THE SCRANTON TRIBUNE-FRIDAY, AUGUST 30, 1901.



GOSSIP OF THE DIAMOND AND THE TRACK.

lase Ball Game Between South Scranton and Minooka Tomorrow Afternoon-Doings Among the Local Bowlers-Great Work of the Third Basemen of the American League-Gossip about Crack Cyclists of the Country-Bowling Leagues Will Soon Begin Work.

Tomorrow afternoon's game at Athsetie park has been anticipated with the liveliest interest by lovers of the game throughout the central city and · Minooka. South Scranton's strong nine will meet the Minooka boys, and so keen is the rivalry existing between the two teams that the battle will be a fiercely contested one. day.

The sum of \$100 a side has been put up on the game, and in addition to this the winning side will take the gate receipts, which promise to be con siderable, as big delegations of root ers will accompany both nines to the park. Joe Weir, captain of Villa Nova's team for next year, will be it charge of the South Side team. Let Crossin will occupy the box for the nine and is to be held by Wirth.

Base Ball Brevities.

Frank Dillon, who played first base in the Atlantic league when with Marty Swift's local team in 1899, actwenty-five chances at first hase for Detroit Tuesday in the great fifteen inning game with Boston, which the latter won, 2-1. Kld Gleason, another old Scranton player, put up a splendid game at second base, where took thirteen out of fourteen chances. Gleason is playing a magnificent game this season, fielding bril-

hantly and batting hard. The American League is stronger than the National in the matter of guardians of third base, undoubtedly having the best third basemen in the country in its circuit. Cross, of Philadelphia, on several occasions led the National league third basemen before he jumped to the American. The work of Jimmy Collins, of Boston, always served as a criterion for other players of the position when he was with Selee's team, and since he became a

manager himself it hasn't retrogressed Bradley, of Cleveland, and our own

Bill Coughlin, of Washington, are two of the fastest infielders in the country while McGraw, of Baltimore, has long been considered one of the stars of the Little Casey, of Detroit, hardhitting Louie Hartman, of Chicago, and young Friel, of Milwaukee, complete great quartette of players.

Beck, of Cleveland, accepted twenty chances without an error in the two games with Washington, Wednesday Fourteen of them were in the second match.

New York resurrected Van Haltren. Wednesday, and pulled him into the box from center field. Poor old Van received his bumps for fair, however, and the hard-hittng pets of Slowtown made him wonder why he ever left hi

sunny pasture in center field. Conny Mack has landed Catcher Steelman after all, buying his release from Hartford. The young backstop, who formerly played in this city with attend the gathering. Rehmond, will strengthen the Athletics

when he slowed down, having such a his lead that there was no necessity for record breaking. He took Stinson into camp at Revere Beach on Tuesday winning by over three-quarters of a mile in a twenty-five mile event Michael will ride at Manhattan Beach on Saturday against Walthour and

Stinson Tom Monarch Coopers' condition this year is a surprise to everyone who has followed the history of cycle racing.

For a man to be so long a follower of taking and to still retain the speed and possess the physical endurance which characterizes Cooper's work, i looked upon a simply marvelous Cooper is a representative of the old style of racing, being a prominent fac tor in the days when a mile used to be considered very fast could a man do it in 2.50. To be able to equal the speed of each year's new arrivals for so many consocutive years, and be able to start in the 1901 circuit and lead such very fast new men as have

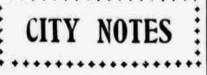
come into the field, is all the more surprising. In these days when a man s often pushed to a mile in 2.05 or better, it is remarkable to find Cooper the first at the finish. Taking it all in all, Cooper is the most consistent performer on the National circuit to

YOUNG GIRL ARRESTED. She Is Charged with Selling Liquor

Without a License, After Her Mother Was Sent to Jail.

Fifteen-year-old Ellen Cook, of Mineral street, was arrested last night by Lleutenant of Police Feeney and Parolman Potter, on the charge of selling liquor without a license She is the daughter of Mrs. Bridget look, who was arrested last Monday night on the same charge, and is ac cused of carrying on the business since that time. She was released on ball furnished before Alderman DeLacy,

and will be given a hearing today before Magistrate Howe. ******************



EUCHRE PARTY .-- The Young Women's Cath olic club will give a cuchre at the old armory, Oct. 8.

