

The pleasant method and beneficial effects of the well known remedy, Syrup or Figs, manufactured by the CALIFORNIA Fig Syrup Co., illustrate the value of obtaining the liquid laxa-

the value of obtaining the liquid laxative principles of plants known to be medicinally laxative and presenting them in the form most refreshing to the taste and acceptable to the system. It is the one perfect strengthening laxative, cleansing the system effectually, dispelling colds, headaches and fevers gently yet promptly and enabling one to overcome habitual constipation permanently. Its perfect freedom from every objectionable quality and substance, and its acting on the kidneys, liver and bowels, without weakening or irritating them, make it the ideal laxative.

In the process of manufacturing figs are used, as they are pleasant to the taste, but the medicinal qualities of the remedy are obtained from senna and other aromatic plants, by a method known to the California Fig Syrup Co. only. In order to get its beneficial effects and to avoid imitations, please remember the full name of the Company printed on the front of every package CALIFORNIA FIG SYRUP CO.

SAN FRANCISCO, CAL. LOUISVILLE, KY. NEW YORK, N. Y. For sale by all Druggists .- Price 50c. per bettle

> Ice Cream. BEST IN TOWN. 25° Per Quart

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CITY NOTES

COACHMANS' MEETING .- The coachman and in Raub's ball on Wyoming avenue,

PAY DAYS.-No more payments will be made the Lackawanna and Delaware and Hudso empanies until the latter part of the week. MEETING TONIGHT. -The Jewish Chautauou

society will hold a meeting at the residence of Mrs. Max Troutfelt, 553 Madison avenue, this ENTERED BAIL. George McLane, of Mosco was arraigned before Alderman Millar yesterday

on the charge of assault and battery, preferre-tor Arthur Eber. McLane waived a hearing and entered 8500 bail for appearance in court.

W. C. T. U. MEETING,-The Woman's Christian Temperance union will meet this afternoon at 5 o'clock in Guernsey's ball. The meeting be of an evangelistic character, led by Mrs. Emily Hiorns.

DUMPED ASHES ON STREET. - James Brogsts of Broadway, was arrested and taken before Alderman Howe on complaint of the atreet department, for dumping ushes on the street. was released upon payment of the costs and promise to remove the sales from the street.

PERKINS LECTURE.-Turre is more food for thought in one of Eli Perkins' talks than is to be got from the lengthy discourses of lecturers whose themes are of a more serious nature. Mr. Perkins, who appears at the High school on thursday evening, is well known, not only as a humorist, but for his universally read books on philosophical subjects. He is a college educated man and has had the most thorough and interest-ing training as a journalist. He not only knowall about wit and humor, but gives to his audiwas with the greatest difficulty that he was ec-cured for Thursday evening he has consented to deliver two lectures in one evening, thus offering opportunity to hear the two for the cost of aring one. The sale of seats is still progressing arrifte at Powell's music store.

****** We offer subject to previous

\$9,000 Lehighton Water Supply Co.

Gold Bonds

5 per cent. Free of Tax. Ma-ture 1929.

The company owns 2,000 acres of land, and control the water-shed, as well as the available water supply.
Water is furnished to the towns of Lehighton and Weissport, as well as the Lehigh Valley road. The system is first-class in every respect.
Price and particulars on application.



TWO SLICK SWINDLERS.

They Use a False Measure in Selling Vegetables.

The public is warned to look after two crooks who are masquerading as farmers, and who quite successfully worked the Thirteenth ward yesterday. They have potatoes and apples for sale and when they make sales show a bushel basket full of their wares. They visited Mrs. E. F. Chamberlin yesterday and for some reason her suspicions were aroused by the manner of the man who went to the cellar with vegetables. She followed him and discovered that he was pouring the very smallest bushel of potatoes into the barrel which she ever re-

membered seeing. Against his protestations she insisted on examining the basket when she found a smaller basket nicely fitted within a larger one, enabling him to give a half bushel for the price of a full measure. She made him take away his potatoes and telephoned for an officer, but up to date saw no arrests made. The men are described as rough looking individuals who are evidently not farmers at all, but simply swindlers.

HARTLEY GETS BACK AT THE CITY CLERK

Says All Balances Have Been Properly Transferred and That Mr. Lavelle Assumed Powers.

