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Hornbaker's 211 Washington Ave.

They Draw Well. Morris' Magnet Cigars

The best value for 5 cents. Try one and you will smoke no other.

E. C. MORRIS, The Cigar Man, 325 Washington Avenue.

In and About The City

Harry B. Stanton Injured. Harry B. Stanton, of Platt place, fell through a temporary sidewalk on Wyoming avenue Sunday and seriously injured one of his legs.

Report on Hose Inspection. Superintendent H. E. Ferber's report on the city hose inspection of last Friday was yesterday made to Director of Public Safety F. L. Wormser.

Committee Meets Tonight. The special committee of councils which conferred last week with General Manager Sillman regarding the Bellevue line transfers, will meet tonight.

Not the Same O'Donnell. It was not Peter O'Donnell, the glassware man, who had the trouble at the Lackawanna station and was fined in police court Sunday morning.

Insulted Passers-By. Patrolman Flax arrested L. B. Nolan Sunday night for insulting people who passed him on Mulberry street. Nolan was fined \$5 yesterday morning by Magistrate Howe for drunkenness.

Referee's Order. Referee in Bankruptcy C. A. Van Worman yesterday made an order for the sale of the real and personal property of the Scranton Lumber company. The personal property will be sold August 14.

Assault Was Alleged. William Stein was arraigned before Alderman Kasson yesterday charged with assault by his wife, Caroline Stein. The latter also alleged non-support and cruel treatment. The case was dismissed.

Information Wanted. Information is desired by the postoffice authorities of the whereabouts of Mrs. Anna Carr, the daughter of James Johnson, who lived at Forestburg in 1872. Johnson was formerly a private in the Fifty-sixth New York volunteers.

Adjuded a Bankrupt. John Shoenaker, of Mt. Carmel, was yesterday adjudged a bankrupt by Judge R. W. Archibald of the district federal court. The case was referred to Referee in Bankruptcy M. H. Taggart. Shoenaker places his liabilities at \$3,749.92 and his assets at \$349.75.

Mining Congress at Butte. Secretary Seaman, of the board of trade, has received an invitation to the international mining congress, which will meet at Butte, Mont., the first five days of September. By the terms of the invitation, the local board is entitled to five delegates. The congress is held for the purpose of securing better national mining legislation.

Incorrigible Boy. In default of \$500 bail, 12-year-old Edward Crambo, of Moscoe, was yesterday committed to the county jail by Alderman M. J. Ruddy, on the charge of the larceny of a horn and bunch of keys. The charge was referred by the boy's father. The latter says the lad is incorrigible. Efforts will be made to place him in a house of reformation.

The Final Hearing. The final hearing in the injunction case of the Scranton Gas and Water company against the city of Scranton took place yesterday. The witnesses examined were Aris Powell, Joseph Widmer and City Engineer Joseph Phillips. The closing argument for the city was made by City Solicitor Watson and Attorney E. N. Willard and I. H. Burns for the company.

Accused of Arson. Superintendent of Police Day arrested

Frank Vinalsk, of 166 Sherman avenue, Sunday night, on suspicion. While intoxicated Vinalsk had boasted that he was the man who set fire to the Briggs washery. He was arraigned before Alderman Davis yesterday, but discharged on account of lack of evidence. He only testified to the fact of William Rimcoek, with whom Vinalsk boards, who testified that he had heard him mumbling something about the fire.

Pavement Caved In. Director of Public Works John E. Roche was yesterday afternoon notified of a cave-in at Jefferson avenue and Linden street. Superintendent of the Bureau of Engineering Joseph Phillips was immediately dispatched to the scene, and found a hole in the asphalt about two feet long and one wide. The hole under the pavement was about 18 inches deep, and was filled with debris was inside. The heat from steam pipes at this point is supposed to have weakened the pave.

Dewey Cannot Be Present. Colonel E. H. Rippe yesterday received a letter from Admiral George Dewey, in which the latter expressed his regret that he could not be present at the annual reunion of the Seven County War Veterans' association, which will be held in this city Wednesday, August 20. An invitation was sent Admiral and Mrs. Dewey Saturday. The committee which sent the invitation consisted of Colonel Rippe, Captain E. W. Pearce, Hon. Henry Harding, Captain W. A. Minton and Thomas Barrows.

