

THE COLUMBIAN.

BLOOMSBURG, PA.

THURSDAY, MAY 18, 1908.

DECISION IN KRICKBAUM CASE

stoners who had failed to take the oath of office, Justice Rogers said (p. 140): "The rule which governs the case is, that the commissioners who appointed the treasurer were officers de facto, since they came into office by color of title. It is a well settled principle of law that the acts of such persons are valid when they concern the public or the rights of third persons who have an interest in the act done: 7 Johns. Rep. 554. The People v. Collins, Andrews' Rep. 263; King v. Lysle. And this rule has been adopted to prevent a failure of justice. . . . That the county commissioners, who appointed the treasurer, were officers de facto is certain, as they possessed every qualification of officers de jure, except in the one particular that they had omitted taking the oath prescribed by the constitution. They had at least color of title. It is equally clear the suit was not brought for their individual benefit, but for the use of the public."

"In State v. Oates, 86 Wis. 634, we find this statement: "Within the rule that a de facto officer is one who is in possession of an office and discharging its duties under color of authority, by 'color of authority' is meant authority derived from an election or appointment, however irregular or informal, so that the incumbent be not a mere volunteer."

"In the present case Hess was duly and properly appointed as judge of election at the preceding election, and both he and the other officers assumed that the appointment was good for the remainder of the year, and under this assumption he claimed and was awarded by the other election officers the right to act as judge at the election. It was a mistake, but the claim and its allowance were enough to give him color of right to the office and to prevent him from being considered as a mere usurper. Certainly the rights of the voters should not be prejudiced by any such irregularity as this. "It may be said that 'color of right' which constitutes one an officer de facto may consist in an election or appointment, or in holding over after the expiration of one's term." Hamlin v. Kasafar, 15 Ore. 456.

"The effect to be given to such irregularities is discussed in People v. Brwett, 124 Cal., where it was said (pp. 12-13): "The court below found that persons who served as officers of the election were not sworn as required by law, and the appellants cite those provisions of the Political and Penal Codes making it a felony to act as an election officer without having been appointed and qualified as such. But these provisions, while imposing penalties upon the person who so acts, do not declare the election void for that cause. But this has been directly decided in Whipple v. McKune, 12 Cal. 352 (and in other cases cited). The principle underlying those decisions is that the rights of the voters should not be prejudiced by the errors or wrongful acts of the officers of the election, unless it shall appear that a fair election and an honest count were thereby prevented."

"And the general principle governing such a condition as is here presented is thus summed up in 15 Cyc. L. & Pr. 16: "It is the duty of the court to sustain an election authorized by law if it has been so conducted as to give free and fair expression of the popular will, and the actual result thereof is clearly ascertained; or elections should never be held void unless they are clearly illegal, in the absence of fraud, mere irregularities in the conduct of an election, where it does not appear that the vote was effected either by the rejection of legal votes or the reception of illegal ones, will not justify the rejection of the whole vote of the precinct, although the circumstances may be such as to subject the officers to punishment."

"And in Wheelock's Election, 82 Pa. 297, in an opinion approved by this court, it was said: "When the application of technical rules and a strict construction of the acts of officers in preparing the election papers and conducting an election, would tend to defeat the will of the people and change the result of an election for an important office, they should not be applied, and all reasonable inferences should be made in favor of their proceedings."

"In the present case the requirements as to time and place of holding

REPORT OF THE CONDITION

OF THE

First National Bank,

At Bloomsburg, in the State of Pennsylvania, at the close of business May 14, 1908.

RESOURCES. Loans and discounts, 283,751 38; Overdrafts, secured and unsecured, 388 84; U. S. Bonds to secure circulation, 100,000 00; Premiums on U. S. Bonds, 1,750 00; Bonds, securities, &c., 204,590 00; Banking House, furniture and fixtures, 76,000 00; Due from National Banks (not Reserve Agents), 21,638 12; Due from approved reserve agents, 45,992 96; Checks and other cash items, 4,515 89; Notes of other National Banks, 325 00; Fractional paper currency, nickels and cts., 495 40; LAWFUL MONEY RESERVE IN BANK, VIZ: Specie, 29,919 85; Legal-tender notes, 14,268 00; Redemption fund with U. S. Treasurer (5 per cent. of circulation), 5,000 00; Total, 583,734 73

