CITY NOTES

LYCEUM BOX OFFICE.—Tickets will be placed on sale this morning at the Lyceum box office for "The Pride of Jennico."

BUXTON FUNERAL.—The funeral of Mrs. Ida Buxton will take place at 9 o'clock this morning from the residence at 960 Richter street.

COMPANY I INSPECTED.—Major W. S. Millar yesterday afternoon went to Easton, and last evening inspected Company I of that place.

CAKE SALE.—The King's Daughters of Elm Park church will hold a cake sale in the King's Daughters' room next Friday afternoon and Saturday morning.

SMOKER AND EUCHRE.—Robert Burns lodge, No. 859, Independent Order of Odd Fellows, enjoyed a smoker and euchre in Odd Fellows hall on Spruce street last evening.

MACHETTE FUNERAL.—The funeral of the late Samuel Machette was conducted at the Elmhurst church yesterday and the remains were brought to this city and interred in the Forest Hill cemetery.

NEW LODGE ESTABLISHED.—A lodge to be known as the Scranton City lodge of the Independent Order of Brith Abraham, has been organized in this city with the following officers: President, B. Levy; vice president, P. Blottel; secretary, Joseph Weisberger; treasurer, Abraham Rose.

HARTNOLL BENEFIT.—The informal dance for the benefit of Frederick Hartnell will be held in Washington hall, Dunmore, on Wednesday evening, Jan. 31, and not this evening as previously announced.

DISORDERLY HOUSE.—Mrs. Penna, of 508 Lackawanna avenue, whose house was raided by the police Monday evening, was yesterday held in $500 bail by Alderman Millar on the charge of keeping a disorderly house.

ACCUSED OF ASSAULT.—Michael Cosgrove was last night arraigned before Alderman Howe on the charge of assault and battery on Henry McHale, and his wife, Anna, of Mineral street. He was held in $500 bail.

WOMANS' MEETING.—A meeting of the music section of the Green Ridge Women's club will be held Friday afternoon at 3.30 o'clock. The subject before the class will be "Bach." All members are requested to be present.

SMOKER WAS HELD.—The members of the local union of street railway employes held a regular meeting last evening in Industrial hall, followed by a pleasant smoker. Caterer P. J. Durkin served refreshments at the conclusion of the festivities.

FUNERAL OF HAROLD GREEN.—The funeral of Harold Green, who was killed by a Delaware and Hudson train, on Saturday, was held yesterday afternoon from the home of his parents. It was private and interment was made in the Cathedral cemetery.

NEWMAN MAGAZINE CLUB.—A regular monthly meeting of the Newman Magazine club was held last evening in Guernsey hall. Several of the members read brief reviews of some of the more recent books, including several by the English scientist, Dr. Mivart. A feature of the evening was a charming soprano solo by Mrs. J. W. FitzGibbon.

LIEDERKRANZ BALL.—The Scranton Liederkranz society will hold their annual masquerade ball this evening at their hall on Lackawanna avenue. No expense has been spared to make this year's affair a grand success. To accommodate their friends, tickets for the ball can be purchased at L. Driesen's store, on Lackawanna avenue, until 8 o'clock this evening.

ASSOCIATED CHARITIES.

Interesting Letter from Los Angeles Charity Board Was Read and Discussed.

At a regular meeting of the Board of Associated charities, held last evening in Postmaster Ripple's office in the government building, the following communication from the Los Angeles board was read:

Los Angeles, Cal., Sept. 20, 1899.
To Col. E. H. Ripple,
President Associated Charities.

We, the Associated Charities of Los Angeles, send you greeting, and beg to direct your attention to an evil which has grown to such proportions, and has forced itself upon our work to such an extent that we feel compelled to enter a protest against its continuance. We refer to the unwarranted importation into this community of persons from various sections of the country, in a condition of actual, or immediately prospective, indigency; persons who, immediately upon their arrival, or very soon thereafter, become a charge upon our public charities.

In a large proportion of cases these persons are invalids, the character or stage of whose affection warrants no reasonable expectation of benefit from this climate, at least not without the assistance of comfortable financial backing, and who have no relatives or friends here, and no reasonable prospect of being able to maintain themselves. Yet, we find that often indiscreet or unscrupulous physicians have advised the removal of these unfortunate individuals to this place, and that charitable societies, "benevolent" public officials or well-meaning but mistaken individuals, have assumed, wholly or in part, to procure their transportation hither.

