

# OPINION IN THE DUNLEAVY CASE

LINE OF REASONING FOLLOWED BY THE SUPERIOR COURT.

Judge Beaver, Who Wrote the Opinion, Says That if Either of the Contentions of the Defense Were Admitted, the Hands of the Court Would Be So Tied That the Practice of Suspending Sentence Would Have to Be Done Away with—Further Appeal May Be Taken.

The opinion of the Superior court in the case of the Commonwealth against Anthony Dunleavy was received yesterday by Prothonotary Sam H. Stevens and will be remitted today to the local court.

Judge Beaver, who wrote the opinion, says that if either of the contentions of the defendant were sustained it would mean the practice of suspending sentence would have to be done away with, and this is a thing not to be desired.

These contentions were that the defendant was sentenced when he was directed to pay the costs, and that a defendant must be sentenced at the same term in which he was convicted. Dunleavy was convicted at the October term of quarter sessions of selling liquor without a license, and returned for sentence. On the day preceding the last day of the term when sentences are usually imposed, Dunleavy's attorney went before Judge John G. Love, who tried the case, and moved for sentence. The motion was accompanied by the presentation of a petition for suspension of sentence, which was signed by many of the city's prominent men. Judge Love granted the petition and suspended sentence upon payment of costs. Dunleavy paid the costs and went his way rejoicing, but the prosecution, the Municipal League, upon learning of Judge Love's action, made a protest to President Judge Archibald, with the result that Dunleavy was called in at the next term of court and sentenced by Judge Archibald to three months in the county jail and a \$500 fine. His attorney, Joseph O'Brien, took an appeal, and had it made a supersedeas to effect his client's release, and at the Scranton session of the Superior court the case was argued as to length. The decision confirming the action of Judge Archibald was handed down last Friday at the Williamsburg session.

## OPINION IN THE CASE.

In his opinion Judge Beaver says, in part: It appears from the order of Oct. 12, 1900, in this case that representations as to the character of the defendant moved the court thereat. The judge who presided at the trial indicated what, in his judgment, the sentence should be, if the defendant was subsequently called for sentence. As already said, the facts which led to the imposition of the sentence in this case are not before us, nor have we any knowledge of them. It is not difficult to imagine conditions under which the court would feel bound to impose the sentence of the law. The petitioner as to character may have been successful. We do not say that the sentence should be, if the defendant was subsequently called for sentence. As already said, the facts which led to the imposition of the sentence in this case are not before us, nor have we any knowledge of them. It is not difficult to imagine conditions under which the court would feel bound to impose the sentence of the law. The petitioner as to character may have been successful. We do not say that the sentence should be, if the defendant was subsequently called for sentence.

## POWER IN THE COURT.

There is one court of quarter sessions in each county in the Commonwealth. The act of June 16, 1896, gave to these courts—not to the individual judges—among other things, the power, within their respective counties, to hear, determine and punish in the form of law all such crimes, misdemeanors and offenses which exclusive jurisdiction is not given to the courts of superior and common pleas. This and other acts recognize distinctly the unity of the court.

## SENTENCE IS VALID.

If the judge who tried the case had been present, it will be contended that the president judge of the court should not have pronounced sentence; and, if in his presence, why not in his absence? His presence was not necessary to the validity of the session of the court at which the sentence was pronounced, and if his absence was desirable, it could be had by personal interchange of views, or by correspondence as well. The contention of the appellant raises no difficulty whatever in the mind of the court as to the validity of this sentence, but the principle for which he contends would lead to endless confusion and to serious delays, if not delays, in the administration of justice.

## CONFERENCE WITH MRS. JONES

Striking Silk Workers Meet Her at Mine Workers' Rooms. A meeting was held at the headquarters of the mine workers yesterday morning between Mother Mary Jones and the executive committee of the silk mill strikers. The meeting was held at the headquarters of the mine workers yesterday morning between Mother Mary Jones and the executive committee of the silk mill strikers. The meeting was held at the headquarters of the mine workers yesterday morning between Mother Mary Jones and the executive committee of the silk mill strikers.

## STAPLES' CONDITION CRITICAL.

He Suffered a Secondary Shock Yesterday. Chester Staples, the lumberman, who was shot in a lumber camp near Cresco, lies at the Lackawanna hospital in about the same condition as yesterday.

## AN INTERESTING COMPARISON.

The Figures in the Wilkes-Barre Appropriation Ordinance. It is interesting to compare the figures in the Wilkes-Barre appropriation ordinance, which is now pending in the council of this city and the appropriations for the present fiscal year in this city. The total amount of the budget is \$259,236.87, as compared with

# The girl who was for biscuit sent—

forgot to mention she wanted the kind that comes in the "In-er-seal Patent Package." The grocer's clerk gave her the best he had, but forgot to say how long they had been in the store. When she started for home it began to rain; by the time she got there, the biscuit couldn't be eaten.

