OPINIONS IN MANY CASES

[Concluded from Page 5.]

There are four cases in all. The opinon was written by Judge Rice, and is

MEESER OPINION.

Rice sums up as follows:

It would seem from the official report of the case of Fox against the Commonwealth (cited as pertinent because of similarity with the case at bar) as well as from the arguments of counsel ferred to. On the contrary, we concur with the that it did not appear by an inspection of the learned president of the common pleas in hold-docket or of the recognizance itself, that it had ing: "As school directors may, in the exercise commonwealth's counsel was that as the record school pupils who have not been vaccinated, as showed that the recognizance had been forfeited, was decided by the Supreme court in the case of showed that the recognizance had been forfeited, it must have been of record. It was of such a case that the court was speaking when it deleared that the entry of the forfeiture of the recognizance stands for proof of all the steps necessary to complete the forfeiture. The court had in mind the very objection raised by the pleating of the referring to the Act of March 30, 1821. 7 Sm. L. 429, requiring the justice "to make a full and complete return of said recognizance or surely to the proper court of the city or county having cognizance of the case." the court said:

to this decision in citing it as an authority for our conclusions in the present case, that it is to be presumed that the recognizance was actually before the court when the adjudication of forfeiture was made, and that the emission to mark the recognizance filed and to note that fact on the quarter sessions' docket was not such an

important details which ought to have been at-tended to, but we find no substantial defect which would warrant a reversal of this judgment. That part of the decree dismissing the bill is our decision on the record and presumptions our decision on the record and presumptions flowing from it. We do not regard the deposi-tions taken on the rule to remit the forfeiture as properly before us on this appeal, therefore we have not considered them. Possibly we might consider the fact that such rule was taken and to look into that question.

Judge William D. Porter is recorded as dissenting from this opinion.

The attempted assassination of H. C.

Frick, manager of the Carnegie Steel company in 1892, by Alexander Berg-man, is recalled by the decision in the case of the Commonwealth ex rel. Bergman against William C. Johnston, warden of the Western penitentiary of Pennsylvania.

Bergman, it will be remembered, threw a bomb at Frick in the mill of the Carnegie company. He visited the mill three different days for the purpose of carrying out his design. He was convicted of attempted murder and felonious wounding, and on three different indictments for entering a build-

ing to commit a felony. He was sentenced to five years and seven years, respectively, in each of the first two cases, and three years each in the last three cases, the terms to run consecutively, making twenty-one years in all. He has served nine years.

Under the new commutation act his sentences of seven and five years would be diminished to seven years and seven months. Alleging that the conviction was irregular in the last three cases, he recently sought to be released on habeas corpus. If he could show that his conviction in the three felonious entry cases was illegal he would be entitled to his freedom at once, for he has served more than the time of the sentences in the first two cases. The opinion of Judge Rice is, in part, as

the petitioner is now confined in the Western penitentiary by virtue of committments in execu tion of judgments of the court of quarter sessions of Allegheny county upon three several indict-ments laid on different days, each of which charged that the petitioner "with force and arms, feloniously, did wilfully and maliciously enter the building of the Carnegie Steel company, an association of limited pertnership under the laws of this state, there situate, with intent t the form," etc. The petitioner claims that his being unlawfully restrained and is entitled to discharge upon habeas corpus, because the in dictments upon which the judgments were en-tered charged no offents indictable under the common law or the statute law of Prinsylvania. The question raised by the defendant is whether or not the omission to specify, in the indictment, the character or other description, of the building is such a defect as vitlates the judg-

STATUTORY CRIME.

It is to be noticed that this is a statutory crime. In discussing the question, we are not to be understood as passing on the sufficiency of an indictment in the case of a statutory prohibition of a common law offense by name, without further description as for example, largeny, where the statute does not define what largeny is Where the offense is purely statutory, having no relation to the common law-where, in other words, the statute specifically sets out what acts shall constitute the offense-it is, as a general rule sufficient in the indictment to charge the defendant with acts coming fully within the statutory description, in the substantial words of the statute, without any further expansion of