It would probably astonish you if you could realize the extent to which this section is made the dumping ground for people of the character described, and the weight of the burden which we are thus compelled to assume in addition to what rightfully pertains to our own legitimate population. It is our very frequent experience that not merely single individuals but large dependent families are thus thrown upon us without right or reason.

It is evident that under such circumstances we cannot deal generously by these people and at the same time do justice to our own unfortunates; and we cannot but think that you will agree with us that such a condition of things, brought about by the action of other communities or their representative citizens, is altogether improper and very unjust toward the indigents themselves as well as toward us.

We have lately felt compelled to adopt the rule, whenever possible, of immediately returning, to the place from which they came, all indigents who have been thus imported. And we must, in self-protection, continue the practice. We have also, long since, adopted the invariable rule of never, ourselves, knowingly sending, or assisting to send, any applicant to another locality without reliable assurance that said applicant will not become a public charge upon the community to which he or she shall be sent.

We are happy to acknowledge that there are a number of cities which are now faithfully observing the same rule toward us.

Do you not think that such a rule ought to be uniformly adopted by all charity organizations everywhere, and will you not do the best you can to assist us by impressing our presentation of this matter upon your constituents, and by molding public sentiment through your press?

Associated Charities of Los Angeles.
By T. J. Stuart, Sec'y.

Some of the members present did not believe that there had been any one sent from this city to far-off California, but Mrs. Duggan said that several cases had come to her notice recently where charitable people had subscribed toward funds to be used in sending indigent invalids there. A general discussion of the matter followed, and it was the consensus of opinion that the practice should be discouraged.

Mrs. Duggan, the agent, presented the following report for the month of January: Applications, 173; cases investigated, 76; found worthy and assisted, 65; not in need and not worthy, 11; employment found for, 8; lodging and meals furnished, 5; transportation found for, 4; medical aid given, 8; sent to Lackawanna hospital, 3; sent to Hillside Home, 3; sent to House of the Good Shepherd, 4; sent to Home for the Friendless, 3; referred to district attorney, 1; referred to chief of police, 2; referred to outside authorities, 2; arrested for various causes, 5; advice and direction given, 97; homes found for, 3; sent to Orphan asylum, 3; sent to Moses Taylor hospital, 1.

President Ripple announced the following committees, after which the meeting adjourned: Relief, C. H. Welles, Frederick Fuller and F. J. Dickert; employment, John Gibbons, H. J. Zeigler and M. J. Kelly; visitation, Enos Flynn, W. G. Thomas, D. J. Phillips; child-saving, T. J. Kelly, Frederick Fuller and E. B. Sturges; information and instruction, J. R. Cohen, A. B. Dunning and Samuel Hines.

JUDGE EDWARDS RENDERS OPINIONS

IN TWO IMPORTANT CASES YESTERDAY.

Rule for a New Trial Discharged in the Case of Brown vs. Robinson. Case Has Been Tried Several Times—Distribution of Fund by the Auditor in Crawford-Hoffecker Case Is Not Sustained—Both Opinions Given in Detail.

In the case of Patrick Brown vs. T. C. Robinson, which has been tried three times, relative to a contract which the defendant turned over to Brown for excavating the foundation of the silk mill at Carbondale, Judge Edwards yesterday discharged the rule for a new trial, and in passing upon the case handed down the following opinion:

This case has been tried three times, once before arbitrators and twice before a jury. While the trial before the arbitrators is of no consequence in the consideration of the present rule, we notice incidentally in looking over the files that the defendant appealed from an award of $235. At the first jury trial the verdict was $860.80. At the second trial the verdict was $1,295.82. At this rate of progression it is difficult to determine what would happen to the defendant if a new trial were awarded. We set aside the verdict of the first jury because the evidence was of a vague and unsatisfactory character. We could not see how the jury arrived at the result they did without considerable guess-work on their part. At the second trial the case was more complete and the contentions between the parties were sharply defined. It was tried before Judge Gunster.

Unfortunately, he was unable to be with us during the argument of this rule. We have examined the rulings and charge of the trial judge carefully and are satisfied that the case was properly tried and that the charge was clear and full. There can be no cause of complaint as to the rulings during the trial nor as to the instructions to the jury. The only question requiring discussion at our hands is the exception as to the amount of the verdict. Is it excessive? Robinson had a contract from Schroeder to excavate for the foundation of a silk mill in Carbondale. The contract price was $701, $45 for the sewer ditch and 35 cents per cubic yard for extra excavation. Robinson contends that he simply turned the contract over to Brown at the same price he had taken it and that his liability ended when Brown undertook the work.

