

judicial power, is settled in nearly or quite all the States.

It may be suggested that, if the electors have the right to vote for whom they choose, and the canvassers must count and certify the vote, numbers of persons for offices not existing, or not elective, or not vacant, may be voted for. If this was true to the fullest extent, it could not change the law, and any such inconvenience would be an evil not comparable to the grant of power to ministerial officers to thwart and render powerless the will of the electors. Practically, no such inconvenience can well arise. It is provided by law that notice of the election and of the offices to be filled shall be given. Sec. 8, ch. 11, laws of 1878. This notice is advisory, and would usually be correct and acquiesced in by the people. This law does not make the person giving it the final judge of what offices are elective and to be filled, for such a power would be nearly as dangerous as to permit the canvassers to judge of the same matters. These things are essential to the validity of an election: that the electors have an opportunity to know the time and place where, and the purpose for which it is held. If these are fixed by law, the omission to give any notice does not affect the election. If, however, the election is special, and is to be held at a time, place and for a purpose to be provided by notice, the notice is essential. This is a summary of the general principles announced by the cases. The time and purpose of the general elections in Utah are fixed by law; it may be that the particular place of holding the polls in each precinct is not definitely fixed. If that is so, a notice of the place in the precinct may be required, but of this no question is now made.

So far as the coming election is concerned, THE PRACTICAL QUESTION IS, MAY THE ELECTORS VOTE FOR TERRITORIAL OFFICERS, and shall the ballots be counted so as to preserve evidence of the vote?

The electors may think these officers are elective and should now be elected. Some canvassing board may think otherwise. Neither party is the tribunal to determine the question, but the law prescribes that the canvassers shall count and certify the votes cast. If this is done, the public and claimants of the offices have the means of protecting their rights. If it is not done they are powerless, whether they have or have not any rights.

The territorial treasurer and auditor were made elective by joint vote of the Legislative Assembly, by an act approved January 20, 1882. In 1878 these officers were made elective by the people. These acts were approved by the respective governors then in office, and the practice has conformed to the provisions of the acts for thirty-two years, and for six years the offices have been filled by officers chosen by the electors.

The existence of the offices is beyond a question. That they have been practically filled under legislative acts for nearly a generation, is undisputed. It is also true that the Supreme Court of the United States has made one or more decisions which could not legally be made if these acts of the legislature are invalid. In *Snow vs. United States*, 18 Wall, 317, which was a *quo warranto* on the relation of Hempstead, the United States District Attorney, against *Snow*, Attorney General of Utah, elected by the legislature, the Court cites Section 6 of the Organic Act declaring that the legislative power shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of the Organic Act.

The act of the legislature making the Attorney General of the Territory elective and defining his duties, is cited at length. It was held that *Snow* was the proper person to prosecute under the laws of the Territory. Speaking of the territorial law the Court says: "This law, it is understood, has always been acted on, until the recent decision of the Supreme Court of Utah Territory denying its validity. Similar laws have been passed and acted upon in other territories organized under similar organic acts."

The judge after speaking of the long practice of United States district attorneys to prosecute under United States laws, and of the territorial attorney general to prosecute under territorial laws, says: "It would seem that indictments and writs should regularly be in the name of the United States, and that the attorney of the United States was the proper officer to prosecute all offenses. But the practice has been otherwise, not only in Utah but in other territories organized upon the same type. The question is, whether this practice is legal, or, in other words, whether the act of the territorial legislature was authorized by the Organic Act."

The judge writing the opinion quotes the law of Utah providing for the election of an attorney general, and his duties are defined in the same section, and it is this law which is adjudged by the Court to be not in conflict with the Organic Act.

In the case of *Clinton vs. Engelbrecht*, 13 Wall p. 446, the Supreme Court of the United States, in speaking of an act of the Legislative Assembly, says: "In the first place we observe that the law has received the implied sanction of Congress. It was adopted in 1859. It has been upon the statute book for more than twelve years. It must have been transmitted to Congress soon after it was enacted, for it was the duty of the Secretary of the Territory to transmit to that body copies of all laws on or before the first day of the next December in each year.