FAMILY REUNION -A reunion of the Clark family will be held at Miller's grove, Edella, next Saturday.

PICNIC MONDAY .-- The North Main Avenue Baptist church Sunday school will hold a piene Monday at Lake Scranton.

THROUGH CARS Beginning Monday th eranton Railway company will run cars through rom here to Carbondale without change

D. & U. PAYS .- The Delaware and Hudson company paid yesterday at the following cless: Boston, Plymouth New 2, 3, 4 and 5,

JOINT EXCURSION .- The Switchman's union and Lawrence's hand will conduct a joint ex-tansion to Lake Poyntelle, Sunday, Sept. 22.

INJURED BY FALL OF ROCK Stephen older, of Jessup, a fallorer at the Mt. Jessup oldery, was caught under a fall of rock yes-enlay and sustained a compound fracture of to left leg. He was taken to the Lackawanna ospital.

FAMILY REUNION. The Clark family reuning (ii) be held Saturday, Yug. 31, in Miller's rove, Edella. It is hoped that every branch of family will be represented. Mr. and Mrs. Judson Clark, of Nebraska, have come

DISTRICT COUNCIL MET.-The distr



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Judge Kelly Decides in Favor of the Defendants in the Celebrated Rocky Glen Injunction Case.

In the case of the Rocky Glen Water ing upon or trespassing upon its prop-ompany against the Scranton and erty. On May 25 an amendment was allowed adding the additional defendcompany against the Scranton and Northeastern Railroad company and others, Judge John P. Kelly yesterday handed down an opinion declaring that the company has the right of eminent domain and is not to be enjoined from following its adopted route through the lands of the plain-The opinion decides that after a rail-

toad company has sent engineers and surveyors over lands to make preliminary surveys for a route and the surveyors mark out one or more routes

and report their work to the board of directors and the board formally adopts a route, such adoption gives title to the railroad company absotitle to the railroad company abso-lute, as against other corporations or third parties, and conditional, as against the owner of the land, which conditional title, so acquired against the land owner, may be afterwards the land owner, may be afterwards

riponed into an absolute title by making compensation to the land owner or entering security for the damage, according to law. It further decides that after a route

has been adopted by the board of directors, the engineers of the company can not change or modify such route; and that if the owner of the land conveys the property subsequent to the time of the adoption of the route the title acquired by the railroad

company by their act of adoption being title to the land covered by such adopted route only, the act of adopion gives it no right as against the land owners' vendee to build upon any other portion of the lands. The cause of action and contentions negotiations have been entered into by the tailroad company with the water in the opinion, which is given below in company or Annette Reynolds, with a of both parties are set out succinctly in the opinion, which is given below in full. J. E. Burr, Joseph O'Brien and H. A. Fuller, of Wilkes-Barra appeared for the defendant. The plain-tiff was represented by E. C. Newcomb and Major Everett Warren. court of the right of eminent domain it

claims to properly exercise, but which has been twice attacked, the former attack being in the case in which Avoca borough was the plaintiff.

JUDGE KELLY'S OPINION. During the year 1900, and until Feb-ruary 20, 1901. Annette Reynoldes was the owner of certain lands in the bor-fact have the right to exercise the furnishing water to the public in the berough of Moosic," and on February 15 the stockholders met and formed an

ants, and specificallyq charging the several defendants with entering into a combination to unlawfully construct and operate a trolley or street railway system from a point at or near the court house in Sciention to the public square in Wilkes-Barre, and on 140 same day a preliminary injunction was granted to restrain the defendants from entering upon the plaintiff's lands for the purpose of constructing a railroad. BOND TENDERED.