These indictments charge all the essential of the crime, and in describing the place entered as the "building" of the Carnegie Steel com-pany, they use the word that is used in the statute. There was, therefore, not only sub-stantial but literal compliance with the act. If the omission to specify what kind of a building this was, where it was situated and to what uses it was put, was a defect, it was, at the most, only a formal defect and amendable. A to the general rule that formal defects, not ob-jected to before swearing the jury are cured by the plea and cannot afterwards be taken ad-

ing the same course of reasoning as was followed in the case of commonwealth against Newcomes, 40 Pa. 478, we may conclude the discussion by saying that the indictments are not defective in substance, and if defective in form, the defect was cured by the plea; and that, if the evidence given on the trial did not show that the place which was entered with felonious in-tent was a "building," within the meaning of the statute, the defendant's remedy was by te-quest for hinding instructions, exception to the rulling, if the request was refused, an appeal, or by motion for new trial. The indictments being aufficient on their face to give the court jurisdiction to enter the judgments, we must presume in this proceeding that all the issues of law and fact were correctly divided. It follows that no probable cause is shown for believing that the petitioned is restrained of his liberty unlaw-fully or against due course of law, the rule must

full. Miss Lyndall, a teacher in the Philadelphia High school, was removed because she refused to submit to an order of the board of education directing all teachers and pupils to be vac cinated. She applied for an injunction to restrain the board from depriving her of her position. The lower court upheld the action of the board, and the Superior court affirms the lower court's action. The opinion is by Judge Rice:

This is an appeal from a decree refusing a pre-liminary injunction and dismissing the plain-tiff's bill. The prayers of the bill were, that an injunction be granted enjoining and restraining MEESER OPINION.

This was an action in assumpsit upon a recognizance of bail taken and acknowledged before a stagistrate of the City of Philadelphia, cenditioned for the appearance of Clarence Meeser "at the next term of the court of oyer and terminer and quarter sessions of the peace for the uity and county of Philadelphia, to be holden on the first Monday of December, 1899," etc. The particular charge upon which the defendant was arrested was "conspiracy to procure fraudulent votes, and to violate the election, laws of Pennsylvania, and procuring fraudulent votes. The the plaintiff had been suspended by direction of votes, and to violate the election, laws of Pennsylvania, and procuring fraudulent votes. The statement alleged: "And the said recognizance was on the 21st day of December, A. D. 1809, adhoged and decreed to be forfeited (as will more littly appear by reference to the records in the office of the clerk of said court) and the penalty thereof became due and payable and has not been paid." Judgment was entered for want of sufficient affidavit of defense. After discussing the several technical points raised by the defense to defeat the working of the forfeiture, Judge would have been to reinstate the plaintiff. We cannot assent to the proposition that the board having cognizance of the case." the court said:
"We must suppose therefore the transcript was before the court."
stances, and especially upon a motion for a pre-liminary injunction, she was not entitled to a decree which would have the practical effect of We think we do not give too broad an effect reinstating her, notwithstanding her refusal to be this decision in citing it as an authority for comply with the regulation promulgated by the committee on hygiene and approved by the board

of public education.

The third assignment of error relates to the dismissal of the bill. It is to be horne in mind that the cause had not been set down by the plaintiff for hearing on bill and answer; nor had irregularity as would have warranted the court the defendant demurred. The only matter bein treating the adjudication as a nullity in an fore the court was the motion for a preliminary action upon the recognizance.

In looking through this record we find evidence of much inattention to these simple and Coal Company's Appeal, 5 W. N. C. 308. We

> YESTERDAY'S HEARINGS. The hearings before the court vester-

day concluded with arguments in three Lackawanna cases, as follows: Mary V. Duffy against Mary Duffy, appellant. Ex-Judge E. N. Willard and

mination of the suit.

P. Duffy, for the appellee; S. B. Price, for the appellant. P. P. Carter et al. against the Ridge Turnpike company, appellant. S. B. Price, for the appellees; ex-Judge E. N. Willard, for the appellant,

In re estate of Ezekiel Gumaer, de-R. Edwards, for the estate: W. H. Jessup, jr., for the appellant.

Theatrical.

TODAY'S ATTRACTIONS.

LYCEUM-"Brother Officers." Afternoon and ACADEMY-Frankie Carpenter company. Af STAR-Oriental Burlesquers. Afternoon and

"A Royal Rival."

Don Cesar De Bazan whose gallantry and rowess with the sword has been the inspiration f many a romancer is the central figure of "A Royal Rival" in which William Faversham anpeared at the Lyceum last night. It was his Star, meets Harry Davis, known as Young first appearance here and those who saw him Sharkey, at the Star tonight in a bag punching oin in the hope that it will not be last. A fine, cirile, vigorous actor is Faversham and these qualities are most admirable when one is called upon to portray the dashing De Bazan the hero f a bundred adventures.