The simple disapproval by Congress at any time would have annulled it. It is no unreasonable inference, therefore, that it was approved by that body."

If the approval of Congress may reasonably be implied when an act has been in force twelve years, how much stronger is the reason when the act has been on the statute book and in force for thirty-two years, as in this case; for the act of 1878, while changing the mode of election, has not altered the case in any degree so far as the governor's power to appoint is concerned. Besides this change from the appointment to the election of these officers is in accord with the genius and theory of our institutions expressed by the Supreme Court in the case last cited, where it says:

"The theory upon which the various governments for portions of the Territory of the United States have been organized, has ever been that of leaving to the inhabitants all the powers of self-government consistent with the supremacy and supervision of national authority, and with certain fundamental principles established by Congress."

13 Wall, p. 441.

It would certainly seem that if there is any force whatever in the doctrine of implied approval of an act of the Legislature by Congress, as laid down by the Supreme Court, these acts have received such approval and are now without doubt the law on this subject.

In addition to the doctrine of implied approval of legislative acts long acted on, discussed in this case, it gives almost absolute authority in the case of *Snow vs. United States* in 18th Wallace, on the precise question now involved. In the case of *Clinton vs. Engelbrecht*, the point that the jury law of Utah was invalid because it provided for summoning the jury by a territorial marshal elected by the legislature and not appointed by the governor, was directly made. The court does not decide the point in the scope in which it was made, but says in effect, he was a *de facto* officer and his acts valid, whether elected or appointed. Judge Bradley, who delivers the opinion in *Snow vs. United States*, was on the bench when both cases were heard and decided, and in deciding the *Snow* case could not have been ignorant of the point made in the former case, and that to support the claim of *Snow* he must necessarily hold the legislative act valid against this objection.

The term of office of the territorial superintendent of district schools does not expire this year, but the question, whether the officer is to be elected or appointed is the same in respect to this office as to the other territorial offices. Respecting commissioners of school and university lands, it may be noted that the offices are created under an act of Congress approved February 21, 1855 (10th Statutes at Large, p. 611), and that, by the terms of the act, the lands are to be selected "under the direction of the legislature." The legislature has directed that they shall be selected by commissioners elected by the people.

FRANKLIN S. RICHARDS and BENNETT, HARKNESS & KIRKPATRICK, Attorneys for People's Territorial Committee.

Salt Lake City, July 21, 1884.

## BY TELEGRAPH.

PER WESTERN UNION TELEGRAPH LINE.

### AMERICAN.

CHEYENNE, 31.—Last May a bunch of Texas cattle were herded at Ogallala, 174 miles east of here. The place where they were bedded was afterward fenced in, and then a small herd of native cattle contracted the disease. About 200 have died. So far as the Stock Association know there is no case of afflicted Texas cattle in the Territory. A bunch of native bulls, which have been grazed at Ogallala, are now afflicted at Rawlins. Twenty-five have died and the remaining 75 are expected to. As the disease when contracted by native cattle from Texas is not communicable, no fear is felt here. The Union Pacific railroad pens along the line of the road, and all cattle cars will be thoroughly cleaned and disinfected.

WASHINGTON, 31.—The Secretary of State has received from Consul Mason a long report on the cholera epidemic now prevailing at Toulon and Marseilles. The Consul says in part: Both Marseilles and Toulon suffered terribly in the cholera epidemic of 1865. During the 19 years elapsed since then Marseilles has been in several important respects almost rebuilt. Her improvements, her sewerage system, her water supply and the method of cleansing the streets, removing night soil, inspecting and regulating the markets, her quarantine regulations and hospital facilities, are all probably unsurpassed in excellence by those of any European or American city. The old quarters of the city of ancient Marseilles, which was scourged so sharply by the plague in former centuries, has been pierced with new avenues, and streams of pure water flow down the gutters. The narrow streets and alleys and the pavements of the principal thoroughfares are washed and swept with care and frequency, which leaves nothing to be desired. As there is no tide to the mainland, or circulation of sea water through the enclosed ports, the inevitable result is, the latter grows foul and pestilent. The same conditions, unmitigated by

