# **DECISION IN EVANS' FAVOR**

ANOTHER STEP TAKEN IN POOR BOARD CASE.

Judge Edwards, Who Some Time Ago Decided in the Dickert Case That the Office of Poor Director Is Elective, Now Decides That It Is Possible to Hold a Valid Election in the Territory That Was Once Known as the Borough of Hyde

The poor board muddle is practically solved. In an opinion handed down yesterday President Judge H. M. Edwards decided that it is possible to hold a valid election for poor director in the territory comprised in the old Hyde Park borough and that James A. Evans is entitled to the office now held by Dr. W. A. Paine, and to which he was elected last February. The opinion to the respondent's answer in the quo warranto proceedings of the commonwealth of Pennsylvania ex. rel, W. R. Lewis, district attorney, vs. W.

Heretofore in the Deckert case Judge Edwards decided that the office is elective and the decision of yesterday shows that Hyde Park can legally elect. It now remains for the claimants from the other districts to show, if they can, that it is possible to conduct a legal election in them. It is believed, however, that the original lines of the other districts have been so effaced that a legal election is no longer possible and the office will have to be filled by appointment until there is some legislation that will remedy the existing condition of affairs.

The opinion handed down by Judge

Edwards yesterday follows:

#### The Opinion.

This cause was heard on demurrer to the answer of respondent. By a well-known rule of pleading, the matters that are properly averred in respondent's answer must be taken as admitted. It follows, therefore, that there is not and could not be, any disputed question of

Three questions only require our consideration: (i) Is the office of poor director elective under the legislation applicable to the Scranton Poor district? (2) Is it possible to hold a legal election for poor director in the district comprising the former borough of Hyde Park? (3) If the office is elective and a legal elec-tion be possible, should the election be

hold in February? I. Is the office of poor director elective? This question has been squarely decided us in the case of Commonwealth ex rel., etc., vs. Dickert, 195 Pa. 234. For a full discussion of this point we refer to our opinion in that case. In our judg-ment the question is res adjudicata. II. Is is possible to hold a legal election for poor director in the district compris-ing the former borough of Hyde Park?

appears to us that this is the only

question of any importance in the present

The Hyde Park borough was incorpor-ated by act of assembly in 1852. The whole borough constituted one election district and therefore had only one polling place. The Scranton Poor district was incorporated by act of April 9, 1872, P. L. 352. Section 20 of this act provides that the borough of Hyde Park may at any time elect to become a part of the poor district. The borough availed itself of this privilege and became a part of the Scranton Poor district in 1862, and was

#### entitled to elect one director of the poor. The City Incorporated.

In 1866 the city of Scranton was incorporated uniting several municipal bodies, among them the borough of Hyde Park. In the course of time and with the growth of population, new wards and election districts of the city of Scranton were created, so that after awhile Scranton had twenty-one wards and many more election precincts. How did these changes. the multiplication of wards and election districts, affect the old borough of Hyde Park? Did they affect it any further than to increase the epportunities for the electors hving within the limits of the former borough to exercise the elective

If this was the only result, what difference did it make whether the electors voted at one polling place or at twenty? What are the facts or this point? The territory comprising the borough was finally carved into six wards, viz., the Fourth, Fifth, Sixth, Fourteenth, Fifteenth and Eighteenth. These wards in-cluded the whole borough, no more, no less. These conditions existing we see no reason why the electorate of these six words could not have elected a poor di-rector from time to time. But it is claimed that a new compilea-tion has arisen by the annexation of a

part of Lackawanna township to the city of Scranton. This was done in 1893. The annexed part became the Third district of the Sixth ward. By mistake the electors in this Third district voted for poor di-rector. They had no right to do this, because the district was no part of the Seranton Poor district. They were evi-dently misled by the fact that the Seran-

"I sleep well enough at night, And the blamedest appetite

Ever mortal man possessed." Riley's farmer is the very picture of a man advanced in years, yet in the enjoy-ment of perfect health. A good appe-tite, good digestion and sound sleep, are

the chief factors in a vigorous old age. Life is sustained by food, when it is properly digested and assimilated. When digestion fails, there is a loss of nutrition which soon shows itself in physical weak-

Sleeplessness, etc. Doctor Pierce's Golden Medical Discovery cures diseases of the stomach and other organs of digestion and nutrition. It strengthens the body in the only way possible,—by enabling the as-similation of the nutrition extracted

from food.