A Letter from Japan. Scranton's fame is spreading beyond the shores of this country. Secretary Seaman, of the board of trade, received a communication yesterday from a Japanese merchant, who is desirous of handling exported goods from this city. C. Pfundner, of Kakehiko, was the name of the tradesman, and in a letter addressed to Seaman and its board of commerce, he expressed his desire to put on the Japanese name to any commodities which Scranton business men might desire to introduce in the east.

Sheffield's Side of the Case. Constable James Sheffield, who was made one of the defendants in a trespass case brought by Mr. and Mrs. Cornelius Cadden, makes an emphatic denial of the facts set forth in their declaration. He alleges that when the Caddens' furniture was used, nor was any of the furniture removed. He merely made a levy as the writ in his possession directed him to do.

Benefit for Mr. and Mrs. Dixie at Elmira. Manager Henry F. Dixie was in town Saturday, making final arrangements for the opening of his new play house, the Dixie theater. Last Thursday night, Mr. and Mrs. Dixie were tendered a benefit at Elmira, of which the Gazette of that city says:

The benefit was a gala night. All previous records both for crowds and entertainment were smashed completely and it must have been very pleasing to Mr. and Mrs. Dixie to see the esteem which the Elmira people have for them manifested in such an evident manner. It was an occasion from start to finish and the performers were on their mettle and could not have presented a more perfect and pleasing performance.

WICKIZER'S BILL APPROVED. He Will Be Paid for His Work on City Streets.

After being refused payment by the city controller, approved by the auditing committee, and again vetoed by the controller, the bill of W. H. Wickizer for \$300 has at last been allowed by all the proper authorities, and Mr. Wickizer received his money yesterday.

The \$300 was charged for repairs on Grant avenue and Jackson street, and while the validity of the claim was never doubted, the city controller refused to sign a warrant for the amount, because of alleged irregularities in the contracting for the work. An opinion was rendered by City Solicitor George M. Watson, the latter part of last week, and an affidavit made by Wickizer that the work had been done by the day, removed Controller Costello's scruples, and ergo the payment of the claim.

Jr. O. U. A. M. Excursion. The fifth annual excursion of Dunmore country, No. 102, Jr. O. U. A. M., will be run to Lake Ariel, on Saturday, August 16. The management of the day's outing will be in the hands of an experienced committee, and a quiet, orderly excursion, brim full of pleasure for the young and old, is promised. A special invitation is extended to all members of the Jr. O. U. A. M. and D. of A. to join in the pleasures and festivities of the day. The exceedingly low rate of fare, which will be announced later in the week, makes it possible for many to attend who could not otherwise do so.

Henry the Fourth Cigars, Clear Havana; ten sizes; O'Hara's Cigar store.

Yesterday's Marriage Licenses. Edwin A. Stephens.....Nicholson Mary L. Rohr.....Scranton Leopold W. Schone.....Scranton Kate Frudnowska.....Scranton Thomas May.....Scranton Mangle Loftus.....Scranton Arthur Patton.....Oreen, Wayne county Mae Phillips.....Greenwood

COURT HOUSE NEWS NOTES. Stanley M. Newton was appointed a committee of the estate of John J. Peck. Court allowed M. S. McDonald to adopt Alta B. Green, child of Charles C. Green. Joseph Jeffrey was appointed master in the partition suit of J. H. Canterbury, et al. against Katie Walsh, et al.

In the case of Margaret M. Williams against William Champeel court permitted a new declaration to be filed. It was ordered that the Compton divorce case be placed on the next argument list for argument before the court in banc. Judge Edwards granted a charter to the Odd Fellows' Hall association, of Jersey, and the Primitive Methodist church of Sibley.

In the case of Michael Corby against Dominick Gilmarin, court granted a rule on the plaintiff to show cause why judgment should not be struck off said docket. B. Van Gorder was appointed judge

DIVORCED AND REMARRIED

MRS. PAYNE ASKS FOR A SECOND DIVORCE.

The Parties Live in West Scranton and Are Well Along in Years—Mrs. Carrie Wellner Granted a Divorce from the Husband Who Never Lived with Her—Minnie Brauer and Willard O. Lathrop Are Applicants for Divorces—Other Court Matters—Marriage Licenses.