LIABILITIES. Capital stock paid in, 100,000 00; Surplus fund, 150,000 00; Undivided profits, less expenses and taxes paid, 20,077 18; National Bank Notes outstanding, 100,000 00; Due to other National Banks, 39,316 69; Individual deposits, subject to check, 372,080 99; Certified checks, 1,915 00; Cashier's checks outstanding, 375 13; Total, 583,734 73

State of Pennsylvania, ss. County of Columbia, I, FRANK IKELER, Cashier of the above-named bank, do solemnly swear that the above statement is true to the best of my knowledge and belief.

FRANK IKELER, CASHIER. Subscribed and sworn to before me this 23rd day of May, 1908. S. F. PEACOCK, Notary Public. My Com. Expires

CORRECT-ATTEST: E. W. M. LOW, J. M. STAYER, FRED IKELER, Directors.

the election were entirely fulfilled, and there is no finding that any fraudulent or wrongful vote was offered or accepted. Nor is there even a hint of any confusion or carelessness in the conduct of the election. The record and the undisputed facts show nothing irregular, except the fact that Whitney Hess acted as judge of election, under the mistaken idea that his appointment in place of the regularly elected judge was good for the current year, instead of being good as it was, merely for the preceding election. But this mistake, did not in any way result in obstructing the complete expression of the will of the voters, or the production of satisfactory evidence thereof. Under all the authorities, the irregularity was not therefore sufficient to avoid the election, or justify the rejection of the entire poll of the votes cast in the district.

"We think it is clear that the judge of the court below erred in his conclusion that Whitney Hess was not de facto an officer, and in his further conclusion that as a consequence, all the vote cast at the election in question in Mifflin township must be rejected. The facts as set forth by him and for the purpose of this inquiry made part of the record, show no basis for such action; and they do on the contrary clearly show that Whitney Hess was de facto judge of election, acting under the color of title. The first assignment is sustained.

"The decree of the court below is reversed and it is adjudged and decreed, that upon the finding of facts which appear upon the record in this case, William Krickbaum received a majority of the legal votes cast for Associate Judge and was elected to said office on November 5, 1908."

Pretty and Simple Under-Waist.

It is a simple matter to make an under-waist of a straight strip of wide embroidery. The embroidery must be the depth required for the under-waist. Straps of lace or bands of ribbon keep it on the shoulders and it is drawn in to fit by narrow ribbons runs through beading at the top and bottom. At a very small expenditure of trouble and money underwaists can be made thus that will do nicely with the sheerest blouses. Rather newer are the handkerchief underwaists and the manner of their making is like this: Three handkerchiefs are taken and cut into triangles from opposite corners, each making two pieces. Three handkerchiefs form a waist, the triangles being fitted into each other, hemstitched points down, until one long piece is formed. Shoulder straps and beading for the ribbon alone are necessary. An unusually pretty underwaist made after the latter fashion had narrow bands of lace insertion put between the points and was sprinkled over with pink rosebuds done in wash embroidery silk and tied with rose ribbons.

To Prepare Oat Meal Bags. A good formula to follow in making oat meal bags is the following: Oatmeal, two and a half pounds; Flour, one ounce, powdered, half a pound; almond meal, half a pound; old castile soap scraped to a powder, quarter of a pound. Mix and put into muslin bags.

New Malay Opium Cure

Being Distributed Free by a New York Society. Co-operating with missions in Malaysia, the Windsor Laboratories of New York have secured a supply of the wonderful combre turn plant, which has done so much to revolutionize the treatment of the opium habit.

A generous supply of the new remedy, together with full instructions for its use, and United States consular reports bearing on the subject will be sent to any sufferer. To obtain a free supply of this remedy and the consular reports, address Windsor Laboratories, Branch 23, 134 East 25th Street, New York City.

The Quietest City.

