

OPINION IN JENKINS CASE

LINE OF REASONING OF SUPREME COURT.

Justice Brown Adopts the Views of Judge Edwards Regarding the Right of George W. Jenkins to the Office but Disagrees as to How His Compensation Should Be Ascertained—Councils Had Power to Reduce His Salary but No Power to Fix a Percentage Basis.

The opinion of the Supreme court in the case of George W. Jenkins against the City of Scranton was received yesterday by Prothonotary Copeland. It was written by Justice Brown. He closely follows Judge Edwards' line of reasoning regarding the right of Mr. Jenkins to the office of delinquent tax collector, but disagrees with him in the matter of ascertaining what the compensation should be.

THE OPINION.

The opinion is given below in full: George W. Jenkins, the plaintiff below, sued the city of Scranton for his compensation as delinquent tax collector for the months of April, May and June 1901. Whether he was the legal collector for that period, and if so, what the city must pay him, are the two questions raised on these appeals. Their proper determination depends entirely upon the act of March 7, 1901, P. L. 20. By Article 2, Section 1, of that act, the department of collector of delinquent taxes is created. The first section of Article 2 provides that a recorder, appointed by the governing council, to appoint a collector of delinquent taxes. Section 3 of the schedule to the act provides that a recorder, appointed by the governing council, to appoint a collector of delinquent taxes. Section 3 of the schedule to the act provides that a recorder, appointed by the governing council, to appoint a collector of delinquent taxes.

to the passage of this act, relative to said office and collection of delinquent taxes, shall be and remain in full force."

CONTENTION OF CITY.

It is contended by the city of Scranton that, in the face of this last article, the recorder did not have the power to appoint a delinquent tax collector, because, by Section 3 of the act of March 15, 1878, P. L. 7, the select and common councils of the city, in joint convention, are authorized to elect some suitable person collector of outstanding or delinquent taxes, and to fix his compensation. The answer to this is, that so far as the election of a delinquent tax collector is concerned, the act of 1878 falls before that of 1901. The first provides for the election of a collector by both branches of council in joint convention; but the latter expressly enacts that he is to be appointed by the recorder, and the repealing clause of the act of 1901 is, that "all other laws for the government of cities of the second class, unless preserved by the terms of this act, as well as all laws inconsistent with or supplied by this act, are hereby repealed."

Further discussion could not be planned. But it is urged that he was legislated out of office by the councils of the city on April 2, 1901, because, on that day, an ordinance was approved that "the department of delinquent taxes shall be in charge of one person, who shall be the city treasurer. He shall have charge of the collection of delinquent taxes." The city, however, did not attempt by this ordinance to oust him from his office, and councils could not have done so, even if so inclined. They could no longer elect a tax collector, and they had no control over this particular appointment. Under the schedule of the act of 1901, it was exclusively with the recorder. What councils undertook to do, and did do, by the ordinance of April 2, 1901, was simply to exercise the power given in Section 1 Article 2, of the act of 1901, to provide "that the city treasurer may be appointed collector of delinquent taxes." It may be that the collector of taxes hereafter must be the city treasurer; but that question is not now before us, and we do not, therefore, consider it. It is sufficient to say that the ordinance of April 2 might as well not have been passed, for any effect that it had on the appointment made by the recorder the day before. This was the view correctly entertained by the learned judge below, who aptly said: "The recorder unquestionably had the power, under the law, to make the appointment. The ordinance of April 2 had no legislative existence when the appointment was made. It can make no difference in the interpretation of the law whether a person has been in office one day or a year. The plaintiff's appointment on April 1 was just as valid as his appointment had been named at a much later period and he had been collecting the delinquent taxes during that time. Whatever effect the passage of the ordinance had on the office of collector, it had no effect on the validity of the appointment made by the recorder on April 1."

COULD NO BE PLAINER.

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COUNTY IS TO ISSUE BONDS

LOAN OF \$225,000 WILL BE NEGOTIATED.