Mrs. Susan A. Payne, a woman well advanced in years, who lives in West Scranton, yesterday applied to the court for a limited divorce from her husband, Alfred Payne. Cruel and barbarous treatment is alleged. She is represented by Attorney John P. Scragg.

The Paynes have a number of grown-up children, but some few years ago Mrs. Payne said her life with her husband was intolerable and she secured an absolute divorce from him. Later they patched up their differences, and on May 31, 1901, they were re-married. In her libel against Payne, Mrs. Payne says that an account of the cruel and barbarous treatment she received from her husband she was compelled to leave him on June 11.

Elizabeth E. Cramer, of Binghamton, petitioned court to vacate the decree in divorce secured here, July 16, 1902, by her husband, A. W. Cramer. She alleges it was secured to defraud her out of her interest in a property in Jefferson township. She says she knew nothing of the proceedings until the granting of the divorce, and she is a resident of Binghamton. Her husband is a painter and resides at Petersburg.

Granted a Divorce. A divorce was granted yesterday to Mrs. Carrie Wellner, of Edward J. Wellner, to whom she was married July 9, 1900. They never lived together. Mrs. Wellner resides with her father at 732 Pittston avenue. Wellner is a painter and resides at Petersburg.

On July 9, 1900, he was arraigned before Alderman Lentens on the complaint of the young woman he made his wife. He was given the alternative of marrying her or going to jail, and agreed to marry.

The ceremony was performed the ceremony, and after they left the altar, Mrs. Wellner says her husband abused her and said he would kill her only he was afraid he would have to do time for it. He subsequently made a similar threat a number of times, but never carried out a part of her support. Their child died a short time after birth.

Two Divorces Asked. Mrs. Minnie Bruner filed her petition yesterday, asking for a divorce from Rudolph Bruner, to whom she was wedded in April, 1894. They lived together in this city until April 20 of this year, when Mrs. Bruner says she learned that her husband had been guilty of unlawful relations with Margaret Case and other women, to her great shame.

She also alleges cruel treatment on the part of her husband. Mrs. Bruner is represented by Attorney John P. Scragg.

Willard O. Lathrop seeks a divorce from Ethel Lathrop, to whom he was married on Jan. 28, 1895, in Chicago. Lathrop is a native of Scranton, but was living in Chicago at the time of his marriage. In the libel, filed for him yesterday by Attorney C. S. Olver, Lathrop charges his wife with desertion and unfaithfulness.

Alimony Allowed. Court yesterday made an order directing William Edridge to pay his wife \$50 counsel fees and \$10 a month alimony, beginning Aug. 15, on which date \$80 is to be paid.

In the divorce case of Henry Scheuer against Pauline Scheuer court ordered the defendant to pay \$25 as counsel fees for his wife's lawyers. A jury trial has been allowed in this case.

A bill of particulars was filed in the divorce case of E. W. Robbins against Frances Hatlie Robbins.

Poor Board Cases. The poor board cases, in which John J. Murphy and James J. Eckert are seeking to show that the office of poor director is elective, instead of appointive, and that it had been filled by election, was to have been argued yesterday, but on account of the stress of other business, was postponed over to the October term of argument.

It is expected it will then be disposed of finally.

Seven Admitted to Practice. Seven attorneys were yesterday admitted to practice in the common pleas and equity courts. Among them was Miss Clara Peck, of this city, who, on Monday last, was admitted to practice in the orphan's court. W. A. Wilcox moved her admission.

Others were admitted as follows: C. H. Welles, jr., on motion of James H. Torrey; Walter L. Schanz, on motion of ex-Judge E. N. Willard; Ralph W. Rymer, on motion of Roswell H. Patterson; Hugh B. Andrews and George C. Scheuer, on motion of R. A. Zimmerman; Jesse E. Slicker, of the Wyoming county bar, on motion of H. D. Carex.

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Pain over the Eyes

Headache and Catarrh Relieved in 10 minutes.

That dull, wretched pain in the head just over the eyes is one of the surest signs of catarrh of the sinuses. It has been shown, and it's your warning to administer the quickest and surest treatment to prevent its return.

