

ti-n. The cases of Clinton vs. Engelbrecht, 13 Wall., and Snow vs. United States, 18 Wall., are relied upon as sustaining this position.

In neither of these cases was the question as to the mode of filling Territorial offices, which was not provided for in the Organic Act, involved, nor was it in either case passed upon by the court. In the first case it is true the point was made by counsel, but not being properly before the court, it was not considered, and is disposed of in these words: "Nor do we think the other objection sound, viz.: That the required participation of the Territorial Marshal in summoning jurors invalidated his acts, because he was elected by the Legislature, and not appointed by the Governor. He acted as Territorial Marshal under color of authority, and if he was not legally such, his acts cannot be questioned indirectly." The doctrine of approval by Congress of Territorial legislation, by tacit recognition, cannot be carried further than this, to wit: Enactments of a Territorial Legislature which are not in conflict with a positive Congressional statute, are to be taken as approved by Congress unless affirmatively disapproved. Hence, as to such enactments, the silence of the National Legislature upon the subject for a reasonable time warrants us in assuming the approval of Congress. The case is different, however, when the local Legislature exceeds the authority given. Congress is the source of its power. Created by the Federal statute, it has no authority except that granted. When a prohibition exists, its acts in contravention thereof are usurpations, and there is no necessity for further action by the supreme authority. In such case Congress has spoken and disapproved in advance. Would it be contended that the failure of Congress to affirmatively disapprove of an act of the Utah Legislature relative to church incorporations, and the acquirement of real property thereby, passed in open defiance of an existing Federal statute, is to be taken as approved by Congress simply because Congress fails to affirmatively disapprove it? Certainly not. Congress having stated its disapproval by marking the limitations of power, nothing remains but for the courts to enforce the controlling, the supreme law. In such case the Territorial law is void *ab initio* and the silence of Congress cannot revive, where there never was an existence. In such case nothing short of an express approval by Congress can give effect to the Territorial statute. See *Ferris vs. Higley*, 20 Wall.

As to the second question, I am of opinion that the ballot should not be rejected *in toto*, but that it should be counted for the persons named therein for counts and precinct offices, and the voting for candidates for the Territorial offices should be treated as surplusage.

The elector in casting such ballot has expressed his choice of persons to fill the county and precinct offices, which are elective, in clear and unmistakable terms; effect is to be given to his voice thus expressed, unless such ballot was cast in plain contravention of some law. The putting upon his ballot the name of a person to fill an office not elective or not then vacant is at most an irregularity, often the result of an honest mistake, never indicative of a fraudulent intent; indeed, nothing fraudulent could be accomplished by it, nor could anyone be injured by it. Such irregularities should not be held to silence the voice of the elector in reference to matters respecting which he has a right to express, and has clearly expressed his purpose in the method pointed out by the statute. Respectfully submitted,

W. H. DICKSON.

July 29th, 1864.

#### LOCAL NEWS.

FROM THURSDAY'S DAILY, JULY 31.

**Releases and Appointment.**—Elder George Atkin, Jr., of the London Conference, and Elder John Williams, of the Sheffield Conference, have been released from their labors in this land to return to their homes in Utah.

Elder Reuben Carter is appointed to labor in the Birmingham Conference.—*Mill. Star.*

**Obsequies.**—The funeral services over the remains of Brother William Barker Child, whose death from paralysis has been announced, were held on Tuesday afternoon, in the 11th Ward meeting house, and conducted by Bishop A. McRae. A very large congregation was present. The choir, led by Brother Tuckett, sang some beautiful music; Elder W. A. McMaster offered the opening prayer; remarks were made by Bishop E. F. Sheets, who baptized Brother Child in England in 1845, by Elder W. W. Burton, who had followed Brother Child's father, mother, and four brothers to the tomb, and by President Joseph F. Smith, who explained many glorious principles connected with the life, resurrection and future glory of the Saints of God. The benediction was pronounced by Elder C. W. Penrose. Thirty-three carriages laden with sympathizing friends followed the hearse to the cemetery, where Counselor Robert Morris offered the dedicatory prayer. Brother Child and his family have the respect of a very wide circle of friends and acquaintances.

#### TERRITORIAL ITEMS.

CULLED FROM LATEST EXCHANGES.

—Colorado has more than a million and a half of sheep.

—A company is being formed in Denver to build a crematory.