Berlin is said to be the most quiet city in Europe. Railway engines are not allowed to blow their whistles within the city limits. There is no loud bawling of hucksters and a man whose wagon gearing is loose and rattling is subject to a fine. The courts have large discretion as to fines for noise making. Strangest of all, piano playing is regulated in Berlin. Before a certain hour in the day and after a certain hour in the night the piano must be silent in that musical city. Even during the playing hours a fine is imposed for mere pounding on the piano.—London Tit-Bits.

Meals and Brains.

We give too much thought to our meals, for instance; they need cooking, and it is pleasant to have them set temptingly upon a table on which fresh flowers are arranged and to eat them in a room wherein there is not a speck of dust; but it is not right that our bodies should be fed at the expense of our souls, or that the dust should be taken from every ledge in our house and left to gather thickly in our brains.—Reader.

A Razorless Race.

The only known race of hairy human beings reside on the Island of Yezo, adjoining Japan. They are about 100,000 in number and are known to the Japanese as the Mosimos or 'all hairy people.' They have the entire body covered with a profuse and remarkable growth of hair, the only exception being that the faces of the women are bare, but usually stained with a kind of juice so as to resemble the beards of the males.—Brooklyn Eagle.

Why Moths Fly to Flames.

Moths fly against the candle flame because their eyes can bear only a small amount of light. When, therefore, they come within the light of a candle, their sight is overpowered and their vision confused, and as they cannot distinguish objects they pursue the light itself and fly against the flame.

A Wonderful Instrument.

One of the latest ore-prospecting devices placed before the public is an electrical instrument which will locate free metals at almost any depth, map out the course and width of the vein and ascertain its exact position below the surface.

A Boy on Clergymen.

Bishop Potter, an ecclesiastical utterer in New York, read a Cooperstown school boy's essay on "Clergymen." The essay, which created much amusement, was as follows: "There are three kinds of clergymen: bishops, rectors and curats, the bishops tells the rectors to work and the curats have to do it, a curat is a thin married man but when he is a rector he gets fatter and cat, preach longer sermons and become a good man."—Washington Star.

English Patent Medicines.

At the present time in Great Britain there are no less than 40,000 makers or vendors of patent medicines, and these patent medicines are computed to supply a revenue of £331,000 to the State. The patent medicine dealer reaps his harvest from so-called incurable diseases. Consumption cures, cancer cures, epilepsy cures, paralysis cures, make up the large majority of patent medicines.

Does He Bring a Rake?

From Berlin comes the official announcement that Dr. Karl Muck of the Royal opera, that city, has accepted the position of conductor of the Boston Symphony Orchestra for one year. His name, or at any rate the spelling of it, is highly suggestive of a wave of musical reform in this musical center.—Boston Globe.

The layer of the sea taken up in clouds each year is now estimated at 14 feet in thickness.

SHERIFF'S SALE.

By virtue of a writ of Fieri Facias issued out of the Court of Common Pleas of Columbia county, Pennsylvania, and to me directed there will be sold at public sale at the Court House, Bloomsburg, County and State aforesaid on

SATURDAY, JUNE 20th, 1908

at 2 o'clock p. m., the following described real estate:

All that certain piece or parcel of land situate in Madison and Pine townships, Columbia County, Pennsylvania, bounded and described as follows, to wit: Beginning at a pitch pine, thence by land of Jesse Mather, South two degrees West thirty-eight and five tenths perches to a stone; thence South thirty-seven and five tenths degrees East thirty-three perches to a post and stone; thence by other land of Thomas Polk estate sold to Samuel Lee, North fifty-one degrees East one hundred and sixty-one perches to a small hickory; thence by land of Benjamin Lee, North forty degrees West sixty-two perches to a post; thence by land of Benjamin Lee, Daniel Rote's estate and Wm. Mathers, South fifty-one degrees West one hundred and thirty-seven perches to the place of beginning, containing

SIXTY ACRES AND NINETEEN PERCHES OF LAND,

more or less, whereon are erected

A HOUSE and OUTBUILDINGS.

Seized, taken in execution at the suit of M. B. Hock vs. John Lawton, and to be sold as the property of John Lawton. CHAS. B. ENT, Sheriff. Clem R. Weiss, Attorney. 5-28-08.

SHERIFF'S SALE.

