

GRIER MAKES ANSWER

To the Demand of the District Attorney for \$6,000 a Year.

DISCREPANCY IN THE FIGURES

Quoted by the County Controller and on Mr. Burleigh's Books.

THE NEWS OF THE COUNTY COURTS

Attorney James Fitzsimmons yesterday filed in Common Pleas No. 2 the answer of Controller Grier to the mandamus proceedings brought by District Attorney Burleigh to compel him to pay the District Attorney his salary of \$6,000 per year under the act of 1891, instead of \$4,000 under the act of 1871; to credit him with the full amount of fees earned instead of two-thirds, and allow as fees the proceeds from forfeited recognizances.

In his answer the Controller first recites his taking the office in January, 1891, and the act of Assembly defining his duties. Continuing, he states that under his sworn duty he has kept and audited the accounts of the District Attorney and has credited him with the entire income of the said office to the present time and has allowed the District Attorney two-thirds of the income of the said office and to the Assistant District Attorney one-third. This, he asserts, is provided for by the act of 1891, which says two-thirds of the fees shall be taxed for the use of the District Attorney and one-third for the use of the Assistant District Attorney. He further states that the fees to which the office of the plaintiff is entitled are fully provided for in the act of May 14, 1897, and the defendant has not in any way interfered with the taxing of the fees or in the allowance of the schedule of fees to the office of the District Attorney, and is always ready and willing to allow the plaintiff all the moneys or sums to which he is in any way entitled. He sets forth:

Facts Stated on the Act of 1891.

That the plaintiff, some time prior to the commencement of these proceedings, made application to the respondent for a warrant for his salary for the months of May and June, 1921, at the rate of \$6,000 per annum counting the said months to be due him under the statutes of the Commonwealth of Pennsylvania. As the respondent, under his sworn duties, as duly set out in the act of May 14, 1891, declined to allow him his salary for the said months, believing that under the law the amount was not entitled to such a salary, but that he was entitled to \$4,000 per annum and June, 1921, at the rate of \$4,000 per annum provided for by the act of April 6, 1871, which provides that the annual salary of the District Attorney shall be \$4,000. That under section 7 of this act all the official moneys of the District Attorney and his deputies and clerks shall be paid for their services and salaries out of the moneys which shall be charged upon the County Treasurer to the extent of the fees paid in by said attorney or his deputies or earned where fees are chargeable upon the County Treasurer. If there has not been a sum sufficient for the said fees, the said services rendered to pay the full amount of the salary of the District Attorney and his office, he shall only receive the portion of his salary as shall be equal to the amount of the moneys actually earned during his term in office after paying the deputies and clerks in full, and after also paying the moneys due the Commonwealth, and all the moneys accruing from fees above the salaries and the share of the State, shall accrue to the benefit of the county.

Criticizing the District Attorney.

The respondent further returns that the business of the office of District Attorney was conducted properly, the fees earned by the office would be amply sufficient to pay the salary of the District Attorney and his clerks. That the respondent avers that the business of the office has not been conducted as it should have been. This will appear on reference to a schedule of the earnings of the office while conducted by R. H. Johnston, Esq., deceased, from July 1, 1899 to July 1, 1901, and also of the earnings of the plaintiff from July 1, 1891, to July 1, 1922, which is here attached. That R. H. Johnston was not allowed a deposit of his earnings as was the plaintiff by an order of the honorable court, and he conducted the business of the said office in a manner, except as assisted by others called in by himself, and the record shows that in one year he disposed of 2,253 cases over those not disposed of by the plaintiff for the same length of time.

The Question of Forfeited Recognizances.

That the amount of forfeited recognizances collected by the said relator during said year amounted to \$2,928. That there was also the sum of \$1,000 collected at No. 661, December term, 1922, which amount was not collected by the relator, but was collected by Mr. Davis under a special contract with the County Commissioners and which should not be included in the amount of forfeited recognizances.

