## LOCAL BOARD OF HEALTH.

### Attorney General Bishop Says They Should be Appointed Throughout the State.

**Failure to Appoint Has Been Made in Many Localities—Law and Penalty Are Quoted.**

Here since the appointment and organization of the state board of health there has been some talk now of a declination on the part of officers in different portions of the state to establish local boards and otherwise comply with the provisions of the statute. You folks are on their part caused by the failure of the state board of health, we have been nothing on enforcement of the law, to solicit an opinion from Attorney General Bishop on the matter. The correspondence and reply are, by request, herewith given in full:

Dear Sir:—In your favor of October 31st, I am in receipt of the following:

"Will you please advise the state board of health with reference to the mandatory duty of officers to enforce compliance with section 1206 of the Revised Statutes, which provides for the organization of boards of health? Many of the localities in the state have ignored the provisions of this section, and have failed to effect a complete organization at the earliest possible time.

"Will you please inform us what, if any, penalty will attach to you refusal to make the duty of the board of health to call meetings of every board of health within the state, and to establish or maintain a board of health, for each town or city, to which it belongs, and to enforce the law? Also, where practicable, what be a physician, a graduate of a regularly chartered medical college, who refuses to act as officer of the board and be known as the health officer.

"Under the provisions of section 206, Revised Statutes, the general power is given to cities and towns to establish boards of health to secure the general health of the city, to prevent the introduction of contagious diseases into the city, and to prevent the spreading of the same within the limits of the city, and to make general sanitary laws and enforce the same within the limits of the corporation, and within twelve miles thereof. To create a board of health and prescribe the powers and duties of the same.

"Section 1206, to which you refer, provides that each board of county commissioners shall divide the territory outside of the limits of incorporated cities and towns, including mining districts, and shall appoint a health officer for each district, who shall be, when practicable, a physician of three years' practice, who shall, together with the boards of county commissioners, constitute the county board of health.

"Subdivision 28 of section 851, Revised Statutes, invests the board of county commissioners with the general power to adopt such provisions for the preservation of health in the county, or any district thereof, or persons thereof against contagious or infectious diseases as the board may deem necessary, and to provide for paying the expenses thereof. It shall be the duty of the board of county commissioners to appoint health officers, who shall hold their offices for the term of two years, and shall serve without compensation. The board of health shall have a general supervision of the interests of the health and lives of all the people within the limits of the sanitary condition of the county, etc."

Under these provisions it is clearly the duty of the trustees or city council, for incorporated towns or cities of the first class, to establish a board of health and, it would seem, enforce the legislature, in its wisdom, has enacted proper penalties for disobedience, that they should be enforced by public officers and their pervasive exercise and control over public officers and their performance of duty. The expediency of the law ought not to be a question of duty on public officers in executing the will of the legislature.

You ask to be advised as to what measures are necessary to enforce compliance with these provisions.

In cases where such public officers have ignored the law, and neglect and refuse to serve or to perform the duties of the office, a petition addressed to the district court, setting forth the facts, and praying for a writ of mandamus, commanding the officer to perform the duty imposed upon him by the statute, will be the proper remedy. If the refusal to act is wilful, and with the intent to violate the law, the refusal constitutes a misdemeanor, and the officer is liable to indictment and punishment for such delinquency, in addition to a mandamus.

Any officer refusing to act when sworn in our penal code, and to a general provision applicable to all officers, declares every officer in the State, whether he be a State, county, municipal or district officer, who shall neglect or refuse to carry out the provisions of sections 1205 and 1206, supra, in the opinion, guilty of a misdemeanor, and subject to a prosecution and punishment for a misdemeanor.

Aside from specially relating to county officers, section 857 of the Revised Statutes provides: "Any county commissioner who refuses or neglects to perform any duty imposed upon him, without just excuse therefor, or wilfully violates any law relating to his office, is guilty of a misdemeanor, and on conviction thereof, in addition to the penalty provided by the next section, forfeits the county fine and shall be disabled from holding any office in this State."

If the county commissioners of any county wilfully neglect or refuse to execute the provisions of the statute, I am of opinion that they would be liable to forfeit the fine of $1,000, and subject to indictment for every such neglect and refusal. In addition to the penalty provided by section 857, supra.

Under subdivision 3 of section 851, Revised Statutes, relating to the duties of county attorneys it is provided that he shall prosecute all actions for the recovery of fines, penalties and forfeitures accruing to the State.

Under this provision it would seem that it would be the duty of the county attorney, upon the refusal of the county commissioners to perform the duties imposed by section 1206, above referred to, to institute proceedings for the forfeiture provided in said section, and, under subdivision 2 of said section, it would be the duty of the county attorney to institute proceedings under the provisions of said section, which, for the information of the board, I have herewith transmitted.

I have the honor to be, very respectfully,

P. M. BISHOP,
Attorney General.

**Bank of Mormon Clubs.**

At 7:30 this evening at the Templeton, the Bank of Mormon Clubs will assemble. The difference of terms and exemption from bondage, and their subject is the land of Zarahemla. All are cordially invited.

### AMUSEMENTS.

Tomorrow night Mr. and Mrs. Edwin Milton Royle will be seen at the Salt Lake Theatre in a bright bill, Captain Impudence, Miss Weston of Wall street, and The Highest Family. In addition to these, Miss Irene Franklin will introduce some queer vaudeville acts. It is needless to say that these features will receive a warm reception here. A repetition of Tuesday evening's bill will be given tomorrow evening. The matinee performance will be read from the stage Tuesday night between acts.

The Ali Baba and Forty Thieves organization at the New Grand this week is drawing large houses, and is meeting with favor generally, and is pleasing to the patronizing and discerning.

The Weekly and Miss Comedy company—the identical one by the way that has appeared at the Farnum Theatre, at the Theater last month, comes to us with the full title of the Lyceum Theatre Comedy company, direct from the Grand Opera House, Atlantic City, N. J. The Old Reliable Farce Comedy Co. has been strengthened and improved since last it appeared here, and is presenting a good show for all its ensemble.

The Lyceum Dramatic Dollar and Opera company opened to a fine audience at the Theater last night. Fatinitza is the bill presented and the company is well received by the audience. The Lyceum company is one of the best that has been seen here for some time.

### FATALLY BURNED AT BRIGHAM

**Three-Year-Old Child Plays Around a Camp Fire.**

Daughter of Mrs. Leslie [illegible] Meets with a Sad Death [illegible]

Special to the "News."

Brigham City, Nov. 6.—A three-year-old daughter of Mrs. Leslie Beaver died this afternoon from burns received a short time previous. A number of children were playing around a camp fire when the child's dress caught on fire with the above result.

### CAPTAIN WASH YOUNG HOME

**Returns from Florida, Where He Did Valuable Service.**

Captain J. Wash Young of Torrey's Rough Riders came home Sunday morning shortly and remained after his appearance at the booth. He left Jacksonville on the 29th of October, and was at that time in the old camp grounds. He was feasting, and three hundred men had an elegant dinner furnished to them by the commissary department, including garbage.

Captain Young made improvements in the commanding officer of the hospital of the Seventh army corps at Siboney—a building which was formerly occupied by Admiral Sampson. He was also in the fight in which Lieut. Hamilton was killed. When a man's hand was shattered by a shell, Captain Young was called upon to amputate it. The first grave the sick soldier saw the next day, being one of the soldiers who was buried. He was also in the three days' fight in the trenches before Santiago. Another man he raged in the southwestern part of the city, and the captain's men shoot he went with them when he was captured there