—Hon. L. J. Herrick, of Ogden, has gone to Soda Springs for an out.

—The Union Pacific railroad magnates are expected in Ogden to-day.

—Buffalo along the line of the U. P. R. R. were lately seen near Rawlins, Wyoming.

—George W. Trimble has been nominated for Governor by the democrats of Colorado.

—Three hundred thousand ties a year are required to keep the Atchison, Topeka & Santa Fe road in New Mexico in repair.

—Ogden had another fire alarm night beforelast. The firemen had a stream of water on the flames within seven minutes of the sounding of the alarm. Cause supposed to be incendiary. No damage.

—Last Thursday a Chinaman under sentence of death at Halley, Idaho, attempted to escape by trying to knock down the jailor. He struck the jailor on the head with the heel of a heavy boot, making a gash about two inches long. The jailor knocked the Chinaman down with his fist and then put him in irons.

—The People's ticket for Morgan County is as follows: Probate Judge, Joseph R. Porter; County Clerk, Jas. Durrant; Selectman, full term, Wm. H. Toone; Selectman, one year, Peter Anderson; Prosecuting Attorney, Frederick Kingston; Assessor and Collector, Landon Rich; Surveyor, Edward W. Hunter; Supt. District Schools, Thos. R. G. Welsh; Coroner, Jas. Durrant.

—The *Utah Journal* (Logan) publishes an account of a brutal fight on the 24th inst., at Smithfield, between a couple of young men, in which one of the combatants chewed about two-thirds of his antagonist's ear off. Worst of all, the "chewer" swallowed the member, and pointing with some pride to his stomach, remarked to his foe: "D— you, you needn't look on the ground for your ear, it's down here."

#### THE BAD BURGLARS.

SOME OF THEM AT LAST BEHIND IRON BARS.

The police have at last got their hands on some members of the gang of thieves who have committed such daring acts of depredation in this city for the past three or four weeks, and the worthies are languishing in jail awaiting developments which continue to turn up, and which it is hoped will make a complete chain of evidence, sufficient to land the culprits where they ought to be, behind the walls of the States prison.

For two or three days the officers have been in possession of information which led them to keep a close watch upon a half dozen or more young fellows of gentlemanly mien and manner and with a decidedly sporting appearance, who hovered in and near two or three little beer saloons on Second South street. Their watch was, however, in vain, for the sports, seemingly aware that they were spotted, refrained from doing anything which would give the officers an excuse to arrest them. Yesterday, however, the required cause was furnished, and within three hours thereafter one "Nosey" Banks and a pal were in custody.

It transpires that several days ago a trunk containing valuable clothing was stolen from the St. James Hotel. It was the property of Mrs. Hanak, who has been absent from the hotel for some time, and only returned yesterday. Of course on going to her apartment she missed her trunk and immediately gave the alarm. In a short time the missing article was found in Brooksbank's second-hand store, next to Dinwoodey's furniture warehouse, and the proprietor was fortunately able to give the description of the two men who brought it there to sell. This was found to fit exactly a couple whom the police were watching, and they were at once arrested. They had, however, previously taken out a number of the more valuable articles of clothing, which it is supposed were sold at other places. The recovery of these if that is possible will help to identify the other members of the gang. The police took time by the forelock in the matter, and arrested all the suspicious characters they had been following, and the result is that eight prisoners are in the city jail. Later developments will be awaited with interest. Meanwhile the birds are where they can do little damage.

FROM FRIDAY'S DAILY, AUG. 1.

**Change of Time.**—The Utah Central Railway will adopt a new time card to-morrow, August 2d. The Atlantic Express will leave at 7.30 a.m. instead of 7, and the local express will leave at 10.17 a.m., and Pacific Express at 4.30 p.m.

Trains will arrive from Ogden as follows: Pacific Express at 10.50 a.m. Local Express at 4.20 p.m., and Atlantic Express at 7.50 p.m. There are no changes yet in the southern trains.

**Beaver's Ticket.**—The People's Party Ticket for Beaver County, adopted at the county convention held in Beaver City July 26th, 1864 is as follows: For Probate Judge, F. R. Clayton; Prosecuting Attorney, B. Ferguson; Selectman (full term), C. C. Harris; County Clerk, H. Emerson; Treasurer, C. P. Bird; Sheriff, W. W. Hutchings; Assessor and Collector, S. N. Slaughter; Surveyor, W. G. Nowers; Coroner, J. Field.