"A Royal Rival" was adopted by Gerald Du Maurier, who has given us a play of color and action with some things that are finely dramatic and others as finely backneyed. It gives Faversham good opportunities and he improves them. He paints his character with broad, masterful strokes. His Don Cesar is a brave, manly, courgeous, dashing man who does things and counts consequences afterwards. Subtility has no place in his makeup. He sees the end he desires and he proceeds toward it by the straightest route, nitude to win the favor, plaudits and approval Favehsham had an interested and sympathetic of musical Britain, and Souss's conquest was udience from his first noisy appearance soon complete. The entire British tour of Sousa and after the curtain went up and at the end of each his band, from the auspicious opening concer-

act he had several curtain calls. Miss Julie Opp, his leading woman, did some very effective work as Marita. She is a begutiful young woman who showed in the dramatic scenes she had last night that she had by no gie Halloway Fisher, had an eccentric role, which she portrayed with her usual nice discrimination. members of the company.

The play was splendidly mounted and cos-"It is a Sonsa band pure and simple, and that umed and all of the little details that go to is the only name one can give it, because, as far make up a finished production were in capable as I am aware, there is no other body of perform hands. Though the weather was most disagree ers in existence that resembles it in the least able the audience almost taxed the capacity of Its composition is original, its playing is orig-

"Brother Officers."

"Brother Officers," ran through the major porion of two seasons, at the Empire theater, New York. It is now being preser Gould, with a capable company. It is now being presented by Howard

Mr. Gould plays the part of Lieutenant Jolu Hinds, V. C., a manly good-heavted young officer who has been promoted from the ranks, and finds himself mal-apropos in the midst of the First Lancers and their guests. The contrast between native character and inherent breeding; sturdy honor and the social conventions as the back-ground of a charming episode of love and friendship, makes a most interesting play, at once touching and amusing. Mr. Gould's appearance in this city will be at the Lyceum this afternoon

Creston Clarke Saturday.

Creston Clarke, who appears at the Lycoum Saturday afternoon of this week as "David Gar-rick," and Saturday evening as "Richelieu," played his annual engagement as "Richelieu," week, and the Blade described his performance

"Richelieu" as follows:
"As Mr. Clarke puts it on, 'Richelieu' is of the most satisfactory productions of its kind that has been seen in Toledo for a long time. At no time during the evening was the interest al lowed to hag, and Mr. Clarke was compelled to respond to numerous curtain calls. It is not too much to say that this young star is going to give some of the more prominent attractions a long run for their money. 'Richelien' is one of the most difficult characters to portray successfully, but Mr. Clarke is equal to the task, and as a result his interpretation of the role is all that

Carpenter Company.

Frankie Carpenter and her supporting company, including the versatile Jere Grady, produced "Pawn Ticket 210," at the Academy of Music last night. There was an even larger audionce than on the opening night, and standing room The decision in the Philadelphia vac-cination case, which provoked so much newspaper discussion, is given below in Mr. Grady, as Uncle Harris, gave an excellent

Catarrh of the Stomach

A Pleasant, Simple, but Safe and Effectual Cure for It.

Catarrh of the stomach has long seen considered the next thing to incurable. The usual symptoms are a full or bloating sensation after eating, accompanied sometimes with sour or



watery risings, a formation of gases causing pressure on the heart and lungs and difficult breathing, headaches, fickle appetite, nervousness and a general played-out, languid feeling There is often a foul taste in the mouth, coated tongue and if the interior of the stomach could be seen it would show a slimy, inflamed con dition.

The cure for this common and obstinate trouble is found in a treatment which causes the food to be readily thoroughly digested before it has time to ferment and irritate the delicate mucous surfaces of the stomach. To secure a prompt and healthy digestion is the one necessary thing to do and when normal digestion is secured the catarrhal condition will have disap peared.

According to Dr. Harlanson the safest and best treatment is to use after each meal a tablet, composed of Diastase, Aseptic Pepsin, a little Nux Golden Seal and fruit acids. These tablets can now be found at all drug stores under the name of Stuart's Dyspensia Tablets and not being a patent medicine can be used with perfect safety and assurance that healthy appetite and thorough digestion wil follow their regular use after meals.

Mr. N. J. Booher, Chicago, Ill. "Catarrh is a local condition rites: resulting from a neglected cold in the head, whereby the lining membrane of the nose becomes inflamed and the polsonous discharge therefrom passing backward into the throat reaches the stomach, thus producing catarrh of the stomach. Medical authorities precribed for me for three years for catarrh of stomach without cure, but toceased, appeal of Silas Hartley. John day I am the happiest of men after using only one box of Stuart's Dyspepsia Tablets. I cannot find appropriate words to express my good feeling. I have found flesh, appetite and

ound rest from their use. Stuart's Dyspepsia Tablets is the safest preparation as well as the simplest and most convenient remedy for any form of indigestion, catarrh of stomach, billiousness, sour stomach, eartburn and bloating after meals.

ompany is a good one. Miss Carpenter and her pickinniny gave a de ightful speciality among a lot of other good This evening the company will produc 'Shelter Bay," the opening play, will be again

Bag Punching Contest at the Star. Miss Belle Gordon, champion lady bag puncher, with the Oriental Burlesquers, now playing at th contest for a considerable prize offered by the management. Miss Gordon is without doubt the eleverest female artist in this line in the United States today, and anticipates but little trouble in securing the decision in the forthcoming con-

For the last half of the week "Miss New York.