Dr. Agnew's Catarrhal Powder will stop all pain in ten minutes, and cure. Dr. Agnew's Ointment cures all skin diseases.

Sold by Wm. G. Clark and H. C. Sanderson.

of election of the First district, Second ward of Carbonado, to succeed Harry Ethel who has moved from the district for the seat of the second ward.

The time for filing an answer in the mandamus case of the borough of Dunmore against Myron S. Knight, was continued until August 13, 1902, at the application of the defendant's attorney, C. Balentine.

August 14, at 9 a. m. was set by Judge Edwards as the time for hearing exceptions to the finding in the case of A. L. Spencer against P. H. Emery and T. R. Hughes.

The bond of H. G. Smith, collector of taxes of Benton township, was yesterday approved by Judge Newcomb. It is in the sum of \$5,000 and has L. M. Franklin and James Delevan for sureties.

Earl C. Carpenter petitioned court for the appointment of a commissioner to inquire into the sanity of his father, Joseph Carpenter, of North Abington. Fred E. Scott was appointed commissioner.

Attorneys R. C. Bourke, John Murphy and J. W. Carpenter have decided to take an appeal for the plaintiff in the case of the borough of Carleton against the Elk Hill Coal and Iron company, the Raymond washery case.

J. M. Harris, C. R. Bedford, Joseph H. Hunter, John M. Edwards, C. A. Batwing, E. C. Boyle and P. J. Price were appointed viewers in the case of Bridget Goulden against the Scranton and North-eastern Railroad company.

Earl J. Gilmartin, Joseph Wilde, S. S. Jones and John B. Shannon were appointed viewers to assess the damages occasioned by the Helmsburg fire, in the township of Full township, belonging to the Aitken estate.

Louis Gramer, master and examiner, appointed to examine the indebtedness between the borough of Vandling and the township of Full, out of which Vandling was recently carved, reported that the township of Full is chargeable with \$1,322.24 of it. The report was conditionally confirmed by court.

INCREASE OF PAY IS GRANTED BY BOARD

Teachers Voted a Raise of \$5 Per Month—Number of Teachers Appointed.

A lively debate occurred at last night's meeting of the school board, when the acceptance of the new No. 23 school came up for discussion. Archibald, in a letter to the board, took a bond for the contractors, the Dunmore Lumber company, on account of the condition of the brick walls, was productive of much comment. The board decided to accept the building and the offer of P. Umher, president of the company, to give a bond of \$10,000 for the same amount at \$500, for two years.

The report of the teachers' committee, granting a general increase in the teachers' salaries of \$5 a month was heard and accepted.

Mr. Barker read the report of the teachers' committee, which was prefaced by a letter from Mrs. G. F. Hucker, formerly Miss Ella Dougherty, resigning her position at No. 30 school. His report embodied a recommendation of the \$5 increase, and provided that henceforth teachers may receive the maximum pay allowed by the school district at the beginning of their ninth year's service, instead of the twelfth year, as was the former rule.

The report recommended that the question of additional attendance officers be referred to the teachers' committee.

Recommended appointments of teachers were transferred to other buildings were made as follows: Miss May Whelan, to No. 2 school; J. J. Jöhler, and Miss Teresa C. Gaughan, to No. 3; Miss Margaret Ruddy, of No. 9 school, to be transferred to No. 20 school; Miss Elizabeth Padden, to be transferred from No. 20 to No. 9 school; Miss Carrie Padden and Miss Helen Whelan, appointed to No. 33 school, when the two-room addition is completed; Miss A. May Benedict to be transferred from No. 25 to be principal of the new No. 31 school; Miss Ida Christmas, appointed to the place made vacant in No. 25 school by Miss Benedict's promotion; Miss Harrie E. Wilson, Miss Esther Mackey, appointed to other vacancies in No. 25; Miss Nellie Keegan, appointed to No. 21 school; Miss Stella Murray, appointed to the new No. 20 school, if the attendance warrants an additional teacher. The report was adopted.

Chairman Roche, of the building committee, in making his report, asked that as many members as possible would be present Thursday, and visit a building site at Luzerne and Eighteenth streets.