Deputy City Controller Charles A. Hartley stated most emphatically yesterday to a Tribune man that all balances from the appropriation of 1899 subject to be merged and not otherwise provided for 'had been transferred on his books to the judgments and incidentals account for this year. "The city clerk is wrong," said he, when he asserts that we have not complied with the provisions of the last clause of the appropriation ordinance and there is no reason for the introduction of the ordinance which be has caused to be introduced repealing that clause.

"These balances have all been transferred with the exception of those left in appropriations made for specific improvements and these we cannot transfer because the councils themselves have directed us not to. The city clerk has been contending and charging and counter-charging all along that we've been doing things contrary to law in this office, but if the truth were known he's the one that's been doing that.

"He has been assuming functions all along which he has no right to assume His duties are purely ministerial but te has been assuming executive authority. Just one case in point. An ordinance passed reappropriating a balance which remained in an account for setting circular curb stones on a certain street.

"The mayor signed the measure and it went to the city clerk, whose duty it was to immediately certify a copy of it to this office. He falled to do this for two whole months after it had received the signature of the mayor because he contended that there should be no balance remaining; that we should have transferred it when any person who knows anything at all could understand plainly that it was for a spe ific improvement and could not be transferred.

"The court today in the opinion down in the Barber Asphal case holds that he has no authority to say what warrants shall be drawn and what shall not be drawn and that he has no discretionary power. That's what we've always contended in this office. We've contended that he has been usurping power and so he has, but I guess there will be no further trouble in that direction."

NEXT SEASON AT LAKE LODORE. Booking of Excursions for 1901 at

That Popular Resort Has Already Commenced The Delaware and Hudson company has just issued an attractive little brochure relative to the excursion season of 1901 at Lake Lodore, containing several beautiful half-tone engravings -the handsome new depot in the summer shade of overhanging boughs; the great white dance pavilion in the

midst of the far-stretching groves, and various aspects of the boat-dotted, magnificent take itself with its five-and-a-half miles of varied and charming scenery. All tall and winter a strong force of men have been at work on the excursion grounds with such effect that there is a general desire on the part of the people to see this resort in all its fresh, new beauty Applications for dates are already coming in, and booking has com-menced by Mr. H. W. Cross, district passenger agent of the Delaware and Hudson Railroad at Scranton. Circulars descriptive of Lake Lodore and the improvements on the grounds are in the hands of all Delaware and Hudson ticket agents, who will be pleased

application. AT THE ASH STREET CHURCH. Meetings Are to Be Continued All

to supply them to the public upon

This Week. The Drummer Evangelist, Rev. W. H. Williams, closed his stay with the Ash Street Methodist church last night, with the seekers of religion at the altar. Two have been converted and three men have joined the church on probation.

Rev. Austin, the pastor, thinks the interest is such that he will continue the meetings all this weeck. Madison will preach tonight, and Rev. Doty tomorrow night.

How It Goes in New Orleans. During the present cold and grip season twenty-five thousand and thir boxes of Laxative Bromo-Quinine have been purchased by the following wholesale drug houses of

New Orleans: I. L. Lyons & Co., Fin-

lay, Dicks & Co, and L. N. Brunswig Indian River Oranges.

People who know about Indian River oranges know that there are but a few hundred boxes grown this year. Florida oranges and Indian River oranges are altogether a very different orange. Indian River oranges bring twice the price, and do not begin to be good until February. Should any one wish a box or half box of Indian River fruit, oranges, grape fruit, Tangaunes or Conquats, they can leave the order at E. G. Coursen's or Dr. G. E. Hill & Son. The Tangaune orange or Mandaune are ready for market now, **

Nettleton's Removal Sale, Washington Avenue. Shoes and rubbers at all

clear out by fere removal.

PEREMPTORY WRIT DENIED

CITY CLERK NEED NOT DRAW THE WARRANT.

Effort of the Barber Asphalt Paving Company to Compel Him to Do It Is Not Sustained by Judge Archbald in an Opinion Handed Down Yesterday-His Opinion of the Questions Raised on the Demurrer. The City Clerk Acted Within His Rights in the Premises.

