

The Kirkland Press

VOL I

KIRKLAND, WASH., FRIDAY, AUGUST 31, 1906.

NO. 47

Facts.

C. L. Parish, Respondent, v. R. H. Collins et al., Appellants.

• Appeal—Bond on appeal—When not required of city officers—City real party.

Same—Briefs—Necessity of incorporating findings of fact.

Mandamus to compel city officers to or an election—Regulate number of Petitioners—Findings—Evidence.

Appeal from a judgment of the superior court for King county. Griffin, J., entered January 13, 1906, upon findings in favor of the plaintiff after a trial on the merits before the court without a jury, in an action for a writ of mandamus to compel the officers of a city to order an election on the question of reincorporation. Reversed.

Eward Judd, for appellants.
Frank S. Griffith, for respondent.

Moult, C. J.—Action in mandamus to compel the mayor and city council of the city of Kirkland to submit to the voters of such city the question of the reincorporation thereof. The writ was issued as prayed, and the mayor and council appeal.

Respondent moves to dismiss the appeal upon the grounds: (1) that no appeal bond was filed in the case; (2) that the appellants have not printed and filed findings of fact in their brief. The motion must be denied upon both grounds. While the mayor and city council are the nominal parties, the action is really against the city itself, whose life depends upon the result of the submission. The appeal is therefore in behalf of the corporation, which is by law exempt from the necessity of furnishing an appeal bond. *Wissend-Gas Co. v. Hill*, 24 Wash. 469, 604 Pac. 778. The case of *State ex rel. Smith v. Blumberg*, 34 Wash. 640, 76 Pac. 272, relied upon by respondent, is not in point. The distinction is clearly pointed out in that case. Subdivision 5 of rule 8 does not require appellants to print all the findings made by the lower court, but only those on which any question is sought to be raised. This has been done in the appellants' brief. The motion to dismiss is therefore denied.

The affidavit for the writ, after alleging that the city of Kirkland was a municipal incorporation of the fourth class, containing less than two hundred and fifty legal voters, and that the appellants were the mayor and city council respectively, alleged in substance that, on the 20th day of November, 1905, the affiant and sixty-nine others, at a regular meeting of said council, presented a petition to said council, praying that the said council should forthwith order an election to be held in said town for the purpose of determining whether or not said corporation should be dissolved, and for a receiver for the purpose of winding up the affairs of such town. The affidavit also alleged, that each person named in the petition was a duly qualified voter in such town; that the petition contained the names of more than a majority of the legal voters of said town; and that the mayor and council refused to consider the said petition, and refused to call an election as prayed for therein, or at all; that the said mayor and council, after the filing of the petition, approached the petitioners and solicited them to withdraw their names from the petition, and that said mayor and council had declared that they would not grant such petition, but would deny and fight the same.

Upon this showing, the lower court granted a show-cause order against the said appellants, who appeared to move to strike certain allegations in the affidavit, and upon their motion being denied, demurred to the petition. This demurrer was overruled, and then the appellants answered, admitting that the town was a municipal corporation of the fourth class, containing less than two hundred and fifty qualified voters; that appellants were the qualified and acting mayor and city council, respectively; that a petition was presented to such council on the date named, and that same of the members of the council did seek to have certain signers of the petition withdraw

their names therefrom; but denied all the other allegations of the affidavit, and alleged affirmatively that, at the time the petition was presented to the council, it was immediately acted upon and referred to a special committee, which was instructed to verify the sufficiency and genuineness thereof and to report to the council at the next regular meeting, which would be held on December 18, 1905. The answer also alleged that the number of lawfully registered voters in said town, at the time the petition was presented, was more than one hundred and forty, and that before the next regular meeting of the council and before the council had finally acted upon the petition, eight of the petitioners had withdrawn their names from the petition, leaving only sixty-two names thereon, and that said number was not a majority of the voters of said city. The answer was served on December 13, or five days before the next regular meeting of the council. The reply denied all the new matter alleged in the answer, and further alleged that if any of the said petitioners had withdrawn therefrom, the same was done through fraud, duress and coercion, brought about by the members of the city council. Upon these issues the cause was tried to the court without a jury.

The only evidence offered at the trial was evidence tending to show the total number of voters on November 20, 1905, and the qualifications of those whose names appeared on the petition, and the efforts by certain councilmen to persuade petitioners to take their names from the petition. It was shown without dispute that, at the time of the trial, which occurred in June, the city council had acted upon the petition and had denied the same. The court made findings substantially

following the affidavit for the writ, among which were findings to the effect that every one of the petitioners was a qualified voter in the town at the time of the filing of the petition with the town council, and

"that said petition mentioned in finding herein contained many more than a majority of all the lawful voters in the town of Kirkland on the 20th day of November, 1905, at the time when the petition was presented to the town council of the town of Kirkland, and that said petition always had contained, at the time of the hearing herein, and does now contain many more than a majority of the lawful voters of the town of Kirkland, and said defendants and each of them at all of said times knew that said petition contained the names of more than a majority of all the lawful voters in the town of Kirkland."