Chairman Schrier, of the supply committee, made the following report on the awarding of supply contracts for the following school year: \$6,000 pads, to Megargle Bros.; commercial note paper, foolscap, letter heads and envelopes, to the Technical Supply company; erasers, elastic bands, pointers, pencils, waste baskets, ink, pens and pen-holders, to Reynolds Bros.; Quincy tablets, manila paper, white paper, composition books, crayon, rulers and Tracy's records, to Geary Bros., of Wilkes-Barre. The board adopted the report.

The insurance committee recommended the placing of the following insurance: No. 6 school, \$5,000 with C. G. Boland & Co., \$2,000 with O. E. Paine & Son, and \$3,000 with H. F. O'Malley; No. 15 school, \$5,000 with John Fitzsimmons, \$2,500 with Peter Roblin, \$5,000 with John Lentz; No. 24 school, \$15,000 with W. B. Christmas; No. 23 school, \$2,000 with C. H. Schadt & Bro.; \$2,500 with E. B. Franklin, \$2,500 with P. P. Smith; No. 33 school, \$5,000 with Arja Powell, \$5,000 with M. J. O'Malley; No. 22 school, \$2,500 with W. B. Christmas.

Strike Called Off. The following committee—Messrs. Fowler, Atherton, Edlian and Hilsland—have decided to end the present trouble between the miners and operators at Lake Ariel, Thursday, August 14—Woodmen's Day committee—chosen by Mitchell and Mark Hanna. Miners and operators invited. Train leaves at 8.30 a. m. and 1.30 p. m.

Dr. Lindabury, Surgeon, diseases of women and a specialty, 215 Connell building, Hours: 11 a. m. to 4 p. m.; 7 to 8.30 p. m.

DECISION FOR DEPENDENTS

JUDGE EDWARDS REVIEWS THE CONDENSERY CASE.

Holds That the \$42,000 Owed by the Clark's Summit Condensery Company to the Sayre Lumber Company for the Erection and Equipping of the Condensery Is a Collective Debt and Not a Joint Liability—Judgment in Favor of Defendant with Costs.

The Clark's Summit Creamery case was probably the most generally interesting suit passed upon yesterday by the judges at the midsummer session.

The Sayre Lumber company built and equipped a creamery for the Clark's Summit Condensery company, which had 180 subscribers to its stock. The contract for the establishment of the creamery plant was signed by all the subscribers. The plant was burned down and the Sayre Lumber company began proceedings to collect the cost of its construction, \$42,000, from each of the subscribers as were responsible, naming them all, and hoping to find some among the plaintiffs who were good for \$42,000. The responsible subscribers got together and opposed the proceedings, alleging that it was a collective debt and not a joint liability.

Judge Edwards decides in favor of the defendant, without indicating what the plaintiff will have to do to collect its money from the 180 defendants collectively. The opinion which tells the details of the contract and the intentions of the two parties follows:

CAUSE OF ACTION. The suit in this case is brought jointly against 180 defendants to recover the sum of \$42,467.77, balance due on a contract for the erection of a milk condensery plant.

Defendants demand that judgment be given to the plaintiff's declaration, all alleging the same ground, viz., that the plaintiff's cause of action is several and not joint. This is the sole question raised by the pleadings.

As the determination of this question depends upon the construction of the contract between the parties, we shall here quote the essential parts of the contract.

"It is hereby agreed, between the Sayre Lumber company, of Sayre, Pa., party the first part, and the other subscribers hereto, as party of the second part, that the first party is to build, equip and complete in good running order for said second party, within four months from the date hereof, a milk condensery plant, according to plans and specifications hereto attached, at Clark's Summit, in the township of Full, county of Lackawanna, on land provided by said second party for the agreed price of forty-two thousand dollars (\$42,000), which is to be paid as follows:

"Seven thousand dollars (\$7,000), when the building is completed; ten thousand dollars (\$10,000) when boilers and engines are set and pumping and condensing machinery are delivered in building; ten thousand dollars (\$10,000) when the copper works and all machinery is delivered in building; and the balance of \$5,000, sixty days from the date of the completion of the building." The contract provided that "sixty days' time is given on the final payment, as a guarantee that the factory is complete and to demonstrate that the first party has fully discharged his part of this contract and the machinery is all new and first-class; and of the character, quality and capability for which it is intended and recommended. And if said trial should discover or develop any flaws, defect or mistake in the construction or equipment of said plant, the first party shall have the right to correct such errors or mistakes within a reasonable time after the discovery of the same.