On May 13, 1901, a bond was tendered to Annette Reynolds by The Scranton and Northeastern Railroad company. in the sum of one thousand dollars, con-ditioned for the payment of dumages erence to third parties and other cor

the same should not be approved, re-turnable at the Argument court. An answer was filed by her, denying that she was the owner of the land and set-ting forth the sale of the same to the water company; setting forth the in-corporation of the water company to supply water to the public; the appropriation by the water company of the lands sought to be condemned to the

purposes of a reservoir, etc.; that no appropriation had been made by the railroad company at the time of her onveyance to the water company, and the appropriation by the water company, and the appropriation by the water com-pany of the lands to public use; and denying the right of the railroad com-pany to condemn. The disposition of this rule was postponed until after the hearing in this proceedings, and it is now pending and undisposed of. No

view to agree upon the damages, and no steps have been taken in that direction by the railroad company except the tender of the bond to Miss Rey-nolds and the petition to the court above referred to.

The defendants are extremely grati-fied at this second attestation by a Has The Scranton and Northeastern Railroad company the right of eminent domain? It is organized and chartered under the General Railroad Act of 1868 and prima facte, under that act and the Act of 1849 it is invested with the power of eminent domain. Under the

of the Act of June 19, 1871 provisions of the Act of June 19, 1871 (P. 1. 1360), however, we are required

the owner of certain lands in the bor-ough of Moosic. On that date she made a deed of the same to the Rocky Glen standing it is chartered under the pro-A deed of the same to the Rocky Gren standing it is thartered huber the pro-Water company, plaintiff, which deed visions of the Act of 1868. The twelfth was duly recorded on April 26 in the section of that act expressly declares proper office. The plaintiff company is that the provisions of the act should obtained its charter on February 11, "not be construed so as to authorize the formation of street passenger railway companies to construct passenger rallways in any city or borough of this commonwealth." and it was held in organization, and resolved to purchase from Miss Reynolds her lands in Moosic. On February 20, at a meeting of its directors, the deed from Miss Reynolds was accepted, and steps were taken to employ a surveyor to locate any company of the general railroad company cannot the meaning of the general railroad strong the date of actual appropriation. dama, etc. At another meeting of the directors, held April 5, certain surveys and maps made by George E. Steven-son, civil engineer, were accepted. Mr.

---of evading and defeating its decree, or to do some other illegal act, a court of equity has no authority to interfere with the exercise of such statutory rights. If the defendant shall here-after be found abusing its charter privileges in violation of the act creatattorney general, is the power to be invoked for the proper remedy." And so we are clearly of opinion that The Scranton and Northeastern Railroad company has the right under the law to exercise the right of eminent domain in obtaining a right of way for its railroad. AS TO PROCEDURE.

next question to be considered Has the Scranton and Northeastern Railroad company taken such steps in the exercise of its power of eminent domain, which vost in it a right of way over the lands in question as against the plaintiff water company? Mr. Justice Williams, in Williamsport, etc., R. Co. vs. Phila., etc., R. Co., 141 Pa, 407, lays down the law upon this subject very clearly. He says: "The import ant question presented by this appea "The import is, What constitutes a valid location, on the ground, of a projected line of railroad? It is singular that such a question should be to any extent an open one in a state remarkable as Pennsylvania is for the number and extent of its railroads. The act of loca-tion is an appropriation of private property, by virtue of the right of emi-nent domain with which the state has What constitutes a valid location nent domain with which the state has invested the railroad company, either by the act of incorporation or by virtue of general laws. The requsites of a valid location may be considered first, with reference to the private owners upon ir over whose lands the location is made; and, next, with ref-

orations. The successive steps contemplated by the Act of 1849 and subsequent legis-lation, as necessary to vest a title to the roadway in the corporation, are

I. A preliminary entry on the lands of private owners for the purpose of exploration. This is made by engineers and surveyors, who run and mark one or more experimental lines, and who report their work, with such maps and profiles as may be necessary to sent it properly to the company that employs them,

employs them. 2. A selection and adoption of a line, or one of the lines so run, as and for the location of the proposed railroad. This is done by the corporation, and it requires the action in some form of the board of directors. This makes what was before experimental and open, a fixed and definite location. It fastens a servitude upon the property affected thereby, and so takes from the owner and appropriates to the use of the cor-

3. Payment to the owner for what i taken and the consequences of the taking, or security that it shall be made when the amount due him is legally ascertained.

