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THE COLUMBIAN,
Bloomsburg, Pa.

FRIDAY, APRIL 12, 1895.

THE POOR DISTRICT STEWARD.

OPINION OF THE COURT.

In Re-Petition and rule to show cause why mandamus shall not issue to induct Peter A. Kline into the office of Steward of the Bloom Poor District etc., Peter A. Kline, relator, and J. M. Larish, O. T. Wilson and A. C. Hilday, respondents.

In the Court of Common Pleas of Columbia County. No May Term 1895.

The petition is in the nature of a bill in equity asking that a peremptory writ of mandamus issue against the Directors of the Poor of Bloom Poor district to enforce the rights of the relator, or, in other words, to compel a performance of duty on the part of the respondents.

The relator alleges, in his petition, that he was duly and legally chosen by the respondents on the 7th day of March 1895, to be Steward of the Poor District of Bloom, and that both parties entered into an agreement in writing pursuant thereto and that the said Stewardship was to commence on the 1st day of April 1895. That at the time of filing his said petition, to wit March 23d 1895, he had gone to great expense, trouble and inconvenience, preparatory to entering upon and into the said office. That notwithstanding the premises at a special meeting secretly and irregularly called, and had, on the 19th day of March 1895 two of the said Poor Directors O. T. Wilson and J. M. Larish, pretended, in secret, to revoke the said unanimous appointment and to abrogate the signed and sealed agreement made with the petitioner. That they declared the office vacant and elected one C. H. Lee to fill the same and admitted him into the possession of said office. That he, the relator, is ready and desirous to take upon himself the duties of the said office of Steward to which he was elected and is entitled. The prayer of the petitioner is for a rule to show cause, etc. Same day rule issued to show cause why the right and title to the office of Steward of the Bloom Poor District shall not be quieted and settled and the petitioner, Peter A. Kline, be inducted into and permitted to hold and exercise the said office according to the terms of his appointment.

To this petition and rule O. T. Wilson and J. M. Larish, on March 30th 1895, demurred and made answer.

Demurred, 1st Because there is no vacancy in said office

2d. Because the bill is uncertain and insufficient in law.

Answered to the charges contained in the bill.

1st. That the appointment was not legal but obtained by the fraud and wrongful acts of the relator.

2d. That the written agreement is not binding on Poor Directors, or Poor District.

3d. That there is no vacancy in said Stewardship, that the action of the board of directors, at their meeting of March 19th 1895, in revoking the wrongful appointment of the relator, was warranted and lawful and regular in appointing C. H. Lee and in inducting him into the office of said Stewardship.

4th That damages to the relator cannot be considered in the present proceeding.

We must decide the case upon petition, demurre and answer and are not, therefore, called upon, or required to decide all of the numerous questions mentioned.

All matters charged in the petition by the relator and denied by the respondents must be proved by the relator, or they are not established, or made out. All, or any, new matter set up in the answer by the respondents, in avoidance, and denied by the relator, must be proved by the respondents. Hence a consideration of the questions raised by the demurrer and matters charged in the petition, admitted, denied and hot proved will decide this case. Under the demurrer it is argued by counsel for the respondents that the bill must be dismissed for want of proper parties, respondents. That now, in April 1895, the old Board of Poor Directors having gone out of office on the 31st of March, 1895, only one member of the former board remaining, is not sufficient to warrant further proceedings against the new board, or poor district.

The Bloom Poor District is a municipality, represented by a board of directors consisting of three in number elected by the voters of the several districts composing its territory, and

the said board acts by and through the unity of a majority of the members of said board.

Two members acting at the time of filing the bill and answer have responded to said petition, and the charges, made by the relator, being against the officers and representatives of a municipality, rather than against individuals the suit will not abate by the expiration of the term of office of the original respondents. When the proper papers have been once duly served upon the proper officers any further proceeding which they warrant may be taken against their successors without proceeding *de novo*. It is but a repetition of the same proceeding against the same party represented by another, or other persons.

The Bloom Poor District which includes and is composed of territory covering several townships within the county is a body corporate and unquestionably a quasi municipal Corporation.

It was organized, and is conducted under and by virtue of the Acts of Assembly of April 2d 1860 pamphlet laws, page 538, March 12th 1869 P. L. page 320 and supplements thereto. Among other things, the 4th Section of the Act of 1860, provides that the directors shall appoint certain officers and assistants and among them that of Steward, as they may deem necessary to serve for one year, and until successors are appointed and qualified, and said officers and assistants may be removed by said directors for neglect of duty or misconduct in office and the vacancies be filled by them.