We have very carefully examined the record of this case and there is no evidence at all to support these findings. It was conceded on the trial that at least one of the petitioners was not a voter, and it was shown beyond dispute that at least eight of the petitioners had voluntarily withdrawn their names from the petition by a writing to that effect, filed with the council before the council acted upon the petition. It was also shown beyond dispute that there were at least one hundred and forty lawful voters in said town at the time the petition was filed with the council. These being the facts practically conceded, the court should have denied the writ and dismissed the proceedings. Other fatal errors are presented in the brief and by the record, but in view of the necessary result of the facts above stated, it is unnecessary to consider other errors.

The judgment is reversed, and the action ordered dismissed.

Rudkin, Dunbar, Crow, and Fullerton, J.J., concur.

Bryan Returns on Princess Irene.

Friends Greet Nebraskan and Hail Him as the Next President.

REFUSES POLITICAL TALK.

Declares He Has Nothing to Add Regarding Conditions of Accepting Nomination.

New York, Aug. 29.—Under gray skies, but in exuberant spirits and bronzed by the sun's rays of many climes during a year of travel completely around the world, William Jennings Bryan, of Nebraska, twice the nominee of the Democratic party for president of the United States, and already endorsed as the candidate for 1908, steamed up New York bay this afternoon on the steamer Princess Irene and received an ovation from large welcoming parties which went down to quarantine to meet and cheer the incoming vessel and its distinguished passenger.

Mr. Bryan did not enjoy his usual health during the voyage, but he was much better today, and said that he felt sure he would be able to carry out the plans which have been made for him during the next few days. He was very much fatigued when he boarded the steamer, and during the entire voyage suffered from indigestion and

severe headache. His illness was not serious enough to interfere with his work, however, and he devoted a large portion of the nice days at sea to preparing his speeches and keeping up his correspondence.

Mr. Eryan will not land in New York proper until tomorrow afternoon, when he will be received at the Battery by delegations of prominent Democrats from all parts of the country and escorted to the hotel where he will make his headquarters while here.

TO START LAYING CABLE NEXT MONTH.

Burnside to Extend Government Line to Wrangell, Hadley and Ketchikan.

The Alaska cable connecting Ketchikan will be laid some time in September, according to Lieut. Col. Glassford. The work is to be done by the cable ship Burnside, which is now at Tacoma undergoing extensive repairs and alterations. Col. Glassford stated that the work would not require more than a week or ten days, provided the vessel was not hampered by fog or heavy weather. The distance to be covered between the point to which the branch will be attached and Ketchikan will be about 20 miles.

The new cable will connect Wrangell, Hadley and Ketchikan with the outside world. Since the Alaska cable was laid two years ago, shippers and shipping men have tried to get a cable to Ketchikan. After leaving Juneau it is impossible to get a message regarding the whereabouts of any of the steamships which ply along the Alaskan coast.

Would kill Officer

Band of Thieves in San Francisco Probably Fatally Wound Policeman J. J. Cook.

WERE STEALING WIRE.

One of Gang Puts Three Bullets Into Body of His Victim and All Escape.

San Francisco, Aug. 29.—An unknown man shot and probably fatally injured policeman J. J. Cook at Seventh and Brannin Streets shortly after midnight this morning.

A special squad of policemen at all stations in town, comprising available officers, was at once detailed as a scouring party, but at a late hour nothing had been learned which might lead to the capture of the man who committed the crime.

Policeman Cook had been stationed for sometime at a bank at Seventh and Markets Streets and after going off duty at midnight, started to walk down to the Southern Pacific yards, in order to catch a freight train to Ocean View, where he lived.

At Seventh and Brannin he came across four men who were engaged in unreeeling from a spool a cable of the Home Telephone Company, which had been left there by workmen preparatory to putting it down into a manhole. The men were cutting the cable and the policemen placed them under arrest. He began to question one of them and had learned from him that he lived at Eighth and Berry Streets.

When the man was asked to show a revolver and placing it to the policeman's stomach, fired three shots in quick succession.

Cook fell to the ground but as he lay wounded in the street, managed to draw his own gun and emptied the contents of the chambers at the fleeing men. The man who shot him turned and fired back two more shots and disappeared into the darkness. Cook was shot three times in the side and abdomen. The surgeons don't think he can live. He has a wife and two children.