MUST BE COMPLETED. The title of the owner is not divested until the last of these steps has been taken: Levering vs. Railroad Co., 8
 W. & S. 459; McClinton vs. Railway
 Co., 66 Pa., 404; Dimnick vs. Rreadhead, 75 Pa. 464; Buffalo, etc., R. Co.
 vs. Harvey, 107 Pa., 319; Gilmore vs. Railroad Co., 104 Pa. 275. As against
 bim the correction can accurate only him, the corporation can acquire only a conditional title by its act of local

tion, which ripens into an absolute on upon making compensation. As to third persons and rival con porations, however, the action of the company adopting a definite location i enough to give title. For this reason in several of the United States pro-vision is made by law for recording the action of the company and the lin adopted by it, so as to give notice to the public, and to settle questions of priority of title. We have no such We have no such statute, and the action of the com and shows the exact location of the line of the road proposed. An exam-ination of our own cases will show



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ture, free tuition is now granted

and relieve hard-working Powers, who has caught almost all of the team's manyon this neason

The Philadelphia Athletics now include three members of the Richmond team, Atlantic league champions of 1899. They are Stoelman, Dolan and Scyhold. Other members of that splendid team new in the big leagues are Donovan, Brooklyn's winning pitcher, and Chesbro, of Pittsburg,

Bowling Chat.

The bowling season opens next month nd local enthusiasts are eagerly awaitng the opening matches in the league ournaments. The majority of Scranton alleys have been put in readiness for the fray, being planed and generally repaired.

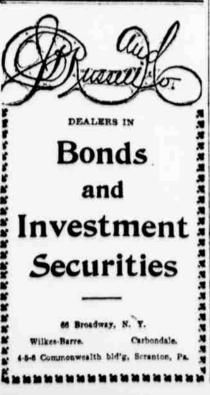
There is likely to be an eight club circuit this season, which will include two teams from the Scranton Bicycle club, two from the Green Ridge Wheelmen, one from the Elks and one from the Backus alleys.

The tournaments last year aroused eat interest in both this city and Wilkes-Barre, and there is no doubt that this season's work on the alleys will be followed just as closely,

Among the Cyclists.

Jimmy Michael, the midget member of the American Bicycle company's Columbia racing team, is rapidly re-

gaining the form that made him the idol of the race-going public a few years back. He showed one of the traits that has helped his popularity Monday night last In his fifteenmile race with Floyd McFarland, at Madison Square Garden. As the Welsh Rarebit completed his eighth mile, McFarland's pace went wrong and Michael swung up the bank, rid. ing so as to give the Californian half sept s. of the benefit of his pace. Such an exhibition of generosity has been set dom seen, and the immense audience was not slow in showing its appreciation of Michael's act. Michael broke all indoor records up to eight miles,



textile workers met last night at Ancient Order United Workmen hall and transreted a large amount of routine business. Several maters of importance to the silk workers of the city Acte discussed.

LABOR DAY EXCURSION .- The Central Labor tion is busily preparing for its log Labor Day cursion, Monday, to Lake Lodore. Several bor leadets of prominence are expected to be resent and everything indicates that the uttain ill be a great success

OHARGED WITH THEFT. -Charles Pilger yes enday caused the arrest of Michael McNuiry, on he charge of lavceny. The two men had been the charge of larcens. The two men had been rooming together on Scranton street, and Pilger claims that McNulty removed si from his clothes. McNulty will be given a hearing this morning before Magistrate Howe.

ADOPTED THE PLANS .- The plans of Archi text Ritherford, for the new church of the Grace Latheran congregation to be erected at Prescut ivenue and Mulberry street, were adopted b members of the church Wednesday right, and the contract awarded to E. S. Williams, 110 ost of construction will be \$7,950. The building a to be completed by Jan. 1, 1902.