ANOTHER COMPANY. "For the purpose of forming a corporation to own and operate said factory and fully carry out the intention of the subscribers, it is hereby agreed that when this contract is closed, second party are to incorporate under the laws of the state, limited corporation stock, non-assessable, fixing the aggregate amount of capital at not less than the amount subscribed, divided into shares of one hundred dollars each, or according to the laws of the state, which are to be issued to subscribers in proportion to their paid-up interests in said factory; and it is understood and agreed that the by-laws shall provide that one-half a cent a day shall be set aside for the purpose of declaring and paid to shareholders as a dividend on stock, and shall be paid for no other purpose.

"And it is further agreed by and between all the subscribers for stock that the producers of milk are to receive all its product brings, less the actual cost of canning, packing and delivering, and after one-half a cent a day has been declared as a dividend.

"In consideration of the above, all agreed that all their milk shall be furnished to said condensery.

"For a full and faithful performance of our respective parts of this contract, we mutually covenanted and agreed, after one-half a cent a day has been declared as a dividend.

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"Executed and dated this 12th day of March, 1900.

"Sayre Lumber Co., pr. W. J. Davis." Then follows a tabulation under several headings, thus: Number of cows, name of subscribers, number of 100 shares, amount of stock after incorporation.

Of the 180 subscribers, the large majority have opposite their names a certain number of cows and the amount of their stock subscription, but several have not. The number of cows owned by those presumably agree to furnish to the condensery. These persons do not subscribe for any stock.

It has been well stated that in the construction of contracts, the court will look at all the circumstances of the case, the nature of the property, the occupation and relation of the parties, the usages of the place and of the business to which the contract relates, and ascertain by reasonable inference, what the parties must have understood and mutually expected at the time of the making of the contract, and then adopt that construction which will best and most nearly carry the contract into effect as they intended and understood it (Dwelle v. Dewey, 143 Mas. 569).

CONSIDERED AS A WHOLE. The contract must be considered as a whole, and if, upon such consideration, the intention of the parties is apparent, it must prevail over the literal interpretation of detached words, phrases and clauses. In the light of these and other well understood rules governing the construction of contracts, what is the nature of the agreement in the case at bar? Is it joint, or is it several? Or, is it a contract undivided upon the corporation to be formed by the subscribers to the contract and stock, with the first clause of the contract standing alone, with the bare signatures of the Sayre Lumber company and the defendants, would undoubtedly make the undertaking a joint one. According to the clause mentioned, the agreement is between the "Sayre Lumber company, party of the first part, and the other subscribers hereto as party of the second part."

"The first party is to build * * * for said second party * * * a milk condensery plant * * * on land provided by said second party, for the agreed price of \$42,000." But the contract must be taken as a whole, and the last main clause of it states that "for the purpose of forming a corporation to own and operate said factory and fully carry out the intention

Would You Give

A Small Percentage for the Use of \$25.00

It is a penny wise and pound foolish idea to hesitate to borrow money when you can get it on such favorable terms as we now offer.

MONEY TO LOAN ON HOUSEHOLD FURNITURE Or Other Personal Property.

From \$10 to \$500 loaned within 10 miles of 807 Wyoming avenue.

We do not want you to WAIT a day or two for the money after promising it promptly. You get it within an hour or two.

Scranton Loan Guaranty Co. 207 Wyoming Avenue, Scranton, Pa.

Near Corner Spruce Street. Business Hours—5 a. m. to 6 p. m. Saturdays, 10 p. m.

We can hand you the money within an hour or so after you ask for it.

The Clearance Sale of Summer Specialties

Is nearing an end. Already the first autumn arrivals are at hand in a few of our departments, while manufacturers and jobbers are pressing on us to receive the balance as early a date as possible.

That's why we are rushing this sale to a speedy close. Bargain prices are everywhere throughout the store. You cannot miss them or fail to appreciate their merit.