By virtue of a writ of Levari Facias issued out of the Court of Common Pleas of Columbia County, Pennsylvania, and to me directed there will be sold at public sale at the Court House at Bloomsburg, County and State aforesaid, on

SATURDAY, JUNE 20th, 1908

at 2 o'clock p. m., the following described real estate:

All that certain piece, parcel and tract of land situate in the Township of Hemlock, County and State aforesaid, bounded and described as follows, to wit: Beginning at a stone in line of land of William Ivey thence by same north fifty eight degrees west nine and seven-tenths perches to a post, thence north six degrees west six and six-tenths perches to point on bank of head-race, thence ten and twenty-five hundredths degrees east two and five-tenths perches to a stone, thence north sixty degrees east seven and four-tenths perches to a stone in the public road leading from Bloomsburg to Buckhorn, thence north twenty-three and seventy-five hundredths degrees east fourteen and two-tenths perches to a stone, thence north seventy nine degrees east one and six-tenths to a corner near a spring house thence north three degrees west one perch to a stone, thence south fifty-two and five-tenths perches to a stone, thence south seventeen and seventy-five hundredths degrees west five and one-tenth perch to a stone, thence south two and seventy-five hundredths degrees west eight and six-tenths perches to a stone in the public road, thence south seventy-two degrees east eleven and one-tenth perches to a white oak, thence along land of James Barton south fifty degrees west twenty-one perches to a stone, the place of beginning, containing

TWO ACRES AND EIGHTEEN PERCHES OF LAND,

whereon are erected a STEAM AND WATER POWER GRIST MILL,

known as the "Red Mill" and

THREE DWELLING HOUSES

with outbuildings with the reserved rights and water-rights as set forth in a certain deed of conveyance to William Ivey dated May 25th 1881 recorded in Columbia County in Deed Book No. 33 at page 411, etc., together with the seven (7) acres of land containing the dam or reservoir of said water power as described and conveyed to I. W. McKelvey by Wm. Ivey and wife by Deed dated September 1st, 1882, recorded in Columbia County in Deed Book No. 35 at page 354. Seized, taken in execution at the suit of William Krickbaum vs. I. John Davenport and The Hemlock Milling Company Terre-Tenant, and to be sold as the property of I. John Davenport.

CHAS. B. ENT, Sheriff. Fred Ikeler, Attorney. 5-28-08.

ORPHANS' COURT SALE

of VALUABLE REAL ESTATE.

The undersigned administratrix of Millard O. Bowman, late of Mifflin township, Columbia county, deceased, will sell at public auction on the premises in said Mifflin township, on

TUESDAY, JUNE 23rd, 1908

at 2 o'clock p. m., the following described real estate, to wit:

TRACT No. 1.—All that certain piece, parcel or lot of ground situate in the village of Mifflinville, in the County of Columbia and State of Pennsylvania, aforesaid, bounded and described as follows, to wit: Beginning at a corner at the intersection of Fair and Fifth street, and running thence along Fair street Southwardly to land of A. B. Creasy, thence along land of said A. B. Creasy Westwardly to land of Daniel Miller, Northwardly to Fifth street, and thence along said Fifth street Eastwardly to Fair street, the place of beginning, containing TWO ACRES, more or less, whereon is erected

A DWELLING HOUSE, STABLE and OUTBUILDINGS.

Good well of water on the premises.

TRACT No. 2.—All that certain piece, parcel or lot of ground situate in the village of Mifflinville, County of Columbia, State of Pennsylvania, bounded and described as follows, to wit: Beginning at a corner at the intersection of Fair and an unnamed street, and running thence along unnamed street Westwardly to land of J. C. Brown, thence along land of said J. C. Brown Northwardly to land of G. P. Frymire, thence Eastwardly to land owned by H. C. Hess, thence along land of H. C. Hess Southwardly and thence along Fair street to place of beginning, containing SIX ACRES, more or less. Terms made known on day of sale.

MINNIE C. BOWMAN, Administratrix. Frank Ikeler, Atty.] Mifflinville, Pa. H. J. Pursel, Auctioneer. 5-28-08.

What's the matter with starting the curb market? There are green things to sell and the public should have the benefit of it.

A Money-Maker for Agents.

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