Direct Primary and Good Roads.

Democrats of King County Will Indorse Both in Their Party Platform.

DISCUSS THE CANDIDATES.

Sheriff's Office Is the Principal Plum Sought—Want a Commission.

The King county Democrats propose to pledge the party to two things in the county platform: The direct primary and good roads.

While little organized effort has been made to line up candidates, or to find where the party stands on money, the arduous, peerless leader of Lincoln, Nebraska, or any of the erstwhile paramount issues of Democracy, the untiered of King county are a unit on good roads and the elimination of bossism through the direct primary.


The Democrats will pursue the usual plan of campaign, that of naming candidates after the Republican nominations have been made. This gives them an opportunity to take advantage of any mistakes their opponents may make.

Observations

The politics this year seems to be more lively than ever. The old school of politicians have to make their campaign most desperate in order to make their nomination stick, and with that it might be only a betting chance to be elected. The time is not far away, when the nomination will come direct from the people to the man whom they desire to elect.



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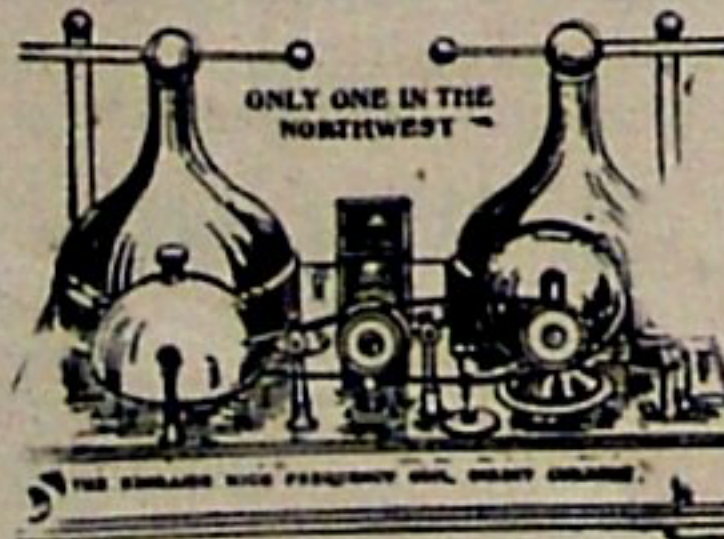
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Kirkland Notes.

Mrs. Dr. Mead of Everett is the guest of her sister Mrs. W. K. Adams.

Mrs. Kate Jones is rapidly recovering from her recent accident and is at present visiting her daughter Mrs. Chas. Falkner in Seattle.

Mrs. C. H. Babcock entertained at lunch Mrs. Vanena of Seattle. Mr. Albertson of Winsmore Poultry farm has exchanged his blooded stock for Seattle property and will shortly remove to the city.

Miss Bayne has returned from a three weeks visit in Vancouver, B. C.

Mr. & Mrs. Phillip Jones have returned to their home in Portland, Ore., having spent a month with friends here.

Mr. & Mrs. W. G. Hartranft of Berkeley, Cal., are the guests of W. K. Adams.

Messrs Adams & Babcock are busy building a sidewalk in South Kirkland that will greatly benefit that part of the town.

Miss Getty has returned from spending the summer in Cherry Valley.

Kirkland, Aug. 30.—The district Lodge of the Independent Order of Good Templars met here today. A large delegation from Seattle and surrounding country arrived on the morning boats. The Lodge was presided over by District Chief Templar Judge Bushell of Seattle.

A public meeting was held in the evening in the Methodist Church and was addressed by Geo. F. Catterell and Judge Bushell. This was one of the most enthusiastic meetings of the district and made a favorable impression on the people of Kirkland.

The ladies of the Cong. Church took dinner Wednesday of this week, with their former member and worker, Mrs. J. W. Mott, of Georgetown.

Mr. Perny Knight of Bucoda spent Sunday last with his parents at Kirkland.

Mr. B. York of Downs, Kansas, is visiting relatives in Kirkland.

Misses Mazie Hancock and Linnea Blomskog spent Sunday with Mrs. Rosa Tompkins.

Master Claude Elwood of Shelton is visiting relatives in Kirkland.

Mrs. Wm. R. Stevens, who has been confined to the Green Lake Hospital for the last two weeks has returned to her home in Kirkland.

Mr. Harry Cells of the Kirkland Mercantile Co. is seriously ill with appendicitis at Providence Hospital, Seattle.

Miss Ruby Weston of Everett, has been visiting Miss Ada Sharp for several days.

The social dance given in Kirkland Saturday evening was well attended. All present apparently enjoyed the occasion.

Mrs. Florence Neal who has been visiting friends and relatives in Seattle and Kirkland for some time past has returned to her home in Spokane.