Judge R. W. Archbald handed down in the matter of the demurrer to the return to alternative mandamust in the case of the Barber Asphalt Paying company against Martin T. Lavelle, city clerk. The opinion follows: By the act of June, 1866, P. L. 343, the courts common pleas in this state are empowered to issue writs of mandamus "to all officers and mag-istrates elected or appointed in or for the respeclive country or in or for any township, district place within such county." The wording of its statute is practically the same as the act of une 11, 1836, P. L. 626, which preceded it, and, chile cities are not expressly named in either, prisdiction to compel city officers to perform ministerial duty has been freely assumed unde them. There is, therefore, no question as to our authority over the respondent, provided he is uch an officer as the state contemplates, and, notwithstanding the carnest argument of the learnest counsel who represents him, we think that he is. The contention is that he is not an efficer, but a mere employe, the creature of councils, who elected and can remove him and who rescribe the duties which he is to perform. But

e this we cunnot agree. The city clerk as a definite city official is ex-pressly recognized by the act of May 23, 1889, L. 277, relating to cities of the third class in a least two places, in section 8, article 6, where is provided that all ordinances may be proved his certificate under the corporate seal and hat within one month after their passage they shall be recorded by him in a book provided for hat purpose; and again in section 6, article 7 where he, with the clerks of the different branches of the councils and other city departnents, is excepted out of the subordinate officers onsent of the select council, is authorized to ap-

STANDING ESTABLISHED.

So tar as concerns the city of Scranton his tanding is established by ordinance of July 15, 879, which, as amended March 15, 1884, proides that the select and common councils in oint session shall elect biennially in April an officer to be called the city clerk, who shall act as clerk of such council, keep a journal of the acts, record all votes, orders, resolutions and ordinances made and passed by the council, whether by concurrent vote or in convention from time to time furnish the chairman of each joint committee with the names of members of the committee; furnish the city controller with the expenditure of money; furnish to all heads of departments and the chairmen of all commit es certified copies of such votes or resolution as relate to their respective departments or committee; act as clerk of the joint standing com mittee of the councils and keep a journal of their proceedings; keep in his office the assessment wake of the city; prepare the tax duplicates for evision and appeal and keep a journal of their occedings, and when any assessment is ahated remitted issue a certificate to the person en itled thereto of the amount remitted; perform such other duties as councils may prescribe and uch clerical duties belonging to the office of the wise defined, and superintend all printing or dered by councils. Laws and Ordinances pages 1-7, 1-18. Edition of 1894. By concurrent resolution of the councils; approved by the mayor Ang. 59, 1884 (not found in the authorized compilation the city erdinances), he is given the further sportant duty of preparing, signing and issuing all city warrants drawn on the treasurer.

LARGELY CLERICAL. While these duties, its suggested, are largely e which also they may be changed, they are o such character and extent and so essential in and favolved in the orderly conduct of the city govmment that they constitute the clerk a public officer of the city and not merely an employee or apent. The term public officer, says the encyclopedia, "embraces the idea of tenure, duration solument and duties and has respect to a per anent public trust to be exercised in behalf of vernment and not to a merely transient, occa ional or incidental employment. A person in the ervice of the government who derives his posiion from a duly and legally authorized election appointment, whose duties are continu their nature and defined by rules prescribed by vernment, and not by contract, and consisting of the exercise of important public powers, trusts or duties as a part of the regular administration of the government, the place and duties remain ing though the incumbent dies or is changed, and who receives his compensation out of the public freasury is a public officer and his charge or em yment is a public office. 19 Am. Encyclopedia f Law, First Edition, page 383.

The city clerk in our judgment is an officer of this description. While the incumbent may old his place at the pleasure of councils, and a that extent be under their dictation and conraint, the office cannot be done away with nor duties modified or controlled except by du gislative action on the part of councils, apoved by the mayor. Having this degree of rmanence, with duties so defined and entering o materially into the conduct of city affairs, in he eyes of the law it is a public office, and the erson who fills it is a public officer, who can be acted by mandamus, as is now proposed,

IS NOT DISCRETIONARY.