It is equally well settled that the office of Steward is an appointed office within the meaning of Section 4 article 6, of the constitution of the State and subject to be vacated by the power that filled it. See Thomas vs. the Scranton Poor District 4 Com. Pleas Rep. page 155 and cases therein cited.

At a meeting of the Board of Directors duly convened and acting in good faith, a majority has the right and power to reconsider their action in appointing a person to office whose term has not commenced or expired, and revoke the appointment, remove an incumbent, declare the office vacant and fill the vacancy by reappointment.

The relator, in this case, in accepting the office of Steward assumed the risk of being removed at the pleasure of a majority of the board of directors, for the causes named in the Act of Assembly.

His petition sets forth the meeting of the board of directors, their reconsideration of their action in appointing the petitioner, their revocation of his appointment, the vacancy of the office declared, and the appointment of C. H. Lee to fill the same and his induction into the office. True the petition alleges that these proceedings were secretly, unlawfully and pretendedly had, but these allegations are denied by the respondents and we cannot under this proceeding try and determine the disputed right and title to the said office.

If the petition had been filed subsequent to April 1st 1895, the time fixed by the parties for entrance into the office by the relator, and after a demand made by him to be permitted to enter upon his duties, and containing only a refusal by the respondents to permit him to hold and exercise his office, for the reason that his appointment was procured by his misrepresentations and by wrongful means, accompanied with proof, by evidence taken, that he had been wrongfully and unjustly rejected, we might hold, under this bill in equity that it was the bounden public duty of the respondents to admit the relator into office when the same was vacant and even enforce such admission by a writ of mandamus.

But the bill was filed eight days before the time agreed upon in writing, by the parties, at which the relator could demand entrance into his office, and furthermore it contained notice and full knowledge of the relator's removal from his appointment the vacancy declared, and the filling of the same by the appointment of C. H. Lee and his acceptance, induction and service in said office.

We are therefore, upon the matters set forth in the petition constrained to sustain the demurrer.

Mandamus will not lie to compel a municipality to admit to office a person duly and properly elected when there is no vacancy in the office, and it is already filled by an actual incumbent exercising its functions *de facto* and under color of right, as the bill in this case shows. Quo warranto, is the proper remedy to compel the admission of another claimant to a public office and to determine the disputed title to the same, and not mandamus.

This proceeding being premature and without right, on the part of the relator, the demurrer must be sustained, and the rule discharged. And now, April 4th, 1895, it is so ordered.

By the Court.

E. R. IKELER, P. J.

Giddling & Co. sell men and boys sweaters at 9 cts. between 4 and 5 P. M. Saturday.

THE INCOME TAX DECISION.

The Supreme Court of the United States on Monday handed down its decision on the Income tax law. The effect of it is that the income tax clause of the Wilson act is constitutional, but that two large classes of wealthy citizens shall be exempt from the operations of the law. Landlords and the holders of Federal, State, county and municipal bonds are protected by the Constitution, while merchants, manufacturers and wage earners having salaries of \$4,000 or more per annum must submit to the imposition.

It is estimated that this will reduce the revenues about \$15,000,000. An extra session of congress has been talked of, but it is not likely that one will be called.

The Easter Number of the New York Ledger.

The Easter Number of the New York Ledger surpasses in beauty and interest any previous issue of that famous periodical. The cover is ornamented by the figure of a beautiful young woman, arrayed in the freshest of spring costumes, surrounded by cupids bearing flowers and musical instruments, enveloping her with the odors and airs of springtime. The listening attitude of the figure is full of suggestion and prophecy of the future. The contents of this number of the Ledger are in keeping with the beautiful cover.

It is replete with delightful editorial matter, appropriate miscellany, poetry, children's stories, correspondence, science, and the always interesting department for wives and mothers, entitled "The Woman's World." The Easter Number of the New York Ledger contains twenty-eight pages, beautifully illustrated, and is sold for only 5 cents.

The bill to prohibit the killing of deer in the State under a penalty of \$200, for five years after October 1 next, passed finally in the House. A similar bill as to the shooting of quail and other game birds and the taking of fish from the public streams is likely to follow.