A MASS OF REQUEM - A high mass of re-ptient was solumnized at St. Peter's cathedral vesterday morning for the repose of the soul of the late Rev. D. J. MacGoldrick, who died just a year ago. A large number of the per-sonal friends of the dead priest were in attend-

onal Friends of the data prices were as follows: ince. The officers of the mass were as follows: beharant, Rev. Father O'Byrne; deacon, Rev. J. J. Griffin; sub-deacon, Rev. D. J. Bustin; master of coremonies, Rev. J. A. O'Reilly,

ANNUM. CONVENTION - The seventh annual convention of the Christian and Missionary Al-liance of Northeastern Protocil and will open on Similar morning next. The services will be held in a test errored for the purpose on deflection avenue, corner of Delaware street, Green Ridge, The different representatives of the home and foreign field are expected to be all present for the opening services, except the president of the service's, Rev. A. B. Simpson, who is not export ed until Thursday. The missionary offering with e received at the class of the convention

To the Republican Voters of Lackawanna County.

Notice is hereby given that the folowing named have registered as candidates for the Republican nomination for the respective offices named, and their names will appear on the official

maries. DAVID J. DAVIS, Chairman. E. D. FELLOWS, Secretary,

Wyoming Seminary.

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L. L. Sprague, D. D. Kingston, Pa. Stevenson first went upon the ground January 14, 1501, at the instance of Miss Reynolds and Arthur Frothingham, and selected a site for a dam, and on April I he ran the flow line of the proposed reservoir. The Scranton and Northeastern Rall-

road company obtained its charter from the commonwealth on May 28, 1900, under the provisions of the Gen-

1900, under the provisions of the Gen-eral Railroad Act of April 4, 1868, and its supplements, for the purpose of "building, maintaining and operating a railroad for public use in the convey-ance of persons and property." from Scranton to Pittston, Pennsylvania, a distance of about ten miles. Survey-ors were engaged by this company to locate a route for its railroad. They can several trial lines, and finally adopted a line of route between Pittsadopted a line of route between Pitts-ton and Scranton, marked it upon a map, and drove stakes in the ground

voir. A slight change or deviation was made in this line subsequent to its made in this line subsequent to its adoption by the board of directors, by the surveyors and engineers of the company, but such change was never ratified by the directors of the rail-road, nor was any action taken by the corporation with reference to it. The extent of the change varied from nothing to two hundred feet, and the line as changed by the engineers would reservoir of the plaintiff. The con-struction is that of a street railway. The ties and rails to be used and the railed and not of a street railway. The ties and rails to be used and the raided and viaduets to be built are such as are required for the heaviest kind of

FILING OF THE BILL.

that the conclusions of them. In are fairly deducible from them. In Y., etc., R. Co. vs. Young, 33 Pa. 1 Y., etc., held that the location of t Scranton and Northeastern Railroad company intends to construct and op-erate a street passenger railroad, and erate a street passenger railroad, and it was held that the location of the not a steam railroad, then under the line of its road is intrusted by the law

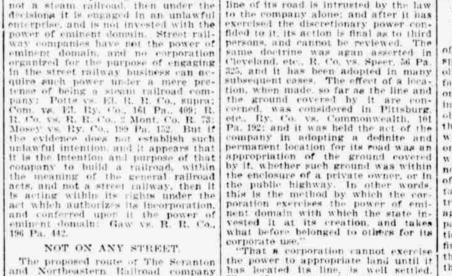
quire such power under a mere pre-

[quite such power under a mere pre-tense of being a steam railroad com-pany: Potts vs. El. R. R. Co., supra: Com. vs. El. Ry. Co., 161 Pn., 409; R. R. Co. vs. R. R. Co., 2 Mont. Co. R. 73; Mosey vs. Ry. Co., 159 Pa, 152. But if the evidence does not establish such unlawful intention, and it appears that it is the intention, and number of that it is the intention and purpose of that company to build a railroad, within the meaning of the general railroad acts, and not a street railway, then it is acting within its rights under the act which authorizes its incorporation. have and drove stakes in the ground to indicate its location. The line so located by the surveyors was formally adopted at a meeting of the directors of the company on November 22, 1800. It begins at the intersection of Elm