"I used ten bottles of Dr. Pierce's Golden Medical Discovery and several vials of his 'Piezasant Pellets' a year ago this spring, and have had no trouble with indigestion since writes Mr. W. T. Thompson. of Townsend. Broadwater Co. Montana. "Words fail to tell how thankful I am for the relief, as I had suffered so much and it seemed that the doctors could do me no good. I got down in weight to 125 pounds, and was not able to work at all. Now I weigh nearly 150 and can do a day's work on the farm. I have recommended your medicine to several, and shall always have a good word to say for Dr. Pierce and his medicines."

The Common Sense Medical Adviser,

The Common Sense Medical Adviser, 1008 pages, in paper covers, is sent free on receipt of 21 one-cent stamps to pay expense of mailing only. Address Dr. B. V. Pierce, Buffalo, N. V.

ton poor board exercised jurisdiction over the annexed territory by levying taxes and granting relief. This seems to have been done by general consent; but this fact has no place in the present discus-sion. It is entirely immaterial and does not affect the issue either way.

#### Not a Complication.

We do not consider the annexation of the territory aforesaid in the light of a The annexed part constituted a separate election district. The vote for poor director from this election district should not have been computed by the court last February. If our attenwould have refused to include the vote in the general computation. But why should the electors of the former borough of Hyde Park, which now and at the time of the election, consisted of the Fourth, Fifth, Fourteenth, Fifteenth and Eighteenth wards, and the First and Second districts of the Sixth ward, be disfranchised because the voters of one election district voted for the office of director without warrant of law? returns from all the election districts constituting the whole of the former borough of Hyde Park were before us and were computed, and they show that James A. Evans had a clear majority of the votes cast.

The only way in which an election could be made impossible by a change of election districts, or an increase in their number, would be by the exclusion of voters residing within the limits of the former borough by reason of their being attached to another election precinct not a part of the borough territory. For instance, a part of what is now the Fourth ward could have been added to the Twenty-first ward, the latter ward being outside of the limits of the Hyde Park bor-ough. If this had been done it would be impossible for the electors living in the territory added to the Twenty-first ward to vote for poor director, because they could not vote in two places. Such a change would disfranchise the voters and would, in our judgment, destroy the integrity of the borough poor district so as to make a valid election therein impossible. We therefore conclude that it was possible to hold a legal election for the office of poor director last February in the territory comprising the former borough of Hyde Park.

#### Election at Right Time.

III. Was the election held at the right time? We find no difficulty in answering this question in the affirmative. Accord-ing to the act incorporating the borough of Hyde Park the elections were to be held on the second Tuesday of March in each year. The burgess and town council were also intrusted with the charge of the poor and with the power to levy fact to be considered by us in our discus-sion of the question now before us. act incorporating the Scranton Poor dis-trict provides that the boroughs coming into the poor district shall elect the poor directors at the "usual spring ele It appears that previous to 1874 local elections were held at various times in the year throughout the state. March seems to have been the most favored period, although April is found in some local acts and Pittsburg once elected its mayor in December. The constitution, Article VIII, section 3, made the time for holding municipal elections uniform throughout the state: "All elections for city, ward, borough and township officers for regular terms of service shall be held on the third Tuesday of February." Taking into consideration the fact that borough and township officers in many seems to have been the most favored borough and township officers in many instruct people who know their business cases had charge of the poor and levied better than he can tell them, as to how, taxes for their support, and that many and for whom to cast our votes today. townships elect overseers of the poor, we the will find out tomorrow morning that think that poor directors of the Scranton we are advocates of prosperity and have Poor district come within the constitu-tional provision and must be elected, if grades, and will therefore cast our votes elected at all, at the February election. for the straight Republican ticket, We cannot overlook the nature of the duties poor directors are called on to by his enemy unawares to him. The ediperform, as well as the powers they exerelse. These duties and powers are proprly within the domain of municipal func-

## All in the Affirmative.

The three questions propounded by us are answered in the affirmative. Counsel for respondent suggest that by sustaining the demurrer an anomalous condition will be created. The poor board will be in part appointive and in part elective. If the Hyde Park borough district can elect and the other districts cannot elect a poor director, there will be one director elected and six appointed This only emphasizes the necessity of corrective legislation. Results of this character cannot be considered when a question is before us for judicial interpretation. The remedy is with the legis-

the demurrer of the relator to the amended answer of respondent is sustained and judgment of ouster is given against the defendant, with costs

In all probability an appeal to the supreme court will be taken in the case,

All our regular correspondents are instructed, and our friends in all parts of the county are requested to send in tonight's returns promptly, by 'phone where possible, otherwise by wire.