equally vigorous sanitary measures, prevail at Toulon, and it is thought it was the dredging of the disused dock there during the months of April and May which developed the seeds of the present epidemic. In spite of this a number of deaths occurred in the cleanest and handsomest parts of Marseilles. The attack of cholera has been this year far more vigorous and fatal than in the great epidemic of nineteen years ago; and all present indications point to a summer of gloom and suffering for the people of Toulon and Marseilles. All that energy and liberality could perform; all that sanitary science could suggest has been done, but the pestilence is here and defies restraint. The present situation may be summarized as follows: The epidemic which now prevails at Marseilles and Toulon is Asiatic cholera, imported, beyond all doubt, from Saigon, China, by the French transport *Sarthe*, to the port of Toulon. At first the disease was a type medically classified as "benign," but its malignity has since increased by its further diffusion and development under the influence of continued hot weather. In compliance with instructions from the Department, this Consulate has ascertained from official sources that no emigrants have recently left either Toulon or Marseilles by sea for the United States. It should be added, however, that but few emigrants for American ports ever embark here, as the steamers leaving Marseilles usually touch at one or more Mediterranean stations before leaving the final point of departure; and emigrants usually go by rail to this ultimate point, and there take steamer for America. It is therefore respectfully suggested that all vessels bringing emigrants and baggage to the United States from Bordeaux, Havre, La Rochelle or any other French port, not yet declared infected, should be subjected, upon their arrival, to most careful sanitary regulations. Clean bills of health have been refused at this consulate to all vessels clearing for ports of the United States since the 25th, and none such will be granted until Marseilles is officially declared free from the contagion.

BOSTON, 31.—Details of an important railway consolidation on the Pacific Coast have leaked out, and parties interested admit that the conjunction is effected. The result will be the completion of a rival through route line to San Francisco and San Diego. The negotiations were carried on in this city a few weeks ago by C. P. Huntington and ex-Governor Leland Stanford, for the Southern Pacific; General Manager C. W. Rogers for the Atlantic and President W. B. Strong for the Santa Fe. By the terms of the new arrangements, the Southern Pacific is sold to the Atlantic & Pacific, the Santa Fe and the San Francisco lines being really the purchasers of its Mojave division, 240 miles in length, extending from Mojave to the Needles, and there is conceded to the Atlantic and Pacific the right to run its trains from Mojave to Oakland pier, a distance of 382 miles. By this contract the Atlantic & Pacific, which is owned jointly by the Santa Fe and St. Louis & San Francisco lines, extends its road to Mojave and secures the right to run its trains virtually into San Francisco. The California Southern, now reaching from San Diego to San Bernardino, 130 miles, is to be extended to a junction with the purchased division. It will then be formally transferred to the Atlantic & Pacific, which will then be extended to the Bay of San Diego. This is the first advent into California of a foreign railway company. Heretofore the Central and Southern Pacific companies have controlled every mile of track that led out of or into the State. The Atlantic & Pacific will now enter both San Francisco and San Diego, and to the latter point will own its track. Traffic arrangements will at once be made with the Pacific Coast Steamship company, by which freight can be delivered at San Francisco on the Atlantic & Pacific company's own terms. The new line will not just now enter the field as a rival of the old companies, but just as soon as the transcontinental pool is broken, which will be in less than six months, it is expected there will be trouble.

GALVESTON, 31.—The Gulf of Colorado & Santa Fe Railway will to-morrow announce the consummation of reciprocal traffic arrangements with the Gould lines throughout the southwest. Several changes in the time schedule on the Missouri Pacific line go into effect to-morrow to meet the Santa Fe line.

LONG ISLAND, 31.—Col. C. B. Waring, on trial for some days for the murder of his brother-in-law, named Freund, was found guilty of manslaughter in the second degree. Judge Cartlett expressed surprise at the verdict, as nothing had been said during the trial of manslaughter in the second degree, yet the verdict must stand. The judge denied the motion for an arrest of judgment, and sentenced Waring to 15 years in the State Prison, and to pay a fine of \$1,000.