Money Will Be Applied to Liquidation of the Debt Incurred by the Election Contest, the Soldiers' and Sailors' Monument, Jail and Court House Repairs and Some Long-standing Constables' and Assessors' Bills—Continuation of Fee System Responsible for Issue.

County Commissioners John C. Morris, John Penman and John J. Durkin, with County Solicitor Herbert L. Taylor and Commissioner's Clerk W. G. Daniels, yesterday morning arranged for the issuing of \$225,000 of county bonds.

AVOCA.

The marriage of Miss Mary Clifford, to Richard Cavanaugh was solemnized in St. Mary's church on Tuesday evening by Rev. M. F. Crane. The bride and her attendant, Miss Mary Cavanaugh wore suits of brown tulle with white satin and applique trimmings. The groom was waited upon by John Keitrick, of Scranton. After the ceremony they left for Atlantic City where they will spend some time with the bride's mother who resides there. On their return they will live in Moosic.

BROOKLYN.

Brooklyn, April 25.—Mrs. Almira Brown spent Sunday with her daughter Mrs. W. L. Sterling. A. W. Hutson, of Scranton, called on friends here Tuesday and Wednesday. Dr. N. S. Sage preached an excellent sermon to the graduating class of the Brooklyn high school last Sunday. Mrs. Ephraim Pratt is still under the doctor's care. Mrs. Titus is visiting her daughter, Mrs. A. G. Sterling. Mr. and Mrs. A. G. Sterling were the guests of Mr. and Mrs. Frank Benjamin, of Nicholson, on Sunday. W. A. Squier, of Banglontown, is visiting his father, who is in poor health. Cranmer Tewksbury, of Scranton, is the guest of his mother this week. Miss Emma Eldridge, of Scranton, spent Saturday and Sunday at her home here. Mrs. S. E. Eldridge and Levi Stephens spent Monday in Scranton. Miss Mabel Tiffany has returned from a visit in Scranton.

COURT HOUSE NEWS NOTES.

MARRIAGE LICENSES.

Ludwig Siemiatkowski.....Scranton Josephine Nowakowski.....Scranton William Reynolds.....Scranton Mary B. Conway.....Scranton John E. Postinger.....Scranton Mary L. Batson.....Scranton Andrew Petrolko.....Danmore Helena Tomka.....Danmore

COURT HOUSE NEWS NOTES.

The hotel house of Rachel Jones, of the Fourth ward of Taylor, was yesterday transferred to David Rice.

FOREST CITY.

Forest City, April 25.—The friends of Sidney E. Lott and Miss Louise Hendricks were pleasantly surprised this week by news of their marriage at the Presbyterian manse in Windsor, Tuesday.

ARIEL.

Ariel, April 25.—Miss Jennie Myers is helping at cooking in the Columbia hotel. Mr. Curtis is disposing of his carload of horses at the lake. The farmers are busy turning over the soil this pleasant weather. Meetings will be held the remainder of this week at the Treslerville church. C. A. Benjamin made a business trip to Scranton this week.

Connolly & Wallace

Scranton's Shopping Center 123, 125, 127 and 129 Washington Ave.

OF INTEREST TO ALL WOMEN

Whether you are satisfied or not with your present Corset you will find a visit to our corset dealer profitable during the Demonstration and Free Fittings Of Her Majesty's Corset

And other products of the Princess of Wales Company. These corsets have earned a reputation that is international. They have successfully outlived dozens of weakly imitators, and they have grown better and better as the years have passed. The old styles continue in popular favor while the new styles, which have been added, have proven an innovation to thousands who desired HER MAJESTY'S splendid wearing qualities without so much rigidity. The new GORED CORSET, the new GIRLDE and the cheaper Princess of Wales' Corset, have solved many problems and put within the reach of many the best made Corsets in the world.

We Are Delighted to Announce The Engagement of Madame Menska, an Expert Corsetiere, for All of the Week, Beginning Monday, April 28th—Make Free to Consult Her.

Don't fail to ask for the latest production of the Princess of Wales Corset, the best value ever offered No. 87, Empire Shape } \$1.00 Per Pair No. 841, Long Gored... }

Connolly & Wallace.