# VICTIM OF SHOOTING AFFRAY.

Still in a Precarious Condition at Lackawanna Hospital.

Emedio Antonio, of Old Forge, who was shot by Joseph Sabetino, during an was shot by Joseph Sabetino, during an altercation on Sunday in front of James Houser; 9 a. m., Widner; 8 a. m., Houser; 9 a. m. Lamping; 10 a. m., A. J. McDonnell; 11 a. m., C. Bartholomew; wanna hospital, with a bullet in his body.

11.45 a. m., Moran 12 a. m., D. Harris; 7.30 body.

12.55 p. m., Murphy; 9 p. m., W. H. Bartholo-

No effort was made yesterday to extract the bullet as the man's condition yould not warrant an operation. The X-rays was used in an effort to locate the bullet, which entered the body on the left side between the fourth and fifth ribs.

Sabetino, the man who did the shootng is confined in the county jail and cems indifferent as to the result of his act. He contends that the shooting was done in self-defense. No effort was nade by his friends to secure his reease on bail, and he will be held to wait the result of Antonio's injury.

Special cars tonight will leave Lackawanna avenue at 1 o'clock for Provilence, Hyde Park, Laurel Hill, Peters ourg and Green Ridge Suburban. \*\*

# LETTERS FROM THE PEOPLE.

fUnder this heading short letters of interest will be published when accom-panied, for publication, by the writer's name. The Tribune does not assume re sponsibility for opinions here expressed.]

Makes Votes for Republican Ticket.

Editor of The Tribune-Sir: It's really amusing to read the trash printed for the last few days in that yellow sheet, called the Times. The editor of that sewer sheet must be off his base, or he thinks that the work-ingmen are very easily misled, when he fills up his columns with such bunkum. The old saying, "Make hay while the sun shines," has been verified in his case. The sun shone bright on him when the clouds were hanging thick over the heads of the workingmen, and in order to bene-tit by the occasion, he rushed out thous-ands of extra copies daily to catch the last penny in the possession of the strik-ers, who were at the time fighting the battle of their lives, and who were anxi-ous to find out the latest developments pertaining to the strike. This willy editor pertaining to the strike. This wily editor know of their anxiety, and catered for it in great shape. Edition after edition appeared with nothing in it, but big prominent headlines, which were purely and simply the concection (such as we are getting today) of this wily editor. Some editions would state in large let-ters "Sottlement of the Strike," or such



Judge Vosburg's campaign has been run tor of the yellow sheet knows in his heart that Vosburg is beyond comparison the superior candidate for judge, and has therefore decided to leave its columns open for every hottentot to rush in under a nom de plume, which is the very best method possible to secure votes for Vosburg. The editor may understand it from me that we believe in the motto of our country, "In God we trust," and have

-J. Henry Jones.

## INDUSTRIAL JOTTINGS.

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

board for today: MONDAY, NOVEMBER 3. Extras East-8 p. m., Carney; 10 p. m. Abrams; 12 p. m., Rowe. Summits-6 p. m., Thompson; 8 p. m.

Pushers-8 p. m., Coslar; 10 p. m., Beav-Extras West-6 p. m., Lane; 11 p. m.,

TUESDAY, NOV. 4.

Extras East-2 a. m., Mahon with Kearney's crew; 4 a. m., Smith; 6 a. m., Lattimer, with M. Finnerty's crew; 8 a m., McCann; 8.30 a. m., Fitzpatrick; 9 a n., Thomas; 10 a. m., Larkin; 19:30 a. m. Devine; 11 a. m. ,F. McDonnell with Cav maugh's crew; II.30 a. m., Singer; 12 a. m., Mullin; 1 p. m., Bisbing; 2 p. m., P. Gilligan; 3 p. m., Mosier; 4 p. m., W. A. Bartholomew; 5 p. m., McLane.

Summits—3 a. m., Frounfelker; 10 a. m., J. Hennigan; 1 p. m., Nichols; 2 p.

n., Carrigg.
Pushers-230 a. m., J. D. Jones; 5 a. m.

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The goods remain in your possession.

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friends. Once a friend, always a friend, and friends upbuild anyone's business. You can have any amount here from \$10 up on

New

Money to Loan.

