, also a very complete line of Cameras, Kodaks, Bicycles, Guns, Fishing Tackles, Athletic Goods, etc, that we are selling at very popular prices. In our repair shop we have the benches, lathe motor and a few tools, and as our repair men fortunately were not on duty at the time of the robbery they are left to us to do any repairing that may come our way. Do not miss this great sale. Florey & Brooks, 211 Washington Ave.

# CARPETS

We want you to see the new arrivals in our Carpet Department. We believe we have the most complete stock in Northeastern Pennsylvania, and know that, quality considered, we can give you value and a selection, not to be had this side of New York. A superb line of

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Rooms 1 and 2, Com'ith B'I'd'g.

SCRANTON, PA Mining and Blasting

POWDER Mede at Moosic and Bush ;ale Works,

LAFLIN & RAND POWDER CO.'S ORANGE GUN POWDER Electric Batteries, Electric Exploders, exploding blasts, Safety Puss as 1

BUY THE CENUINE CALIFORNIA FIG SYRUP CO.

Repauno Chemical Co.'s explosive IF NOTE THE NAME.

Ladies' Slippers at 49c. Ladies' Oxfords at 49c, 98c and \$1.29. 307 Lackawanna Avenue. The Cheapest Shoe Store.

at \$1.69 and \$1.98.

Children's Shoes at 25c to \$1,00.