And just because she forgot to ask for the kind that comes in the "In-er-seal Patent Package"

When you order Soda, Milk, Graham, Oatmeal and Butter Thin Biscuit, Ginger Snaps, Vanilla Wafers and Reception Plates, don't forget to ask for the kind that comes in the "In-er-seal Patent Package." The only method of protecting biscuit from damp, dust and odor. Look for the "In-er-seal" trade mark design at the end of the box.

NATIONAL BISCUIT COMPANY.

\$363,925 in this city. The includes in both instances the funds appropriated for sinking fund purposes. The amount appropriated for fire department purposes is \$35,888, as compared with \$48,779.94, and an actual expenditure of close on \$58,000 in this city. Wilkes-Barre has twenty-five paid fire men in whom it pays \$800 a year. The sum of \$4,500 is appropriated for the payment of call men. The police department appropriation in Wilkes-Barre is \$36,182, while Scranton's is \$56,629. Wilkes-Barre has thirty-seven patrolmen on her police force, while Scranton's force consists of but seven more men. In this consideration the fact can be pondered over that Scranton has a population of 102,000, while Wilkes-Barre has only half that number, or 52,000. The item of lighting and care of street lights in the city down the valley amounts to \$38,000, which almost equals the \$44,530 appropriated for that purpose in this city. The appropriation for the street department is \$44,120, or just \$90 more than Scranton's total appropriation for the same department. Of this amount, \$15,000 is appropriated for general street work and repairs, and \$18,000 for street improvement purposes.

## WILL REBUILD THE BREAKER.

Pennsylvania Coal Company to Re-build Building Destroyed. There was gloom at the offices of the Pennsylvania Coal company, in Dunmore, yesterday, regarding the destruction of No. 14 breaker at Elizabeth, Monday night. The building and machinery constituted one of the company's biggest and best equipped breakers, and to replace it will mean an expenditure of about \$75,000. Plans will be drawn up for a new structure and work will be started as soon as possible. Monday night's fire was discovered about 11:45 o'clock by some miners operating from the mine, and on their reporting it to the fire boss, he sent the other men at work out of the colliery and then proceeded to fight the flames.

This proved an arduous task, however. The blaze originated in the lower part of the breaker, from cause unknown and spread with the greatest rapidity throughout the building. In twenty minutes, it was burned to the ground, and when General Superintendent Sidney Williams viewed the scene yesterday all that remained was a heap of smoking timber and a blackened mass of metal. The company suffered a like mishap fourteen years and three months ago, when their Pittston breaker was burned to the ground. The new one was built in 1887. Seven hundred men were employed at the mine and breaker and Monday's fire proved a hard blow for them, as the Pennsylvania's complement of hands at the other collieries is full, and the majority of the Pittston employees will thus be thrown out of work. It will take about eight months to build another breaker. The boiler house, fans and hoisting shaft and buildings near the breaker, all escaped damage.

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## D. L. & W. Board for Today.

The Delaware, Lackawanna and Western Board for today: Will Cate, East—8 p. m. M. Loughey; 10 p. m. J. Carr. WEDNESDAY, FEB. 20. Will Cate, East—12:30 a. m. P. Cavanaugh; 3 a. m. T. J. Thompson; 4 a. m. T. Fitzgibbon; 5 a. m. Frank Mahony; 6 a. m. A. G. Hammett; 7 a. m. O. Randolph; 8:30 a. m. M. C. Murphy; with Larkin's mail; 10 a. m. J. M. Larkin; 11:30 a. m. J. H. Larkin; 1:30 p. m. T. Sweeney; 3 p. m. H. J. Larkin; 4:30 p. m. T. Sweeney; 6 p. m. H. J. Larkin; 8 p. m. T. Sweeney; 10 p. m. H. J. Larkin; 12:30 a. m. P. Cavanaugh; 3 a. m. T. J. Thompson; 4 a. m. T. Fitzgibbon; 5 a. m. Frank Mahony; 6 a. m. A. G. Hammett; 7 a. m. O. Randolph; 8:30 a. m. M. C. Murphy; with Larkin's mail; 10 a. m. J. M. Larkin; 11:30 a. m. J. H. Larkin; 1:30 p. m. T. Sweeney; 3 p. m. H. J. Larkin; 4:30 p. m. T. Sweeney; 6 p. m. H. J. Larkin; 8 p. m. T. Sweeney; 10 p. m. H. J. Larkin; 12:30 a. m. P. Cavanaugh; 3 a. m. T. J. Thompson; 4 a. m. T. Fitzgibbon; 5 a. m. Frank Mahony; 6 a. m. A. G. 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