The duty, moreover, which the respondent ha efused to perform is a ministerial and not a disretionary one. The statute provides that ne noncy shall be paid out of the city treasury exept upon appropriations made according to law ursnance thereof. Act May 23, 1889, article 4. tion of Aug. 29, 1884, already quoted, the person in the city of Scranton who is to prepare and issue such warrants is the city clerk. He must, of course, be authorized in any given case by the necessary preceding steps, but when they have been duly taken there is nothing for him to do party entitled thereto. He has no discretion to exercise and cannot allow or withhold it accord-ing to what may seem to him proper in the

It is not for him to watch the appropriations and see whether they have been exceeded or not be city controller is charged with that duty and here is no place for any other to exercise it Neither is it for him to say in what order claims against the city made payable out of the special fund shall be presented or paid. In the present instance the plaintiff's bill has been passed by ouncils and a warrant directed to be drawn and this action has received the official approval of the mayor. The bill has also been audited by the city controller and certified by him to the clerk, so that all the pre-requisite steps have been taken, it is not now, therefore, for the respondent to hold up the payment because, as be suggests, there are other oustanding claims which exhaust the fund appropriated for judg-ments and incidentals, out of which it is directed to be paid, and if that were all the case a per-

emptory writ would have to go out.

But it is urged that the claim is an illegal one ause the work and materials were not author zed by any previous ordinance or resolution and that the ordinance providing for their payment after the word had been done was in violation of law and, therefore, void. Section 5, article 4, act May 23, 1889, P. L. 282, provides that "no ordinance shall be passed giving any extra compensation to any officer, servant, employe, agent or contractor, nor providing for the payment of any claim against the city without previous au-

FALLS UNDER PROHIBITION. It must be conceded that if the plaintiff's claim falls under this prohibition it is fatal to it and the writ must be denied. According to the suggestion on which the alternative writ was obtained, the basis of the claim is an ordinance approved Aug. 31, 1900, "providing for paying for rand, William & Clark.

the pavement recently laid on Penn avenue fronting property of John Handley, deceased." The very title thus discloses that the work had already been done, and this is confirmed by what appears in the body of the ordinance, namely: ection 1. Be it ordained, etc., that the city of Scranton hereby assumes the payment of one-half the expenses of amphalt payement recently half the expenses of asphalt pavement recently laid on Penn avenue, fronting property of John Handley, deceased, the executors of the Handley estate having agreed to pay the other half. Sec-tion 2. Upon the passage of this ordinance and an appropriation being available for said purpose the proper city officer shall draw and issue a city warrant in the sum of \$56 for the Barber Asphalt Paving remeans and charge in appropriation, for Paving company and charge to appropriation for

digments and incidentals."
We do not see how the plaintiffs can escape the

charge that this is an attempted assumption pay for work done by them which they had previous authority from the city to do. If so it runs counter to the statute and is avoided by it. In doing the work without such authority they were mere volunteers and the city cannot be made to pay for that which it is in no way liable The general municipal act of 1874 did, indeed, permit it after the fact by vote of two-thirds of the councils, approved by the mayor. Act May 23, 1874, section 5, P. L. 231. But the act of 9, relating to cities of the third class, has no such provision and the omission is significant.

Is the respondent entitled to raise this qu tion? On general principles, as we have already said, his duties in drawing a warrant, being mit isterial merely, he would not be, councils having passed the bill, the mayor approved and the controller certified it, it would remain for him simply to issue a warrant for the proper amount. But in addition to what we have quoted above from the statute, and immediately following it there, the act goes on to declare: "And any officer drawing or countersigning any warrant or passing any voucher for the same, or paying the same, shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding \$5,000 and imprisonment not exceeding one year.

A STRINGENT PROVISION.

By this most stringent provision the act endeavored to prevent in every possible way the recognition or enforcement of any such claim, and the city clerk who draws a warrant to pay for it, knowing that it is illegal, falls directly within the penalties of the statute and for his own protection may set this up in a case of this kind. It does not matter that all the branches of the government-mayor, councils and control-ler-have found in favor of the plaintiff-this would not protect the clerk if he knowingly acted contrary to the law, and he is, therefore, to be upheld in the standing which he has taken, not only for his own safety, but for the good of the

He serves not the councils only, but the public right to raise this question as he does in his answer in their behalf as well as his own. As we cannot be expected to compel him to do an act so prohibited a peremptory writ must be denied.

Judgment is given on the demurrer in favor of the respondent that he go without day with

CITY CLERK MUST **ISSUE WARRANTS**

Judge Archbald Directs That a Peremptory Writ of Mandamus Issue to City Clerk Lavelle.