**Capsized and Seriously Injured.**—The following special dispatch from Brigham City was received this afternoon: "While a party of excursionists were returning from a trip in the mountains, and when on the long rocky dugway east of Mantua, a team handled by Alviras E. Snow became unmanageable, ran away and overturned the carriage. Snow and his sister Parentha were seriously hurt. Miss Alice Dinwoodey, of Salt Lake, was in the same vehicle, but escaped with only a bruised arm. Miss Snow is still at Mantua, it being thought unsafe to move her."

**Death of a Pioneer.**—At twenty minutes past 4 o'clock yesterday afternoon Orson K. Whitney, one of the "Mormon" Pioneers, died at the Deseret Hospital. The deceased had been very feeble for several months, and was taken to the Hospital for treatment, where he had every care and attention, but continued to fail, and for some time past was out of his mind. His death was a happy release, for his health was completely shattered and his mental powers were rapidly waning.

Orson Kimball Whitney was the second eldest son of the late Presiding Bishop Newel K. Whitney and Elizabeth Ann Whitney, and was born in Kirtland, Ohio, January 30, 1830. He was, as said, one of the original company of Pioneers who entered Salt Lake Valley, July 24th, 1847. In early days he filled a mission to the Sandwich Islands.

He was well known in this city, where he has resided for many years, and though, like all mortals, he had his faults and weaknesses, he was naturally possessed of an intelligent mind, a kind and generous heart and a chivalrous spirit. He was never known to falter in his faith and allegiance to "Mormonism" which he knew to be the work of God. His worst enemy was strong drink, and it finally overcame his iron constitution. His case is one that points a moral, and when that is said the mantle of charity will cover up the rest. The funeral was set for five o'clock this afternoon.

#### PROSECUTION AND PERSECUTION.

HIGH-HANDED PROCEEDINGS IN AN ALLEGED CASE OF POLYGAMY.

The fact that Ammon M. Tenney, of St. Johns, Arizona, was arrested on July the 10th, charged with polygamy, and on the 12th, held in \$5,000 bonds to appear again for examination before the U. S. Commissioner, on the 22d of August, is already known to our readers. But the details of the matter, so far as they have gone, have not hitherto been laid before the local public.

It seems that when Mr. Tenney was first arrested he was given fifteen minutes by Commissioner George A. McCarter to say whether or not his wife should be present at the examination on the 12th of July, and if he did not promise to have her there, he was told that an officer would be sent after her immediately. Mr. Tenney promised to have her present, without the aid of an officer, although she was in a delicate condition and the distance to where she was at the time was twenty miles, and notwithstanding that the wife cannot lawfully be made to testify against her husband.

About the same time an officer went to Mr. Tenney's home, in St. Johns, in search of his reputed plural wife, and when it was ascertained that there was no such person there, the Commissioner went in person to the house, no doubt thinking to overwhelm Mr. Tenney with his august presence. He told Mr. Tenney that unless he should immediately produce a plural wife for a witness he would issue a search warrant and have the house searched. Mr. Tenney advised him to do so immediately, and this remarkable U. S. official departed apparently not in a very good humor.

That night, about 10 o'clock, Mr. Arthur Tenney, a brother of the accused, discovered three men crawling on their bellies around the house. Mr. Tenney ordered them up onto their feet and they arose with alacrity, when Arthur discovered that one of the party was "Bill Lewis," the land jumper, whom he addressed in this manner: "If you have a search warrant, come into the house like men, if not, Lewis! I would like you to understand that you cannot sneak around here in this way, even if you are a low down land jumper." Lewis was meek and submissive, and they all departed in a lamb-like manner. Failing to produce a search warrant they were not permitted to enter Mr. Tenney's house.

On Saturday the 12th inst., at 2 p.m., Mr. A. M. Tenney was present, (his wife also) ready for examination. Atty. Harris Baldwin appeared for the defense, when strange to say the government counsel stated they were not ready to proceed for the lack of witnesses. The counsel for the defense pressed for a hearing, but the Commissioner turned a deaf ear, and adjourned the case until the 22nd day of August 1864, and placed Mr. Tenney under \$5,000 bonds to appear for examination at that time, and also placed Mr. Tenney's wife under \$1,000 bonds to appear at the same date as a witness against her husband.