LITTLE ROCK, Ark., 31.—Gazette's Hot Springs special: A fire broke out this morning in the kitchen of Cruen's restaurant on Central Avenue, and spread to the surrounding buildings, destroying nearly the whole block. The guests at the Commercial Hotel were forced to fly in their night clothing, losing the most of their effects. The fire was soon beyond the control of the firemen, and destroyed nearly the whole business part of the town. It originated in the explosion of a coal oil lamp. Total loss, \$85,000; about one-fifth insured.

CITY OF MEXICO, 31.—Under the law soldiers are permitted to kill persons who resist arrest, or, after being captured, attempt to escape. The revolutionary forces in Guerrero were recently attacked, and Gen. Pinzon with six soldiers, who were taken prisoners, were killed while attempting to escape. Two general officers were also killed in Yucatan, and one in the town of Morelia.

NEW YORK, 1.—There was a meeting of the Trunk Line executive committee at the office of Assistant Commissioner Pierson to-day. Only ordinary routine business was transacted. The passenger pool contract between the trunk lines and their western connections, which has been extended from month to month since April last, expired July 31st by limitation. Pierson stated to-day that as long as such powerful roads as the Grand Trunk, West Shore, and Delaware, Lackawanna & Western refused to come into the pool, the Western roads had decided by mutual agreement it would be advisable to enter any contract which would comprehend so great an extension of powers as that contemplated in the proposed agreement, which was drawn up in June. The contract for the division of passenger earnings, existing between the trunk lines, was still in force and was in no way affected by the lapsing of the joint contracts. How long the present state of affairs might continue he could not tell, but he thought arrangements would in all probability soon be perfected by which the Grand Trunk would consent to come into the pool, and in that case all western roads would, without doubt, execute the proposed contract. Negotiations, he said, were now pending with the Grand Trunk road, and the special agent of the Trunk line commission was now in Montreal, in conference with the officers of the road, with a view to bringing about the result. In regard to the effect of the lapsing contract, Commissioner Pierson said it would, no doubt, result in more or less, probably more, rate cutting in the West, as the competition for business among the western roads was very active, and the roads would no longer be bound by the rules of the association. He did not, however, anticipate anything like a general war of rates, but thought the cutting would be confined to only a few roads.

SAN FRANCISCO, 1.—A dispatch from Tehachapi, Cal., says that a mysterious malady has suddenly manifested itself among the workmen on the new railroad bridge at the Needles. They were seized with dizziness and suddenly would fall in a fit. Two died in intense agony in two hours. Fourteen others have been taken to the hospital in an unconscious condition. A general panic has resulted. One of the sick men questioned on recovery as to how he felt when attacked, replied that he remembered nothing. The disease is attributed to bad water and the intense heat. No later deaths are reported.

NEW YORK, 1.—Alexander Jefferson, a negro, who in a jealous rage killed Henry Hicks and Emma Jackson, also colored, and nearly killed Anna Jackson, and slightly wounded his brother, Celestial Jefferson, at Mrs. Jackson's residence, on Buffalo avenue, Brooklyn, was hung this morning in the presence of 400 spectators. Before his execution, he handed the sheriff a list of persons to whom he wished his photographs to be given. He ate breakfast with evident relish, and dressed himself in a new black suit, presented him by the sheriff. He was kept in conversation by his spiritual advisers up to the time he was led to the scaffold between two clergymen and the noose placed around his neck. After the rope was cut and Jefferson's body shot up into the air, the knot slipped around under the chin and his neck was not broken. For a moment he was motionless, and then kicked, struggled and groaned as he slowly strangled. By a desperate effort he got his right hand up to the rope and tore the black cap from his face exposing the contortions and his staring eyes. After he tore the black cap away, his hand fell down by his side. The contortions and convulsions of the body continued five minutes. Life was pronounced extinct in eight minutes after the rope was cut.

PHILADELPHIA, 1.—The startling story that the crew of the schooner *Julia Baker*, from New York for Port Au Prince, had mutinied, killed the captain, John Lewis, and had been selling the cargo in the West Indies, led the owners of the vessel, Warner & Merritt, to send the following dispatch by telegraph to-day:

To the Collector of Customs, Key West:

We have reason to believe that Captain Lewis, of the schooner *Julia Baker*, has been murdered, and that the person calling himself Lewis is an impostor. Kindly ascertain what has been going on, why the vessel deviated from her course, what has become of her cargo, and all the particulars. Things appear very mysterious and demand a sharp investigation. Telegraph full particulars quickly.