Judge Archbald vesterday granted a peremptory writ of mandamus to compel City Clerk Martin T. Lavelle to issue warrants for the amounts due former Patrolmen James Saul and Stephen Dyer, whose claims were recently passed upon favorably by the city councils. In his opinion Judge Archbald says:

"While the city clerk is an important public functionary, the duties given him by ordinance do not extend to the auditing and checking up of the various city appropriations, nor watching to see when and how they are drawn up or exhausted. It is for the controller to look after these things, time during the pendency of the suit and belo and as he has undertaken to act in the premises and approved the plaintiffs' claims, according to the respondent's While the police appropriation may be exhausted, the controller has charged these claims to the fund for judgments and incidentals, due, no doubt, to the fact that the rights of the relators have been adjudicated and sustained by the judgment of this court, and it is not for the respondent to question this action.

"Much less can be pretend to say in what order claims against the city, which have passed the councils, shall be approved and paid. Where the claim is a legal one, and he has been directed to draw a warrant on the treasurer to pay it, he has no option but to do so and send it to the controller to be countersigned. It then becomes the duty of that officer to examine the appropriation accounts kept in his office and see whether there is any fund to meet it, and if not to refuse his approval. It would bring about a most curious state of affairs if the city cierk could assume this function and hang up a claim legally before him for a warrant, on his idea of what ought or ought not to be.

"The respondent further sets up that an appeal has been taken from the judgment of this court in favor of the relator, James Saul, and that the mayor has requested that while it is pending the drawing of a warrant shall be deferred. But it appears by the suggestion on which the alternative writ was issued that since the decision in that case was made a compromise of the claim of both Saul and Dwyer has been effected by resolution of councils and although this was vetoed by the mayor it has been subsequently passed over his veto, which therefore goes for naught. That the councils could settle a litigated case in this manner is beyond question, and having done so it is entirely immaterial now what becomes of the appeal referred to, the controversy has passed entirely beyond the point where that can affect it in any way.

"The demurrer is sustained, and a eremptory mandamus is awarded with

HAD A SUCCESSFUL YEAR. Annual Meeting of the Poyntelle Ice

Company Held Yesterday. The annual meeting of the Poyntelle Ice company was held yesterday af-ternoon in the offices of T. C. and C. H. Von Storch, in the Williams building, corner of Washington avenue and Linden street. All the officers of last year were re-elected, as follows: President T. C. Von Storch; secretary and treasurer, E. A. Clarke, diectors, H. W. Taylor, J. M. Atherton, G. A. Clearwater, J. E. Burr, C. H. Von Storch, T. C. Von Storch, E. A. Clarke. The reports of the officers showed that the year had been a remarkably successful one. The full crop of 7,000 tons was disposed of before the summer was out, and another thousand tons had to be purchased to supply the company's trade.

This winter it is proposed to harvest 8,000 tons. Ten-inch ice is now being cut.

How It Goes in Detroit.

During the present cold and grir season thirty-seven thousand eight hundred boxes of Laxative Bromo-Quinine have been purchased by the following wholesale drug houes of Detroit: Michigan Drug Co. and Far-

THEY MUST

IMPORTANT OPINION OF JUDGE ARCHBALD.

He Decides That the Vaughan Bill Applies to the Costs in the Eighth Ward Contest and That the Petitioners Must Settle-This Would Indicate That There Is Grave the Langstaff-Kelly County Treasurer Contest.

Judge R. W. Archbald handed down an opinion yesterday in the Eighth ward election contest which is of vast

importance. W. H. Thomas, a Republican, was elected constable of the Eighth ward in February, 1899, his opponent being John E. Walsh, a Democrat. Thomas was elected by five votes and Walsh instituted a contest. After the contest was under way Senator J. C. Vaughan introduced a bill which was passed by the legislature and became a law providing that in all election contests when it came to the matter of disposing of the costs they should b placed on the petitioners if the contest did not succeed in showing that the party contested had not been legally elected.

When it came to disposing of the osts in the present case the city objected to being saddled with them for the reason that it had not been shown that Thomas was illegally elected and asserted that the proper place for the costs was on the petitioners. This position the court yesterday affirmed as correct and the petitioners will have to pay the upwards of \$2,200 costs which the contest caused to pile up.