FOLLOWED INSTRUCTIONS.

Brown contends that he entered into a contract verbally with Robinson to do certain work for $746, and 35 cents per cubic yard for extra work, and that he had nothing to do with anybody else. Robinson, Brown says, was the only principal he knew. He followed Robinson's instructions and rendered his bill to Robinson. There is no use in discussing this phase of the case. This point, under proper instructions from the court, was decided against the defendant. The whole claim of the plaintiff is evidently for extra work, not included, as he contends, in his contract. This extra work amounts to more than the original contract.

The plaintiff is undoubtedly entitled to a verdict for some amount or other. Nevertheless, we are of the opinion that the verdict of $1,295.28 is excessive. Having arrived at this conclusion soon after the argument of the rule for a new trial, a member of the court saw our Brother Gunster and submitted the matter to his consideration. He was firm in his view that the verdict was excessive. Taking a reasonable view of the evidence, which we have examined minutely, we cannot figure the claims of the plaintiff so as to exceed the sum of $750, without interest. We do not propose to go over the items in this opinion. They are given in detail in the brief of defendant's attorney.

We know of no other way to do substantial justice between the plaintiff and the defendant in this case than to reduce the verdict to $750 and interest, which altogether amounts to $923.50 at the date of the verdict. We, therefore, direct that if the plaintiff within ten days from this date shall remit from the amount of his verdict all in excess of $923.50, with interest from June 14, 1899, the rule for a new trial is discharged; otherwise, rule absolute.

CRANFORD-HOFFECKER CASE.

Another ruling in the case of J. E. Crawford et al, vs. L. W. Hoffecker was made by Judge Edwards yesterday. It is in reference to the exceptions to the auditor's report and the petition to pay the balance of the fund to the trustee, which is now in dispute. The ruling is as follows:

The fund distributed by the auditor arises from the sale of defendant's personal property. The executions on which the property was sold were issued at various times from June 13th to July 1st, 1899. The defendant was insolvent. On July 13, 1899, a petition in involuntary bankruptcy was filed in the district court of the United States for the western district of Pennsylvania, and on Oct. 16, 1899, Hoffecker was adjudged a bankrupt. The auditor's report was filed and confirmed nisi Oct. 25, 1899. While the audit was pending the attorney for the creditors, who filed the petition in bankruptcy, gave notice to the auditor that such a petition had been filed and objected to any distribution of the fund to the execution creditors.

The notice was not followed by evidence of the bankruptcy nor of the insolvency of the defendant. There was no evidence of any kind offered by the attorney for the creditors. The auditor properly disregarded the notice and proceeded to distribute the fund as if there were no bankruptcy proceedings in existence. After the auditor's report was filed and while exceptions were pending, all the parties in interest agreed that the wage claims, taxes and costs of audit should be paid by the sheriff, without prejudicing the claim of the petitioners in bankruptcy to the balance of the fund.

This balance amounts to $434.09 and was awarded by the auditor to the execution creditors according to priority of lien. If there were no further proceedings upon the record it would be our duty to dismiss the exceptions and confirm the distribution as made by the auditor. But we find that on Dec. 18, 1899, the trustee for the estate of the bankrupt filed his petition, to which was attached a certificate of the adjudication in bankruptcy, praying for an order directing that the balance of the fund remaining in court after the payment of the preferred claims, as per agreement already referred to, be paid to the trustee.

RIGHT OF QUESTION.

This petition at the time was marked "refused," because we believed that the question could be settled on the argument of the exceptions to the auditor's report. It was refused without prejudice to the claim of the trustee. We now formally recall the refusal and allow the petition to stand, as we did in effect at the time the exceptions were argued. Therefore, the only question to be decided now is the right of the trustee to the balance of the fund. We are clearly of the opinion that he is entitled to the money. To the extent of its jurisdiction a state court is bound to carry into effect the provisions of the bankruptcy act.

It is our duty to further the purposes of the act rather than to obstruct and thereby may be to defeat them. In the present case the defendant was unquestionably insolvent. His estate is within the grasp of the federal law. The balance of the fund must go into the United States court, there to be distributed to the parties who can show the best claim to it. In accordance with this opinion the report of the auditor is confirmed, excepting the distribution to Phalen & Burns, Lackawanna Lumber company and Crawford & Keller, the sum awarded to these three creditors being in the aggregate $434.09.

The distribution of this sum by the auditor to the creditors mentioned is not sustained. We also direct that the said sum of $434.09, less prothonotary's costs, being the balance of said fund now in court, be paid by the prothonotary to R. A. Zimmerman, esq., trustee in bankruptcy of the estate of L. W. Hoffecker.