Sousa has returned from his English triumphs nd the same Sousa as of yore, bearing his new responsive to the wishes of his admirets as b It was an achievement of no small magat the Royal Albert hall in London to the last appearance at Southampton, was a series of en thusiastic evations to the American musician

Witness what one English critic had to say means gone the length of her powers. Mag-gie Halloway Fisher, had an eccentric role, importation from America has proved an inordinate success. Anything more thoroughly crimination. James Kearney, Edwin Stevens typically American it would be difficult to im-and Snitz Edwards were others of the prominent agine. Mr. Sousa's band is not a military nand

> inal, and its conductor is, perhaps, the most original of all. We knew his music, of course, before we knew the composer, and that was, per-haps, a mistake, for the two ought to be known together. To hear Mr. Sousa play his own music is to be converted. His orchestra is pre-emi-nently American in its remarkable fire and swing It seems to be positively bubbling over with restless fire and energy, and to possess an insatiable craving for marches. Regarded the musician's point of view it is remarkable for the fine tone, the perfect balance of the parts, and the almost machine-like precision with which it plays."

This is assuredly high praise, but every on who has ever come within the magic sway of Sonsa's baton will agree that it is equally as deserved. Sonsa comes here shortly with the same band and the same soloists as recently played before the king of England, and his concert will be given at the New Annors on after-noon and evening, January 28. Mand Reese Da-vies, soprano; Dorothy Hoyle, violiniste, and Arthur Pryor, troubone, will also be heard.

RAILROAD TIME TABLES New York, Ontario and Western.

Arrive
Carbondale. Scranton.
Carbondale. Scranton.
Carbondale. Scranton.
Carbondale. Scranton.
Carbondale. Carbondale. Carbondale.
Carbondale. Cadosta.
Caloste. Leave. Leave.
Caloste. Leave. Carbondale, S. Leave Cadonia. Carbondale, S. 7.00 a.m. 7.
1.50 p. m. 6.66 p. m. 0.
1 on wesk days, and 9 on 8 time connections for New You Waiton, Norwich, Oneids, 8 west.

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RAILROAD TIME TABLES. Delaware, Lackawanna and Western.

Delaware, Lackawanna and Western.

In Effect Nov. 3, 1901.

Trains leave Scranton for New York—At 1.40, 3.15, 6.05, 7.50 and 10.05 a. m.; 12.45, 3.40, 3.33 p. m. For New York and Philadelphia—7.50, 10.05 a. m. and 12.45 and 3.23 p. m. For Tobylanna—At 6.10 p. m. For Buffalo—1.15, 6.22 and 9.00 a. m.; 1.55, 6.50 and 11.35 p. m. For Binghamton and way stations—10.20 a. m. and 1.10 p. m. For Oswego, Syracuse and Utica—1.15 and 6.22 a. m.; 1.55 p. m. Oswego, Syracuse and Utica—1.15 and 6.22 a. m.; 1.55 p. m. daily, except Sunday. For Montrose—0.00 a. m.; 1.10 and 6.50 p. m. Nicholson accommodation—4.00 and 6.15 p. m. Bloomsburg Division—For Northumberland, at 6.35 and 10.05 a. m.; 1.55 and 6.10 p. m. For Plymouth, at 8.10 a. m.; 1.55 and 6.10 p. m. For Bunday Trains—For New York, 1.40, 3.15, 6.05 and 10.05 a. m.; 3.40, 3.33 p. m. For Buffalo—1.15 and 6.22 a. m.; 1.55, 6.50 and 11.35 p. m. For Bingbannton and way stations—1.020 a. m. and 6.10 p. m.

Pennsylvania Railroad.

n. and 6.10 p. m.

Schedule in Effect June 2, 1901.

Trains leave Scranton: 6.38 a. m., week days, through vestibule train from Wilkes-Barre. Pullman buffet parlor car and coaches to Philadeldiate stations. Also connects for Sunbury, Har-risburg, Philadelphia, Baltimore, Washington and for Pittsburg and the west. 9.38 a. m., week days, for Sunbury, Harrisburg, Philadelphia, Baltimore, Washington and Pitts Philadelphia, Baltimore, Washington and Pittsburg and the west.