That the respondent avers also and respectfully submits to the court that the relator is not entitled to have the amounts collected on forfeited recognizances taxed as fees of the office of District Attorney. That under the act of July 30, 1892, there were certain recognizances to be allowed by the court to District Attorneys, but that under the act of 1897 the fees for the office of District Attorney were specifically fixed, and repeating by implication the act of 1891 so far as the District Attorney is concerned. That if, however, the act of 1871, the District Attorney was entitled to receive 25% of the fees and percentages allowed on forfeited recognizances in full, and that the act of 1871 and under the act of March 31, 1875, the entire legislation respecting the percentages allowed on forfeited recognizances in favor of the District Attorney was repealed, and the same is not applicable to the District Attorney of the county of Allegheny. That under the act of April 6, 1871, an act specifically applying to the county of Allegheny, the salary of the District Attorney is specifically fixed and settled, and the salary provided for by the act is the salary of the District Attorney for the county of Allegheny until changed by future legislation.

Plaintiff's Salary.

The respondent further returns that the salary of the District Attorney of the county of Allegheny is at present \$4,000 per annum. That anything paid into the county treasury coming from forfeited recognizances belongs to the county, and does not in any way belong to the office of the District Attorney, and should not be taxed in favor of the office, out of what is due the District Attorney, Assistant District Attorney and the clerks of the office should be paid. And the respondent avers that there is any statute in existence and in force in the county of Allegheny that will allow the District Attorney the salary of \$6,000 per annum.

Your respondent prays that the mandamus be granted for the reasons stated.

Attached to his answer the Controller has a statement showing the number of cases tried, etc., and fees earned, etc., for the two years compared.

District Attorney Burleigh, when he learned of the charges contained in the Controller's answer, at once made an examination of his books, to see if the figures quoted were correct. He said they were not, and explained why. The Controller, he said, had given him no credit for the many Oyer and Terminer cases he had tried, which include murder, burglary, etc., and in making his calculations the Controller had evidently subtracted the cases in the remand docket from the total of the Quar-

ter Sessions calendar. The result was bound to be incorrect, because the remand cases disposed of are rarely, if ever, marked off.

A record is kept in the District Attorney's office showing all the cases tried and the disposition of every case.

A reference to the Records.

This record, instead of showing but 64 cases in favor of District Attorney Burleigh showed a difference in his favor of 465 in excess of his predecessor. In addition during Burleigh's term many cases of importance were tried, taking many days each, such as the Fitzsimmons case, Wyman and Hastings case and others. There were also more homicide cases tried than in any previous term in this county, all of which required much time.

"As to the Controller finding fault," Mr. Burleigh said, "because the District Attorney does not try more cases, and by so doing so increase the amount of his fees that the Controller is trying to get at, and himself, how in the name of all that is fair can he be expected to try cases when there are none to try? As long as he keeps up with the prosecution, and the business of the Court is properly disposed of, he keeps perfect faith with the public. At present there is not a case that can be tried now. Every case possible has been tried and there is not a person in jail with an indictment over his head. Everyone charged with crime in that prison is awaiting the action of the September Grand Jury."

The case will come up for argument today in Common Pleas No. 2.

SETTLING AN ESTATE

Dividing Up the Proceeds of Valuable Down-Town Property.

William M. McGill yesterday filed his report as auditor appointed to prepare a schedule of distribution of proceeds derived from the sale of property belonging to the late W. E. Schertz. It consisted of two pieces of property, one on Fifth avenue and the other on Virginia alley. They were sold by the Sheriff on executions issued against Schertz and brought \$35,500.

Exceptions to the Sheriff's distribution of the proceeds were filed and the Auditor appointed to prepare a schedule. After passing on the exceptions he finds that after deducting money paid by the Sheriff on account of debts and costs there is left for distribution on judgments \$74,499.07. Of this Amelia A. Schertz is entitled to \$25,431 and E. M. Quimby \$22,907 and \$14,238.66 on two judgments. The balance went for costs.

Winding Up a Partnership.