—A 15-year-old daughter of Soren Jensen Logan had her thigh broken last Tuesday by a kick from a horse.

#### BISHOP LEONARD W. HARDY.

HIS WELCOME RELEASE FROM THE TOLLS OF MORTALITY.

Late yesterday evening the sad news became current in the city that the venerable Bishop Hardy had departed this life. The tidings was shortly afterwards confirmed by a message from the family residence in Sugar House Ward, where the deceased had been since his last stroke of paralysis some days ago, and the hour of 7 o'clock was reported as the time of his release. It has been generally known for some time that the Bishop was failing, and the universal opinion obtained that his death could be but a matter of a few days at most. His astonishing vitality and unbending will are perhaps the agents which have enabled him at the advanced age which he reached to sustain what would have overcome many a younger man, and it has been a matter of uncommon surprise that he held out so long. Notwithstanding this fact, the report last evening was received with a shock to the feelings of every listener, for so susceptible is the human heart to the sweet influences of hope, that it can only be prepared for the best even though knowing that the worst is inevitable. In the present instance however these terms cannot be considered as properly used. Bishop Hardy's liberation from the sad and helpless condition to which paralysis had reduced him, ought not to be considered the worst;—it should rather be looked upon, as it no doubt was, and anxiously looked forward to by the sufferer himself, as a happy release which should not delay its coming. His spirit is now free from the ills and pains of mortality, and there remains to his mourning relatives and friends but the one duty of showing their respect to his memory by their performance of the last offices tendered his mortal clay.

It is scarcely two months since paralysis first attacked the previously hale and hearty veteran. He was not entirely prostrated by this, however, except for the time-being, and it was not until a week or two ago that a recurrence of the dreadful attack threatened to take him immediately from the active scene of life. Since then the press has kept the public informed as to the changes in his condition, and the news to-day will scarcely be unexpected to our readers.

Leonard Wilford Hardy was born in Bradford, Essex County, Mass., on the 31st day of December, 1805, and was baptized into the Church of Jesus Christ of Latter-day Saints on the 2d day of December, 1832, by Elder Orson Hyde. He was soon afterwards ordained an Elder and labored faithfully in the ministry as far as he had opportunity. On the 6th day of December, 1844, in company with Apostle W. Woodruff and wife, M. Holmes, Dan Jones and wife and Hyrum Clark and wife, Brother Hardy went on board the *John R. Skiddey*, Wm. Skiddey, Captain, for Liverpool, to fill a mission in England. They had a very rough passage, but arrived in safety on the 3d of January 1845, being 26 days on the voyage. After landing and holding a conference in Liverpool, Elders Hardy and Holmes labored awhile in the Manchester Conference, after which Elder Hardy took charge of the Preston Conference, being appointed to preside on the 9th day of March, 1845. On his arrival there he was placed the first night in a bed, where a person had just died of the small pox, and the linen of which had not been changed. The result was an attack of the disease and he passed through a severe stage of sickness. Through the administration of the Elders his life was preserved. He attended the various conferences in England with Apostle Woodruff and the other brethren during the time that he spent in England, and labored faithfully, baptizing many into the Church. He continued to preside over the Preston conference until the 31st of August, when he was released from that conference and labored in various conference in England until the 19th of October, 1845, at which time he and Elder Holmes took passage for the return to New York. Before he left, Elder Hardy requested Elder Woodruff to lay his hands upon his head and give him a blessing. Elder Woodruff consented, and in the blessing told him that he should arrive home to his family and friends in safety, and be gathered to Zion, and told him that he should spend his last days as one of the leading Bishops of the land of Zion. At the close of the blessing Elder Hardy remarked: "Brother Woodruff, I always thought you were a man of truth. I can comprehend arriving home in safety, but I cannot comprehend being a leading Bishop in Zion," and he says it came nearer trying his faith than anything that ever happened to him in the flesh. Elder Woodruff told him to wait and see, and if it did not come to pass he would acknowledge that the spirit that dictated it was not the spirit of truth. The future events of his life showed that it was correct.