Pie Authorities have all reported that the best mince pies are made with NONE SUCH MINCE MEAT. It will please you to know that every GOOD grocer in town has an ample supply. It is sold "compressed" in clean, sealed packages, not from open, mussy buckets. Ten Cents a Package. Meirell-Soule Co., Syracuse, N. Y.

Theatrical.

TODAY'S ATTRACTIONS.

LYCEUM—"The Fatal Wedding." Afternoon and night. ACADEMY—"The Outpost." Afternoon and night. STAR—Victoria Burlesques. Afternoon and night.

"A Fatal Wedding."

A very pretentious drama with a child playing the leading role, is the novelty now being presented at the Lyceum. "A Fatal Wedding" is the play and "The Outpost" who sings is not yet 10 years of age, is the phenomenal child star. She has a cut work than any of the adult members of the company, and, without disparagement to the others, she does the best work of the leading adult female roles, comprise a coterie of artists, who acceptably meet every exaction of the piece.

Sandow.

Eugene Sandow, the modern Hercules, with his own vaudeville company, makes his appearance in this city at the Lyceum Tuesday night. The youth of this generation, Sandow, the man of marvelous strength, is not only an example but an inspiration. Sandow was lost in America five years ago.

STAGE NOTES.

Edward C. White has under consideration a starting tour next season for Miss Nava Harrison, who has made such a triumphant success as Fan Fan in "Two Little Vagabonds." Miss Elizabeth Farby has submitted a play to Mr. White con-

Advertisement for The M & C Shoe featuring a large illustration of a shoe and text: 'The M & C Shoe For Men and Boys. (Union-Made.) Men's, \$2, \$2.50, \$3 and \$3.50 Boys', \$1.50, \$2, and \$2.50. Shoes Shined Free. 109 Wyoming Avenue.'

Advertisement for Kitchen Utensils featuring an illustration of a gate and text: 'Kitchen Utensils HAVING THIS TRADE MARK GATE MFG. CO. WE MAKE 1520 KINDS (burned in the enamel) are Safe We claim Purity and Safety, and substantiate this claim with Chemists' Certificates. Note the blue label used by us (and fully sustained by recent U. S. Circuit Court decision) to distinguish ours absolutely pure Agate Nickel-Steel Ware. This label is pasted on every piece of gateware Agate Ware. A full assortment of these goods for sale by all the leading DEPARTMENT and HOUSE FURNISHING STORES. Distributing facsimile of our label, please to any address. LALANCE & GROSJEAN MFG. CO. NEW YORK BOSTON CHICAGO ARE SAFE.'

Advertisement for Cubanola Cigars featuring an illustration of a cigar and text: 'ALL HAVANA FILLER Cubanola cigars cost one-third more to manufacture than other 5 cent cigars. Why Should you not have this benefit? SAVE THE BANDS FOR PRESENTS. Imperial Cigar Company, 109 Lackawanna Avenue. WHOLESALE TOBACCONISTS And Distributors of Cubanola Cigars. Lawyers The Tribune will guarantee to print your paper book quicker than any other printing house in the city.'

Large advertisement for the Atterbury System of Ready-to-Wear Clothes. Includes an illustration of a man in a suit and text: '"Atterbury System" "Atterbury System" "Atterbury System" Seems to us everybody is talking about it. We shall continue to talk about it, being convinced that it's perfection of clothes making. Why shouldn't we try our hardest to convince you? Many of the best dressed men in this city were convinced last season. They are, or will be, wearing the "Atterbury" System of Ready-to-Wear Clothes this season, reducing their tailoring bill about one-half. Our "ad." man can't give you proof of this in the newspapers, "Because it's all talk." Be honest with yourself, come in and let us prove beyond possible doubt that the "Atterbury" System of Ready-to-Wear Clothes is the greatest achievement of the tailor's art up-to-date. Samter Brothers, Complete Outfitters.'

Small advertisement for E. M. L... with text: 'This dispenser is on every box of this famous Laxative Bromo-Quinine Tablet. The medicine that cures a cold in 24 hours.'