Mary J. Holmes, trustee for estate of William Holmes, filed a bill in equity yesterday asking for a settlement of the partnership between William Holmes, R. C. Holmes and R. C. Rowlen. The partnership was formed in 1894 and the firm was engaged in the business of a hardware store. It never had a settlement of the business. The amount in value is \$8,000.

Wants to Complete the Purchase.

James Hardie made arrangements some time ago for the purchase of a lot in the Fourteenth ward from Moses Shelton for \$2,300, and made a partial payment on it. The lot is now being sold by the Sheriff, but Shelton refuses it. Hardie filed a bill in equity yesterday asking the Court compel a transfer of the title.

The Mr. Troy Dummy.

Informations were yesterday made before Attorney M. C. Kelly, of Allegheny, against two more boys who assisted in placing the stuffed man on the tracks of the Mr. Troy car line last Saturday evening. The warrants will be served this morning in time to have the boys present at the hearing of John Beck, the first boy arrested.

LATE NEWS IN BRIEF.

—Cholera has reached Serbia.

—Chicago's school census shows a population of 4,428,318.

—It is denied that Lord Stanley, Governor General of Canada, will resign.

—The total vote of Ireland stands: For home rule, 315,329; against, 73,973.

—It is reported that Cesar d'Alene strikers have sworn to kill 30 leading mine owners.

—Reports of a revolutionary outbreak in Honduras have been officially confirmed.

—Later reports say the Italian steamer which was run aground near Rio Janeiro is still burning.

—It is again reported that Crespo, the Venezuelan revolutionist, has suffered a crushing defeat.

—Rev. John Edwards, rector at Exsedden, England, has fled to avoid arrest for acts of gross indecency.

—Drooth sufferers of Zavalla county, Tex., have applied to the Governor and the State for aid.

—The Welsh schooner Argo foundered off Douglas, Isle of Man, Wednesday. Three of the crew were killed.

—Mrs. Archie Mackay, of New York, is the most noted member of the "divorce colony" at Sioux Falls, S. D., at present.

—A company of engineers have been ordered to St. Johns, N. D., to level dangerous walls standing since the great fire.

—What is supposed to be human ashes at a general pile of rubbish in the mountains in the fatal Fourth of July canon in Idaho.

—Governor Chase and 15,000 people attended the unveiling of a county soldiers' monument at Winchester, Ind., yesterday.

—A sporadic case of cholera resulted fatally at Saginaw, Mich., Tuesday. The victim was a recent arrival from Scotland.

—The Municipal Council of Paris has approved the proposed vote of \$50,000 francs for the expenses of Paris' representation at the World's Fair.

—Mr. and Mrs. Edward Heyd, of St. Louis, were Wednesday awindled out of \$40,000 by two Frenchmen, who induced them to draw the money from the bank.

—Paris police have discovered an Anarchistic plot to blow up the Bourse and other public buildings. Two of the conspirators have been arrested.

—The official thermometer of the United States Weather Bureau at Tunkton recorded 93° yesterday, daily four times in 19 years has the record been higher.

—Jack Allan and Mrs. Heblen, of Montreal, who have been at a fashionable family hotel at San Francisco and S. Adams and wife, of Quebec, have slipped away.

—Councilman R. P. Strain, of Toledo, one of those indicted last week, resigned Wednesday. It is probable that most of his associates will follow suit to-day.

—There was considerable rioting in New Tappan, Ireland, Wednesday night, due to a collision between mobs of Redmondites and McCarthyites. Several houses were wrecked.

—A heavy thunder storm struck Diekey county, S. D., Wednesday night. Mrs. T. H. Bunker, of Ellendale, was instantly killed by lightning. William Lecker lost his barn and six horses, which were burned by lightning.

—Sheriff R. B. Welker, near Ionia, Mich., was bitten by a dog last Friday. He was pronounced hopelessly insane. He will probably die. He is determined to be as brave in order to capture some law breakers.