(Signed) WARNER & MERRITT.  
Key West, Fla., August 1, 1884.

Warner and Merritt, Philadelphia:

The master assigns no reason for deviating from his course. He has noted the protest, claiming the foremast sprung and the vessel was leaking. A survey has been held to-day. He recommended the discharge of the cargo. The original manifest is lost, the lumber washed overboard, and a portion of the flour missing. The master's statement is rambling and conflicting.

Send description of the original Captain Lewis. We have taken possession of the vessel, and are awaiting your further instructions.

(Signed): RAMON ELVEREZ.  
It is said the *Julia Baker* has been cruising in West Indian waters and selling her cargo principally flour, at rates much below the market price. Captain Lewis was about 40 years of age, rather tall and stout, and a description of the present commander is altogether different. Albert Merritt, of the firm of Warner & Merritt, expressed the opinion that a mutiny occurred on board the schooner, that a fight took place, in which Captain Lewis was killed, and that the crew, seeing they were in for it, determined to sell the cargo and escape. Warner & Merritt later received a dispatch from the collector at Key West, stating that the captain and four men of the schooner *Julia Baker* had been arrested.

PORTSMOUTH, N.H., 2.—The Greely relief squadron leaves for New York on Tuesday night. The *Bear* is ordered to Governor's Island, where the victims of the Greely expedition will be turned over to Gen. Hancock.

The survivors will rest quietly here to-day and to-morrow. On Monday a formal demonstration in honor of the return of Greely will be held. The organization of naval divisions which will be landed to participate in the ceremonies of the complete naval divisions of the parade, will consist of six sub-divisions, comprising naval cadets, naval apprentices, marines, and a brigade from the North Atlantic fleet. Besides these divisions the parade will comprise military and civil organizations, five companies of municipal guards of Portsmouth and Newburyport and State authorities. Monday evening a congratulatory meeting will be held at Music Hall at which Secretary Chandler is expected to preside.

### The Danger of Insomnia.

If you are a sufferer from Sleeplessness, that warning indication of serious nervous derangements, which if not arrested, may lead to most disastrous consequences, send a statement of your case to Drs. Starkey & Palen, 1109 Girard St., Philadelphia. They have successfully treated many such cases with their new Vitalizing remedy, which acts directly on the nervous centres. An opinion will be promptly given, and they will at the same time furnish you with reports of cases from which you will be able to judge for yourself as to the value of their special Treatment in your particular case.

All orders for the Compound Oxygen Home Treatment directed to H. E. Mathews, 606 Montgomery Street, San Francisco, will be filled on the same terms as if sent directly to us in Phila.

## HALL'S Vegetable Sicilian HAIR RENEWER

was the first preparation perfectly adapted to cure diseases of the scalp, and the first successful restorer of faded or gray hair to its natural color, growth, and youthful beauty. It has had many imitators, but none have so fully met all the requirements needful for the proper treatment of the hair and scalp. HALL'S HAIR RENEWER has steadily grown in favor, and spread its fame and usefulness to every quarter of the globe. Its unparalleled success can be attributed to but one cause: the entire fulfillment of its promises.

The proprietors have often been surprised at the receipt of orders from remote countries, where they had never made an effort for its introduction.

The use for a short time of HALL'S HAIR RENEWER wonderfully improves the personal appearance. It cleanses the scalp from all impurities, cures all humors, fever, and dryness, and thus prevents baldness. It stimulates the weakened glands, and enables them to push forward a new and vigorous growth. The effects of this article are not transient, like those of alcoholic preparations, but remain a long time, which makes its use a matter of economy.

## BUCKINGHAM'S DYE FOR THE WHISKERS

Will change the beard to a natural brown, or black, as desired. It produces a permanent color that will not wash away. Consisting of a single preparation, it is applied without trouble.

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