The opinion is of importance because it is the first time the act in question has been judicially passed upon and for the further reason that exactly the same facts apply to the Langstaff. Kelly contest in which costs to the sum of about \$100,000 are involved. Like the Eighth ward contest it was begun be fore the act was passed. If it shall be decided when the result of the contest is officially determined that Former County Treasurer Kelly was legally elected then under Judge Archbald's opinion of yesterday the men who signed Langstaff's petition will have to pay the costs. The full text of the

THE OPINION.

Rule to show cause why costs should not be aid by the city of Scranton. Costs are so purely the creature of stainte that party who claims them must be able to pass to one which gives them to him; and it is no sufficient that such a statute existed at the time suit was brought; it must be in force when the costs are asked for; if it has been repealed pending the disposition of the case and before hea indgment the right under it is gone; nor is the ny vested right to costs of which a party can he lawfully divested by a repeal, Grimm Welsenberg School District, 57 Pa., 433. The to this effect is thus summarised in 5 Energy pedia of Pleading and Practice, pages 11 to 11 "Statutes governing costs are rules of pract-c and the power to award them and the amount and Items to be allowed depend upon the statut in force, not at the commencement, but at the termination of the controversy, or when the right to costs accrnes. This occurs upon a farace may change the law previously inforer by tetally repealing it or by modification only to in the absence of any law it may enset one."

be rule so enunciated applies was perting This contest grew out of the election for table of the Eighth ward of Scranton, held Feb. and was finally adjudged, adversely to the contest law in force with regard to the costs was as folomplaint is without probable cause the petit ers and every one of them shall be co-jointly according liable for all the costs; and the ac may be collected as debts of like amount are ferced by attachment. " " In contested elenunicipal officers in which the court or judg hall not decide that the complaint is wit probable cause the proper district, county, city earship, borough, ward, school district or num cipality shall be liable to pay all costs and the me shall be promptly paid by the proper au trying the case." Act May 19, 1874, section 4

THE AMENDMENT

endment passed April 28, 1800, P. L. its, the first part of this section has been made o read as follows: "In contested elections president or additional law judges and of county perough, township, municipal officers or schoor conte tents fail to establish his or their tig) to the office to which he or they claimed a every one of them shall be jointly and several liable for all the costs and the same may be offected as debts of like amount are by laby attachment. In case the contestant or contest

THERESER FREEFFERNANT REFERENCE PROFESSION FOR THE STREET PROFESSION F PAY COSTS Banquet Globes

Have taken the place of silk shades. It is desirable in getting globes for lamps to have something that will soften the light, but not materially diminish it. Colors to match paper, etc. We have them in red, blue, canary, pink, opal; in fact, all colors. Prices ranging from 40 cents to

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Has everything going in the jewelry line. Think of what you want; it's there. Prices, too, are less than you think. when you consider that no matter what you buy, quality it apparent

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The New Neverslip As-

HORSESHOE CALK.

manufactured.

phalt Removable

Horse cannot silp and will outwear three sets of any other calk



BITTENBENDER & CO., Franklin Ave. 126 and 128 SOLE AGENTS.

tants establish his or their right to the office in either of the above named cases the costs shall be paid by the proper district, county, borough, township, numberpality or school district." And, the second part of the statute quoted shove has

wen entirely left out.
While, then, as the law steed when the contest began, had we found that probable cause for it existed, it would have been our duty to direct that the costs be paid by the city of Scranton is relief of the petitioners; as the law now is we have no such power, and, the contest having ailed, by the plain mandate of the statute the liability for them falls on the parties who insti-

The only should there is upon this result grown clating to suffrages and elections. In the latter eral assembly shall by general law designate t courts and judges by whom the several classes of election contests shall be tried, and regulate e manner of trial, and all matters incident

Children's Coats.

We have 69 Children's Coats which

we want to close out before we finish our . annual inventory, January 26, and we expect the following great cut in prices will do it: 15 Children's Coats, all \$3.95 \$2.95

and \$4.75 garments, to close at.... 24 Coats, all \$5.50 and \$6.00 \$3.95 garments, to close at . ,

30 Coats, all \$6.50 and \$7.00 \$4.95 garments, to close at . . . , . . .

The Coats are all new and correct styles. It will pay to buyand keep for another season

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