EXCEPTIONS DISMISSED.

Report of Viewers in Olyphant Sewer Case Finally Confirmed by the Court Yesterday.

The report of viewers in the First sewer district of Olyphant was finally confirmed by the court yesterday. The report was originally filed on March 13, 1899, but exceptions were made, which were discussed by Judge Edwards in the following opinion, which was handed down yesterday:

Exceptions to report of viewers in the First sewer district in the borough of Olyphant.

The exceptant appears before us not as a lot owner within the First sewer district of Olyphant borough, but as a taxpayer. He is not interested in the question of damages or benefits. He did not appear before the viewers to raise any question of fact. We do not very well see how he could. As a matter of fact the sewer had been completed several months before he filed his exceptions, and if the viewers had been reasonably diligent in filing their report we would have missed the opportunity afforded by the filing of his exceptions.

The questions of fact raised by the exceptions cannot be inquired into now. The law is clear on that point. Questions of fact must be raised before the viewers, questions of form, or of law, arising upon the face of the report may be brought to the attention of the court by exceptions by any one interested and without regard to his appearance or non-appearance before the viewers, Omega street, 152 Pa. 129.

The viewers placed a part of the costs of building the sewer on the borough. The exceptant claims that for this reason his standing as a taxpayer gives him the right to press the exceptions which involves the increase of the debt of the borough beyond the constitutional limit. The same question was before us in the equity court on a taxpayer's bill on the part of the exceptant.

The final adjudication in that case was against him. The bill was dismissed on the ground of laches. Whether or not the same question can now be raised on exceptions is immaterial, because the testimony contained in the depositions fail to substantiate this ground of complaint. The exceptions are all without merit. They are dismissed and the report of the viewers is finally confirmed.

By the court,
H. M. Edwards, A. L. J.
Jan. 23, 1900.

AN OBJECT LESSON.

To Boys Who Persist in Jumping on Street Cars.

Special Officer Stephen Dwyer, claim agent of the Scranton Railway company, yesterday arrested William Klineberger, of Emmet street, a 14-year-old boy, for jumping on street cars on lower Lackawanna avenue.

He was taken before Alderman Kellow and fined $3. This is the first arrest for this offense, but others will follow if the boys are caught.

Finest wines and cigars at Lane's, 320 Spruce street. **

CASES HEARD IN COURT YESTERDAY

COMPULSORY NON-SUIT WAS GRANTED IN GRADY CASE.

Judge Archbald Believes the City Is Not Responsible for Damages Where No Attempt Has Been Made to Grade the Street—Ejectment Suit of Mulley vs. Shoemaker on Trial—Before Judge Purdy—Judge Ward's Will Probated—Court News Notes.

The case of Ann O'Grady against the city of Scranton was placed on trial before Judge Archbald yesterday morning in court room No. 1. Mrs. O'Grady sues for $8,000 damages, she alleges to have sustained by reason of the negligence of the defendant. The defendant claims to own a property on Jackson street, between Grant and Sherman avenues, on which she has a house and numerous improvements. In October, 1897, the water ran into her cellar and flooded it, also doing what she calls irreparable damage to the structure itself. She sued the city because it is alleged that it was the city's duty to keep the gutter celan and it didn't do it.

Mrs. O'Grady and a number of her neighbors were there to testify against the city. Objections didn't count and answers had to be stricken out repeatedly because witnesses wouldn't wait for the attorneys to get in objections.

When Mr. Reedy closed he had not proved title to the property, and Mr. Vosburg moved for a compulsory nonsuit on the ground that the plaintiff had not proved title to the property, but only possession and as the woman is married and resides with her husband, the possession under the law rests in him and not in her.

Mr. Reedy stated that Mrs. O'Grady has the deed, but neglected to bring it over and the deed is recorded in Luzerne county and not accessible. Judge Archbald was inclined to the opinion that the city is not to be held for negligence for an act of this kind on a dirt street which they have never attempted to grade. The responsibility in a case like this is upon the property holders and not upon the city. The motion was allowed and a rule granted to strike off non-suit.

Suit in Ejectment.

The next case was that of Ambrose Mulley against George Shoemaker. The suit is one in ejectment. The plaintiff recently died, but his son, George, one of the executors of his will, appeared in his stead. Messrs. Hulslander and Alworth and H. M. Hannah represent the plaintiff, and John F. Murphy, esq., the defendant.