Street and Irving avenue, in the city of Scranton, terminates at the inter-section of Broad and Foundly streads in the city of Pittston, and runs through the lands of the plaintiff, and through the proposed dam and reserlongitudinally along a single street in either of the two clifes, or the two boroughs, through which it passes. It

reservoir of the plaintiff. The con-struction of the railroad either upon the line as adopted by the directors, or as modified subsequently by the en-gineers, would prevent the plaintiff from constructing its dam and reser-voir at the place selected for that pur-pase, there being no substantial differ-ence in the effect upon the plaintiff's dam and reservoir between the original and the revised or modified line. This change was made on the ground on and before the 16th day of February, 1901, and marked upon the following day. TELLING OF THE BILLS Valley Railroad company's proposed road from Pitiston to Wilkes-Barre, a

FILING OF THE BILL.
For to be held on Sept. 16, 1901, be-tween the hours of 4 and 8 octock
For Additional Law Judge-James
Wheaton Carpenter, 1608 Delaware
street, Scranton, Pa.
For County Controller-E. A. Jones,
For Coroner-John C. Bateson, M. D.,
Stor Makington avenue, Scranton, Pa.;
For Surveyor-George E. Stevenson,
Waverly, Pa.
For Surveyor Surveyor Surveyor Active at the said pri-timation of the pool: for the purpose of building a reservoir, and dedicated title to these and is in Moosic for the purpose of building a reservoir, and dedicated the said single and base the same power.
Steam power, Watther or not a rail-torad company incorporated under the same to public use, s Lot 50c All Wool Serge Plaids. 29c Lot 75c Fancy Wool Plaids.... 48c Lot \$1.00 Wool Cheviot Plaids, Lot Armure Worsted Serges. Yard-Wide Granite Goods 25c building a reservoir, and dedicated the same to public use, selected a site and began construction, etc.; that on the fully entered upon such lands, without any condemnation proceedings, and that the lands are not subject to cor-demnation on account of their appro-priation to public use by the plaintiff, that the Scranton and Northeastern Railroad company has not the right of enninent domain, because, inter alla, it is not going on in good faith to build a railroad, but is lending itself to a fond company the size to con-the plaintiff. building a railroad from Fittston to Sernaton; they are engaged in building a railroad; and under the law they are therefore in-vested with the power of eminent do-main. To quote the language of Yerkes, P. J. in Gaw vs. R. R. Co.; "The de-fendants servants and workner were algging and otherwise trespassing upon 40-inch Wool Coverts, tailor Large assortment of 85c and **MEARS & HAGEN** ligging and otherwise trespassing upon of its roudbed under the right of emi-its lands; and praying for an injune-neut domain. In the absence of proc tion to restrain defendants from enter- , that its action is taken for the purpose



the adult rate Thus, if a company has an option he-tween two or more lines or routes, it must make its election by an actual must make its election by an actual adoption of one of them before it can acquire title by appropriation upon either: 1 Redf, on Ráilways, 240. The reason for this is, that the act of loca-

(Continued on Page 8.)

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finish

Sovereign Grand Lodge, I. O. O. F. Indianapolis, Ind., Sept. 16th to 21st 1901.

For the above occasion ticket agents of the Lackawanna railroad will sell special round trip tickets to Indianapdis. Ind., at regular first class one way fare for the round trip. Tickets will be on sale good going Sept. 12th to 15th inclusive, returning to leave Indianapolis not later than Sept. 23 or earlier than Sept. 13th. By depositing tickets with joint agent at Indianapolis, Ind. on or before Sept. 23d, return limit will be extended to leave Indianapolis not later than October 7th on payment of 50 cents additional. Stop off at Buftalo will be permitted on the return trip by depositing ticket with joint agent No. 50 Exchange street, and on payment of \$1.00 extra, provided that

ticket is used to destination within the final return limit. Children between the ages of 5 and 12 years one-half of

> N. Y. O. and W. R. R. will run an excursion train, all points, Scrante:

to Forest City inclusive, to Lake Poyntelle, Sunday, Sept. 1st. Train will leave Scranton at 8.30 a. m.; Carbondale, 9.10 a. m. Return fars from Scranton, \$1.00; Carbondale, 60c,

Price.

...

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