A lot of new judgment exemption notes, with attorney's commission, and waiving everything, just printed at this office. Sold single, or in books of 25 and 50. tf.

AUDITOR'S NOTICE.

Estate of Thomas Lutz deceased.
The undersigned, an auditor appointed by the Orphan's Court of Columbia County to make distribution of said estate, will sit in his office in Bloomsburg, on Monday, April 29, 1895 at 9 o'clock a. m. when and where all persons having claims against said estate must appear and prove the same, or be debarred from coming in on said fund.

ROBERT R. LITTLE, Auditor.

4-12-95.

A Superb Religio-Educational Fine Art Publication.

"The earthly footsteps of the Man of Galilee," piously traced with note book, pencil and camera, has created quite a stir in England. The London News has ordered 40,000 copies of the No. 1 Portfolio alone. These folios each contain 16 beautiful views—also an eight colored map in all portfolios. The collection of 384 photographs was made by the celebrated landscape photographer, R. E. M. Bain. The descriptive matter was written by Rev. John H. Vincent, D. D., L. L. D., and Rev. James W. Lee, D. D., after 3 separate tours of the Holy Land. An opportunity is thus given to make a delightful tour through Palestine without leaving home, bringing a far off country and time near to us.

How to Secure these Splendid Portfolios:

For every cash purchase and 10 cents additional, you will be given one of these beautiful portfolios, and thus continue until you have secured the entire series of 24 numbers.

We guarantee to furnish customers with the entire series as wanted. We carry a large line of Wall Paper at lowest prices, and wish it distinctly understood the above portfolio offer does not lessen the purchasing power of your dollar with us.

William H. Slate,

BOOKS, STATIONERY AND WALL PAPER.

Exchange Block.

That Tired Feeling

Is a dangerous symptom. It means a lack of vitality in the blood—a decrease of the red corpuscles upon which the strength and richness of the blood depends. It comes especially in the Spring because the system has been subject to unusual demands during the cold weather. The wasted vigor must be re-supplied. That tired feeling must be overcome, or else the approaching hot weather will have most serious effects. The best

Spring Medicine

is Hood's Sarsaparilla, because it cures That Tired Feeling by purifying, enriching and vitalizing the blood, giving it power to carry health to every organ of the body. It "makes the weak strong," not by stimulating, but by actually giving strength, by building up the wasted energies, restoring

Hood's Has Merit

One Bottle Convinced—Farther Use Cured

Hip Disease, Sciatic Rheumatism, That Tired Feeling.

"I read that one bottle of Hood's Sarsaparilla would convince me of its merits, and I have found this true.

"Some two years ago two ulcers appeared on my hip, which, after being sore a long time, broke and discharged. I also was attacked with sciatic rheumatism, my leg being drawn so that I could hardly get around the house. I hardly knew what a good night's rest was. The hip trouble caused me great trouble and annoyance, and eczema

"I have been taking Hood's Sarsaparilla for six months. Before I began taking it I had that tired feeling when I got up in the morning, also a terrible headache and my blood was very impure. Since I have been taking Hood's Sarsaparilla all that tired feeling is gone, also the headache, and my blood is pure again." WILLIAM GARDNER, 10 Tower St., Fall River, Mass.

Makes the Weak Strong.

"I had a tired and drowsy feeling and my nerves were in a bad condition and appetite was poor, so I concluded I would take Hood's Sarsaparilla. After I had taken the second bottle I began to feel much better and I recommend Hood's to all." ELMER J. WOOLLEY, Jamesburg, New Jersey.

Purify Your Blood

the appetite and assisting the stomach and digestive organs in their important functions. The importance of attending to this matter of health now cannot be overestimated. Hood's Sarsaparilla will make a vast improvement in your feelings. It will thoroughly renovate your system and fit you for the duties and pleasures of the spring and summer.

The Wonderful Cures

of scrofula, salt rheum, eczema and other diseases which have been accomplished by Hood's Sarsaparilla have given it the leading place in the field of medicine. When you take Hood's Sarsaparilla to purify your blood you are not experimenting. The facts all prove absolutely that in Hood's Sarsaparilla you have a medicine tried and true. It has cured thousands of others and it will do you good. Do not be induced to buy any other. Insist upon Hood's and only

appeared on my hands. Naturally I began to run down, was weak and low spirited. The physician told me my hip would have to be operated upon before I would get any better. At last I decided to take one bottle of Hood's Sarsaparilla. In three weeks my rheumatism entirely disappeared and I found that

I Was on the Gain.