The land in question is a lot on Summit avenue, in the Second ward of Scranton. Shoemaker purchased it from George W. Beale and G. R. Clark, it being a part of the plot known as the Beale & Clark annex to the city of Scranton. He erected a house and lived therein.

Shoemaker was dealing with Ambrose Mulley at his triple stores, and contracted a bill amounting to $115. Mr. Mulley brought action against him and secured a judgment, on which an execution was issued. The property was sold by the sheriff and purchased by Mr. Mulley himself.

He took possession, and then Mrs. Shoemaker brought an action in ejectment against Mr. Mulley, claiming that the property was hers and not her husband's. She secured a verdict and the Supreme court decided in her favor. She has since held possession. The Mulleys are again trying to recover it.

Before Judge Purdy.

Judge Purdy, sitting in court room No. 2, heard the case of Andrew P. Bedford against W. W. Patterson and Franklin Howell. The suit is one brought to recover a large amount of stock in the West Maryland Milk company. Some time ago Mr. Bedford entered into a contract with Mr. Patterson, whereby the former was to become manager of the company and among other things he was to receive in compensation many thousand dollars worth of stock in the company.

The contract was that Mr. Bedford should serve for five years, but after the first year there was a dispute and he resigned. He was never given the stock in the company, so he brought suit to recover it. Everett Warren, T. Frank Penman and C. P. O'Malley represent the plaintiff, and James H. Torrey and Walter Briggs appeared for the defendant.

Judge Ward's Will.

The will of the late ex-Judge W. G. Ward was admitted to probate yesterday by Deputy Register Henry T. Koehler. After directing that his funeral expenses and debts be paid the judge bequeaths to his son, Douglass H. Ward, all the rest of his estate or money arising from the sale thereof. He directs the executors of his will to sell by public or private sale his house and land on North Sumner avenue, and all his personal property except family pictures, and also to collect all moneys due him and the money thus raised he leaves to his son Douglass.

George S. Horn and Douglass Ward are named as the executors. The witnesses of the will are Thomas P. Duffy and F. W. Lange. Letters testamentary were granted to Douglass Ward yesterday.

Writ of Habeas Corpus.

A writ of habeas corpus was granted yesterday in the case of the commonwealth vs. Henry M. Kelly and Michael Kelly, who, it is alleged, by Rebecca Gilmore, are unlawfully detaining her niece, Marie Kelly, aged two and one-half years.

The petitioner claims that the child is sickly and that its father is not a fit person to take care of her. The little girl was in her possession for over two years and on Saturday last the father took her away. A hearing will be had Thursday afternoon at 1:30 o'clock.

Marriage Licenses.

The following marriage licenses were granted by Clerk of the Courts Daniels yesterday:

John Brotherton .....Forty Fort
Margaret Daniels .....Scranton
Frank Zubrieski .....Jessup
Mary Belska .....Olyphant
Willis A. Clark .....Nicholson
Goldia A. Darrow .....Nicholson
Patrick McMahon .....Dunmore
Maggie O'Brien .....Scranton
Patrick Horan .....Scranton
Annie T. Brennan .....Pittston
Herbert R. Jones...1712 Jackson street
Oliven Morgan .....
..... 332½ North Hyde Park avenue
John M. Crain .....Hawley
Martha Dershimer.....Wayne county
David Carey .....Miners' Mills
Mary Reilly .....Scranton

Other Court Notes.

John Morris was yesterday appointed auditor of the Scranton poor district to fill the vacancy caused by the resignation of John Proud, and to serve for the unexpired term.

The will of the late Martin Farrell has been probated and letters testamentary granted to John Bowie and Patrick Farrell.

The reasons for a new trial in the case of Jane Reap against the city of Scranton was argued before Judge Purdy yesterday by Mr. Vosburg for the city and Mr. Comegys for Mrs. Reap.

Try a "Hotel Jermyn" cigar, 10c. **

DEATH OF THOMAS COLEMAN.

He Succumbs to His Injuries Late Monday Night.

Thomas Coleman, one of the miners who were so terribly burned Monday, by an explosion of gas in the Marvine mine, died late the same night from his injuries. He had been frightfully burned and suffered great pain also from a fracture of the skull.

He was 19 years of age and a son of Mrs. John Coleman, of Parker street, and was a member of the Father Whittey temperance society and of the Marvine Accidental Fund. He will be buried tomorrow afternoon in St. Mary's cemetery, Dunmore, prior to which services will be conducted at Holy Rosary church.

Smoke the Pocono 5c. cigar. **