1.42 p. m., week days (Sundays, 1.58 p. m.), for Sunbury, Harrisburg, Philadelphia, Baltimore, Washington and Pittsburg and the west.

3.28 n. m., week days, through vestibule frain from Wilkes-Barre. Pullman buffet parlor car and coaches to Philadelphia via Pottsville. Stops at principal intermediate stations.

4.27 p. m., week days, for Hazleton, Sunbury, Harrisburg, Philadelphia and Pittsburg.

J. B. HUTCHINSON, Gen. Mgr.

J. B. WOOD, Gen. Pass. Agt.

Delaware and Hudson.

In Effect November 21, 1901.

Trains for Carbondale leave Scranton at 6.20, 8.00, 8.53, 10.13 a. m.; 12.00, 1.29, 2.34, 3.52, 5.29, 6.25, 7.57, 9.15, 11.20 p. m.; 1.31 a. m.

For Honesdale—6.20, 10.13a, m.; 2.34 and 5.29

For Wilkes-Barre-6.38, 7.48, 8.41, 9.38, 10.43 1. m.; 12.03, 1.42, 2.18, 3.28, 4.27, 6.10, 7.48, a. m.; 12.03, 1.42, 2.15, 10.41, 11.30 p. m. 10.41, 11.30 p. m. For L. V. R. R. Points—6.38, 9.38 a. m.; 2.18, and 11.30 p. m. or Pennsylvania R. R. Points-6.38, 9.38 a. 1.42, 3.25 and 4.27 p. m. or Albany and all points north-6.20 a. m.

and 3.52 p. m. SUNDAY TRAINS.

For Carbondale—8.50, 11.33 a. m.; 2.34, 3.52, 5.52 and 10.52 p. m.

For Wilkes-Barre—9.38 a. m.; 12.03, 1.58, 3.28, and 8,42 p. m. Albany and points north—3,52 p. m. For Honesdale—8.50 a. m. and 3.52 p. m. W. L. PRYOR, D. P. A., Scranton, Pa.

New Jersey Central.

New Jersey Central.

In Effect Nov. 17, 1901.

Stations in New York, foot of Liberty street and South Ferry, N. R.

Trains leave Scranton for New York, Philadelphia, Easton, Bethlehem, Allentown, Mauch Chunk, White Haven, Ashley and Wilkes-Barre at 7,30 a. m., 1 p. m. and 4 p. m. Sunday, 2,10 p. m. Quaker City Express leaves Scranton at 7,30 a. m., through solid vestibule train with Pullman Buffet Parlor Cars, for Philadelphia.

For Avoca, Pittston and Wilkes-Barre, 1 p. m. and 4 p. m. Sunday, 2,10 p. m.

For Long Branch, Ocean Grove, etc., 7,30 a. m. and 1 p. m. n. and 1 p. m. For Reading, Lebanon and Harrisburg, via Al-entown, at 7.30 a. m. and 1 p. m. Sunday, 2.10

For Pottsville at 7.80 s. m. and 1 p. m. For rates and fickets apply to agent at station C. M. BUHT, Gen. Pass. Agt. W. W. WENTZ, Gen. Supt.

Lehigh Valley Railroad. In Effect, Nov. 3, 1901.

In lifteet, Nov. 3, 1891.
Teains leave Seranton.
For Philadelphia and New York via D. & H.
R. R., at 0.38 and 9.38 a. m., and 2.18, 4.27
(Black Diamond Express), and 11.39 p. m. Sandays, D. & H. R. R., 1.58, 8.27 p. m.
For White Haven, Hazleton and principal points in the coal regions, via D. & H. R. R., 6.38, 2.18
and 4.27 p. m. For Pottsville, 6.38 a. m., 2.18 and 4.27 p. m. For Pottsville, 6.38 a. m., 2.18 p. m.

For Bethlehem, Easton, Reading, Harrisburg, and principal intermediate stations, via D. & H.

R. R. 6.38, 9.38 a. m.; 2.18, 4.27 (Black Diamond Express), 11.20 p. m. Sundays, D. & H.

R. R., 9.38 a. m.; 1.58, 8.27 p. m.

For Tunkhamock, Towanda, Elmina, Ithaca, Geneva and principal intermediate stations, via D. L. and W. R. 8.10 a. m. and 3.50 p. m.

For Geneva, Rochester, Buffalo, Niagara Falls, Chicago and all points west, via D. & H. B. R., 48, 12.03 a. m.; 1.42, 2.28 (Black Diamond Express), 7.48, 10.41, 11.30 p. m. Sundaya, D. & H.

R. R. 12.05, 8.27 p. m.

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