This was very encouraging, and I found that I could sleep well at night. My health steadily improved, and, of course I continued taking Hood's Sarsaparilla. My hip has been restored to good condition, the sores have stopped discharging and healed up. I am able for the first time in three years to do my own housework, and can walk two miles without trouble. I have no symptoms of rheumatism; that tired feeling has entirely left me. My neighbors say I look better than for many years. I do earnestly recommend Hood's Sarsaparilla to all sufferers, especially those afflicted with impure blood." Mrs. A. S. BOWEN, Cline, Arkansas.

"My brother and myself have had scrofula or salt rheum ever since we were born. We took Hood's Sarsaparilla and commenced to get better. When we had taken one bottle and a half each, we were cured. My mother used to be troubled with headache and pains, but took Hood's Pills and was cured." James Scanlon, 64 Roxford St., Norwich, New York.

Hood's and Only Hood's.

"I took Hood's Sarsaparilla for a tired, worn out feeling, and it has proved the best medicine that I have ever taken. I had a breaking out on my face which I thought was eczema. I commenced using Hood's Sarsaparilla and have not had any of that trouble since." Mrs. H. B. KEADLE, Pickaway, West Virginia.
Hood's Sarsaparilla is sold by all druggists. \$1; six for \$5. Prepared by C. I. Hood & Co., Lowell, Mass.

Hood's Sarsaparilla

The Blood Purifier and True Nerve Tonic.

JOHN R. TOWNSEND,

Merchant TAILOR,



AND HATTER.

SUITS FROM \$18.00.

CORNER MAIN & MARKET STS. BLOOMSBURG, PA.

TROUSERS FROM \$5.00.

We have no doubt that April's intentions are good. While she shows a lamentable disposition to stop and sit down on old Winter's lap occasionally, she will get here by and by and bring some weather with her. In the mean time come out between the showers and see what we have to make life worth living.

DRESS STUFFS.

It is almost impossible, for want of advertising space to go into details, but if you want to see the finest line we have ever shown, we are anxious to show it to you. Some exclusive styles in just dress patterns in the latest weaves.

GLOVES.

Our department in this respect is the most complete in town, and we are now showing the finest line of gloves, Men's, Boy's, Ladies' and Misses in kid, lisle thread, silk chamois and dog skin, for Men's street wear we have ever offered to the public. Our ladies' silk gloves go with a guarantee, which it will pay you to look at. We are making a special drive on Men's Dog Skin gloves for street wear, as they go now for 75c the pair.

CREPONS.

We can not say too much in regard to these as for beauty in shades and combination, and quality and price they are unsurpassable. We are showing them in black for skirts, at 1.00, 1.25 and 1.75 and for waists in all

colors plain and figured at 35 and 60 cents.

PERCALS.

You will want shirt waists for mornings and these are the most useful things for that purpose we can show, and the price is very reasonable, only 10c per yard, 36 inches wide.

HOSIERY.

We are selling the Y. D. Hosiery double sole, high spliced heel and the best stocking that we can buy. These are absolutely fast black.

SHOES.

Your boys will want a shoe this spring and our "Bay State" shoes can not be equaled in town or any where else for the money. They will out wear any shoe made.

GROCERIES.

Home dried fruits of all kinds and the finest California evaporated pears, peaches and apricots on the market. Canned goods of the finest quality and at any price you may want.

Calling



your attention to our line of JEWELRY, WATCHES, SILVERWARE, GLASSES, ETC.

We Blow Our Own Horn only to attract your attention. Then we want to invite you to visit us—it is immaterial whether or not you want to purchase anything. We are showing a fine line of silver and glass ware.

Blowing Your Own Horn is all right when there is no one else to blow it for you. Whoever sells first-class goods at low prices can depend upon his customers to blow his horn for him. This is my policy in the sale of jewelry, watches, silverware, glasses, &c.

J. G. WELLS,

BLOOMSBURG, PENNA.

PURSEL & HARMAN,

Bloomsburg, Pa

Wanted

We want several honest and reliable men in this vicinity to act as SALESMEN for our CHOICE NURSERY STOCK. We will pay a salary or commission and furnish an outfit free. Write at once for terms and information to THE GUARANTEE NURSERY CO., GENEVA, N. Y.

5-12-94-d