On the return of the Pioneers from the Valley, Brother Woodruff was sent in the spring of 1848 to Boston to gather up the remainder of the Saints, who remained in the East. Elder Woodruff, leading the last company himself toward the Rocky Mountains, was joined by Elder Hardy and his family at Boston, who left there on the 9th of April, 1850, with a hundred Saints. In the organization of the company on the frontier for crossing the plains, Elder Hardy was appointed captain of the first fifty. The cholera visited all the traveling camps that

season, and their camp did not escape. Eleven members of the company died; Elder Hardy was attacked by the disease, and the day that he was in his lowest condition the camp had a severe stampede, the excitement attending which was so great that it came near costing his life. The administration of the Elders, however, again preserved him.

He passed through all the labors, cares and vicissitudes of the camp from Boston to Great Salt Lake City, arriving on the 14th day of October, having been on the road 188 days.

After his arrival in the Valley, Elder Hardy was ordained a Bishop on the 6th day of April, 1856, and was called to preside over the 12th Ward; and on the 21st of June was also appointed by President Young to preside *pro tem.* over the 11th Ward. He was afterwards called to be Presiding Bishop Hunter's First Counselor, being set apart on the 12th of October, 1856, and officiated as such up to the death of Bishop Hunter; when he was appointed First Counselor to Bishop Preston, and acted in that capacity up to his own death.

On the 20th of November, 1863, he started on a short mission to the States, spending most of the time in Massachusetts, his native State. He returned in March, 1870, having held a number of meetings and baptized two persons. In fact his whole life since he has been in the church was one continuous mission of unceasing activity. Even after the destroyer laid his ruthless hand upon him and the dread warning was given that death would shortly claim his own, the energetic spirit of the man would allow him no peace unless he was at his post in the Bishop's office; and there he might have been seen every day when he was really unfit to leave his chamber.

Three important virtues have characterized the life of Bishop Leonard W. Hardy, and these are honesty, truthfulness and virtue. That he was also a strictly temperate man his wonderful preservation and hale appearance, notwithstanding his great age, amply testify. Of the honest, noble qualities of his heart little need here be said. His name is known throughout the land as a synonym for kindness, benevolence and charity. His cheering tones will live long in the memory of the poor and low-spirited, and his readiness to extend assistance to the needy will never be forgotten by the host of Saints who learned to love him as a father. His long life has been wisely and well spent, and the peaceful slumber of his weary body is but a fitting preparation for his glorious awakening on the resurrection morn.

The funeral services will be held on Sunday morning at 10 o'clock, in the Tabernacle. The body will be brought from his late residence in Sugar House Ward at an early hour, and will be placed in the Tabernacle at 8 o'clock, from which hour until the time for beginning the services the remains will lie in state.

#### SCHOOL SUPPLIES.

To County Superintendents, Teachers and Trustees of District Schools throughout Utah: Gentlemen:—If you are in want of maps, charts, globes, blackboard-slating, chalk, crayons, map pointers, erasers, numeral frames, call bells, school registers, readers, spellers, geographies, arithmetics, school furniture of the best make, call at or send to Dwyer's Book Store, East Temple street, Salt Lake City. Prices guaranteed to be as low as Eastern prices. Send for circular. ds&wtf

SALT LAKE CITY, Aug. 1, 1884.

I have been troubled with tape worms for 12 years, until recently when I was treated by Dr. Plant, and I am pleased to say he cured me in a few hours. I would recommend all who are suffering with a similar complaint to consult him. He is also very good in diseases of children.

MRS. H. GOODFELLOW.

#### Remarkable Escape.

John Kuhn, of Lafayette, Ind., had a very narrow escape from death. This is his own story: "One year ago I was in the last stages of consumption. Our best physicians gave me up. I finally got so low that our doctor said I could not live twenty-four hours. My friend then purchased a bottle of DR. WM. HALL'S BALM FOR THE LUNGS, which benefited me. I continued until I am now in perfect health, having used no other medicine."

Malaria from the undrained Pontine Marshes, near Rome, is a terror to travellers. Ayer's Ague Cure is an effectual protection from the disease, and a cure for those who have become its victims. It works just as effectually in all malarial districts on this side of the sea. Try it.

The only body competent to decide as to the best brand of baking powder now before the public is the community of house-keepers. And as it is conceded that house-keepers, with great unanimity, prefer Dr. Price's Cream Baking Powder, over all competing products, after twenty years' trial, there is no appeal from that decision.

For 12 years I was severely afflicted with Catarrh. I used Ely's Cream Balm. I consider myself cured.—J.W. Buffington, Mechanicsville, N. Y.