Take for Example Those Cut Pillow Tops at 10c They'd be cheap at 20c. But these are all bargain days and so we say..... 10c

Or 38 Inch Pure Mohair Brilliantines at 36c Under ordinary conditions you should jump at them if marked 49c. The sale price is..... 36c

Or the Half Price Wash Goods at 7c Fine Lawns, Lovely Batistes, Dainty Dimities, etc. Regular 12 1-2 and 15c stocks. During this sale..... 7c

Or Ladies' 25c Underverts at 18c No mistake about these figures; they're genuine. Fancy Swiss Ribbons or Pure White Lawns and Ribbon trimmed PARASOLS, WASH SUITS, WASH SKIRTS AND SHIRT WAISTS AND ALL WASH GOODS AT HALF PRICE.

McConnell & Co., The Satisfactory Store. 400-402 Lackawanna Avenue.

Age Makes Perfect Beer is not of age until it has been "on lager" for at least four to six months. A capacity to continually store 375,000 barrels provides ample facilities to properly age all brews of Anheuser-Busch Brewing Ass'n

St. Louis, U. S. A. Distributors of the famous Budweiser, Michelob, Black & Tan, Faust, Pale-Lager, Anheuser-Standard, Export Pils and Excellence.

CASEY BROS., Wholesale Dealers, SCRANTON, PA.

of the subscribers. It is hereby agreed that when this contract is closed, second party are to incorporate under the laws of the state * * * fixing the aggregate amount of capital at not less than the amount subscribed * * * which (shares) are to be issued to subscribers in proportion to their paid-up interest in said factory."

This clause is a strong, if not a controlling indication of the actual intention of the parties to the contract. It may be that the language is ambiguous. Let this be granted. Yet, as Chitty says: "If the agreement be so formed as to be ambiguous, it will be held to be joint, if the interest be joint, and several if the interest be several; an agreement, prima facie joint, may be construed to be several, if the interest of either party, appearing upon the face of the instrument shall require that construction."

INTENTION OF PARTIES. This simply brings us back to the proposition that the intention of the parties to an agreement must be gathered from its consideration as a whole. It may be also observed that according to the contract the interest of each of the subscribers in the subject-matter of the contract is distinct and several. One subscribes for a certain number of shares of stock and agrees to furnish milk from a certain number of cows. Another subscribes to the capital stock, but agrees to furnish no milk whatever, and another agrees to take no shares of stock, but does agree to furnish the milk from a stated number of cows. But they all agree to form a corporation which shall own the factory. Taking the agreement as a whole and considering all the inferences fairly deducible from its terms, it is possible to avoid the conclusion that the contention of the defendants is correct and that their undertaking was not joint.

It is not apparent from the reading of the contract that not one of the subscribers intended to incur a liability beyond the amount of his subscription to the capital stock of a corporation? As

we have stated, there are 180 subscribers. Their subscriptions vary from \$100 to \$500. The amount to be raised is \$42,000. Take for instance the case of M. K. Garrison, one of the subscribers. He subscribes for one share of stock—\$100, or A. T. Dunlap, who takes no stock, but who agrees to furnish the milk of ten cows. Would it not be unreasonable to suppose that these individuals understood the contract as making each liable for the \$42,000.

We do not think that the plaintiff is helped out by the final clause in the contract which states that "for a full and faithful performance of our respective parts of this contract, we bind ourselves, and our successors." The use of the words of plurality, such as "we bind ourselves" will not make the contract joint, when the parties engage for the performance of distinct and several duties (1 Add. Contracts, 89). And as we said in a case like the one at bar, "Courts ought not to permit isolated words or phrases, importing a joint obligation, to defeat the manifest intention of the parties as gathered from the entire contract." Another consideration worthy of our attention is the fact that the defendant belongs to an agricultural community. We do not have to go outside of the agreement to ascertain this fact. The language used in Davis, et al. vs. Jones, 22 U. S. App. 22 (1859) in a case similar to the one at bar, is pertinent in this connection.

PLAINTIFF'S POSITION. We shall now state the position taken by the plaintiff. Counsel for plaintiff contend that the contract upon which the suit is brought was entered into for a double purpose: 1. It is a joint obligation on the part of the defendants to pay for the condensery plant. This is the relation of the "subscribers," the party of the second part, to the Sayre Lumber company, the party of the first part. The first party agreed to build the