A. D. Churchill, town clerk, is kept busy these days taking names of those who wish to vote in the coming election, some of them vital importance to Kirklandites. Don't fail to sign the roll.

Knight & Lewis are sending out a boom of logs this week. Latona Mill Co. purchasers.

Prof. A. D. Steinenger, formerly in charge of the Kirkland schools, has gone north to take up work in Douglas, Alaska.

CHURCH NOTES.

M. E. Church, Kirkland. J. M. Weaver, pastor. Sunday School at 10 a. m. Preaching at 11 a. m. and 8 p. m. Morning subject: Epochs in Life. Evening subject: The Four-square Man—a sermon to men. All are cordially invited. A baptismal service and the reception of members will occur during the morning service.

The Baptist Church is receiving a new coat of paint, the work of that veteran painter, Mr. Cornwell.

Several serious forest fires are raging around Kirkland this week doing considerable damage.

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AWAIT FARLEY.

Frisko's Railway Co. Refuse Offer of the Strikers and Await Men From East.

SAN FRANCISCO, Aug. 30.—The strike situation is quiet today. The company has made no attempt to run cars, but is awaiting the arrival of Boss Farley and the strike breakers from New York. President Calhoun, of the United Railways, has made no reply to the offer of the carmen to go back to work for \$3 a day and arbitrate the number of hours, and it is believed they will not consider the offer.

Owing to the possibility of disorders Chief of Police Dinan today recalled 200 policemen on leave of absence on account of the fire and withdrew an order releasing 200 more Saturday.

SHORT SEVEN MILLION.

President Philadelphia Institution Dies in His Bath Tub and Bank Closes.

UNPROTECTED LOANS.

Previously Conservative Banker Loans Rashly to Promoter and Causes a Deplorable Crash.

Philadelphia, Aug. 29.—Persistent rumors that President Hipple of the Real Estate Trust Company committed suicide were borne out tonight when it was authoritatively stated that he took his life at his home last Friday morning. Mr. Hipple is said to have taken a dose of laudanum with suicidal intent. While still conscious he filled his bathtub with water, and later was found apparently drowned. Mr. Hipple's family decline to make any statement on the subject and the physicians interested in the case decline to be interviewed regarding the suicide theory.

The institution which closed its doors yesterday was the depository for nearly a million dollars of the funds of the Presbyterian church and holding \$300,000 of the money of the city of Philadelphia and \$175,000 of state deposits.

The failure was caused by heavy loans made by the late president Frank K. Hipple to Adolph Segal, a promoter, on insufficient security to the extent of \$8,000,000 to \$9,000,000. A desperate effort was made to save the institution by the board of directors through an appeal to the clearing house association but that body declined to subscribe a guarantee fund of \$7,000,000 because of insufficient securities.

The liabilities are placed at \$10,000,000, with quick assets of \$3,500,000 and doubtful collateral amounting to \$8,000,000.

Directors Give Personal Notes.

A meeting of three directors was held Monday and the affair of the company were found to be badly involved. It was discovered that the shortage would amount to about \$7,000,000 and each of the directors gave his personal note for an amount that would aggregate \$3,500,000. It was then decided to ask the clearing-house to come to the aid of the institution. The newspapers were requested to refrain from commenting on the company's difficulties until after yesterday's meeting of the clearing-house, as the directors were sanguine that the institution would be saved.

Rumors of trouble reached the depositors and there was a slight run on the bank, but it was not sufficient to bring about the collapse of the concern. About forty banks were represented at the clearing-house meeting today, but they were unable to pledge the amount of money required with-

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The Kirkland Press

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FRIDAY, AUGUST 31, 1906.

Harvest for Printers

New Railroad Rate Law Means a World of New Business for Job Offices.

COST TO SANTA FE.

This Company Says It Will Cost the Road \$100,000 for This One Item in Law.

San Francisco, Aug. 29.—The Santa Fe has found that it must expend \$100,000 to comply with just one of the many provisions of the railroad rate law, which went into effect throughout the United States yesterday.

This expensive provision is a clause which compels a common carrier to make public all rates, fares and charges for transportation of its local and through business. Every shipping point must be provided with a complete tariff book. All other roads of course fare in the same conditions.

"It is a great day for the printers and binders," said Assistant Freight and Traffic Manager E. Chambers of the Santa Fe. "We are having our tariff books printed in San Francisco, Los Angeles and Chicago. The work will cost \$100,000. We are rushing it as fast as possible.

The new law provides that the rate schedules must be printed in large type and a copy be placed in every depot or shipping point for convenience of the shipper. Formerly only a few rates were quoted at small stations. Many of these were notifications by letter.

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