—A Pennsylvania train collided Wednesday

at a crossing in Newark, N. J., with a truck, in which were seated James Burns and two boys. The two boys were instantly killed and Burns so seriously injured that he died last night.

—J. M. Allen, of the firm of Andrus & Doty, diamond importers, New York, is worried over the loss of an alligator satchel which he says contained about \$12,000 worth of diamonds and jewelry. The loss occurred at Long Branch, N. J., last night.

—George Bartels, Jr., who for 14 years has been the paying teller of the Central Trust and Savings Bank, Chicago, has disappeared and with him \$1,950 of the bank's money. Betting on the races and bad associations are assigned as the cause of his downfall.

—The Bulgarian Government's organ, the Svoboda, publishes a communication from the Russian Legation at Bucharest to the Russian Foreign Office, showing that every movement taken against Prince Ferdinand, of Bulgaria, is directed, paid for and instigated by Russia.

—The World's Fair managers are surprised by the reports from Washington regarding the efforts being made by Messrs. Devin and Hayes, of the Knights of Labor, to bring complaints against the management before the United States Fair Committee of the House of Representatives.

—A tornado visited Gettysburg, S. D., Tuesday night, destroying the Methodist Church, two schoolhouses, several dwellings and 15 business houses. Mrs. William Harrington and her two children were crushed to death. The storm blew down tea buildings at Woolsey, 75 miles away.

—The new term of office of President Diaz, of Mexico, which begins September 1, will probably be characterized by important fiscal reforms, including economies in administration, cutting off all expenses which are not absolutely necessary and lowering custom duties, especially on raw materials.

—A large number, presumed to be a majority, of the Lower Brule Indians, have abandoned their reservation and gone south of the Canadian border, where they are now at Lower Brule. They will probably be welcomed by Major Wainwright's police, if it is possible to do so.

—E. G. Spafford, who is wanted by the Chicago police for a large embezzlement, is under arrest at Portland, Me. Spafford was at one time an operator on the open Board of Trade. He was indicted by the June grand jury for embezzlement, a Miss Baker of Boston, being the complainant. She alleges that he swindled her out of \$10,000. Spafford moved in the best society circles.

—Every one of the painful disorders that prey upon women. They fade the face, wrinkle the forehead, wither you up, make you old before your time. Get well. That's the way to look well. Cure the troubles and ailments that beset you, with Dr. Pierce's Favorite Prescription. It's a guaranteed remedy for all the delicate weaknesses, irregularities, and diseases peculiar to women.

It regulates and promotes all the proper functions, improves digestion, enriches the blood, dispels sadness and pain, melancholy and nervousness, brings refreshing sleep, and restores health and strength. It's a powerful general, as well as uterine, tonic and nerve, imparting vigor and strength to the entire system. Contains no alcohol, no opiates; no syrup or sugar to derange digestion.

It's a legitimate medicine—not a beverage—and the only one for which a guarantee is certain in its effects that it can be guaranteed. If it doesn't benefit or cure, in every case, you have your money back.

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NEW ADVERTISEMENTS

It is No Wonder That People Speak Well of FOOD'S. Mr. R. J. Brundage of Newark, Ct., of the firm of Boston & Brundage, expressman, 159 Main street, writes his experience below: "For a long time I have been troubled with a weak stomach, followed by Indigestion and Dyspepsia. A short time ago I began taking Hood's Sarsaparilla and took three or four bottles. Result, I have not felt so well all over for years. My food seldom troubles me now. My system is all along the same way as myself, took Hood's Sarsaparilla with very pleasing results. I do not wonder that patients all along the line speak so well of Hood's Sarsaparilla."

Hood's Sarsaparilla. Don't see how they can help it." R. J. Brundage, Newark, Ct.

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CARPETS, WALL PAPER. Wilton Carpets, Axminster Carpets, Velvet Carpets, Body Brussels Carpets, Tapestry Carpets, And all kinds of Ingrain Carpets. Everything new in style, choice in color. All at SPECIAL LOW PRICES.

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