Helpers-1.30 a. m., Case: 8 a. m., Gaff ney; 10 a. m., Secor; 3.15 p. m., Stanton. Extras West-Third 51. Butterfield; 5 a m., Leonard; 10 a. m., Allen; 2 p. in., M Stack; 4 p. m., M. Fitzgerald; 5 p. m., L

### This and That.

out of the vessel. the exceptional facilities of the North- ager. western line. Large capacity cars and quantities of ore possible. The docks of the Northwestern line at Ashland and Escanaba have a capacity exceeding that of any other line in the Lake Superior region, to which is to be added one now building, which, when completed, will increase their capacity almost 50 per cent, and be the largest ore dock on the Lakes.

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year, and at maturity loan can be ex-tended without additional cost.

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We deal honestly and fairly with all.

Come in and talk it over or send for one of our confidential agents.

Wyoming Ave

found time to get the water ballast

# THE MARKETS.

Wall Street Review.

New York, Nov. 3.—Movements in the stock market today were characterized by This and That.

F. W. Sterne has been appointed freight and ticket agent of the Lackawanna railroad at Portland, vice Ellis Jones, resigned.

A temporary passenger station and freight depot is being built by the Lackawanna Railroad company at Delaware Water Gap to replace the buildings recently destroyed by fire.

SEVENTY-FIVE TONS A MINUTE.

SEVENTY-FIVE TONS A MINUTE.

Over 5,000 Tons of Iron Ore Loaded in an Hour—All Ore-Loading Records on the Great Lakes Are Broken.

Iron ore was loaded Saturday at the Chicago and Northwestern docks at Iron ore was loaded Saturday at the Chicago and Northwestern docks at Ashland, Wis., at the tremendous rate of speed of 5,000 tons an hour. The exact figures were 5,202 tons in one hour and eight minutes, the ore being loaded into the steamer James H. Hoyt, which is built with a special view to rapid loading and unloading. The Northwestern Line has two big ore docks at Ashland, each one of them about one-third of a mile long, and it was at one of these large storage docks that the Hoyt received its load in record-breaking time. Supt. Sampson, of the Northwestern personally supervised the loading, and several newspaper men witnessed it and corroborated the correctness of the record. The last ore was let into the hold, and the lines were cast off in record-breaking time, in fact, the engineer of the boat hardly found time to get the water ballast

ound time to get the water ballast out of the vessel.

The following quotations are furnished The Tribune by Haight & Freese Co., 314-315 Mears Building. W. D. Runyon, man-Open High Low Close.

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Will be three days of splendid opportunity for any one to buy shoes for men, women or children. The entire aisle leading from the Lackawanna Avenue side will be devoted to the sale. Every shoe that is specially priced for this sale will have a table, each table will be numbered as follows.

ible No. 1	
Will contain Women's Box Calf Lace, heavy extension sole, military heel shoes, at	\$1.97
ible No. 2	
Will have a line of Women's Box Calf and Dongola Lace Shoes, size 21/2 to 8, at	\$1.48
ible No. 3	
You'll find Women's Heavy and Light Weight Shoes	\$1.20
ible No. 4	7 - 1-7
On this table Women's Dongola Lace Shoes, patent heavy soles, regular \$1.25 shoes, at	iip. 970
able No. 5	

Boys' Heavy Calf Shoes, durable and a serviceable school shoe. Boys' 21/2 to 51/4, Youths 111/2 to 2, Little Gents' 81/4 to 13 1-2, at ...... 97c

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Table No. 7 Misses' Box Calf, Lace and Button and Dongola Kid Shoe, size 8 1-2 to 2, at.... 97c

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Table No. 9 Misses' All Button High Jersey Leggings, a value usually sold at 75c. Three Day Sale for, pair ...... 50c

Table No. 10

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Marow Beans—Per bushel, \$3.
Ontons—Per bushel, 90c.
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Kern Incandescent Gas Lamp.

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20c.; state dairy, 18a24c.; renovated, 1844a 21c. Cheese—Quiet; new state full cream, small colored, fancy, old, 124gc.; new, 124gc.; small white, old, 124gc.; new, 124gc.; large colored, old, 124gc.; new, 12c.; large white, old, 124gc.; new, 12c. Eggs—Steady to weak; state average best, 24a25c; western candled, 22a24c.; refrigerated, 184ga21c.