DESERET EVENING NEWS: TUESDAY, JANUARY 25, 1900.



Majority Says Legislature Must Fill the Office.

MINORITY SAYS GOVERNOR.

sestion of Vacancy in a Term or whether There Never Has Been an Election to Fill the office.

Washington, D. C., Jan. 23 .- The reparts of the committee on privileges and tions in the case of M. S. Quay, who ims a seat in the U. S. Senate on the strength of an appointment from the remot of Pommaylvania, were present. ed in the Senate today. The majority report, opposing the scating of Mr. Quay, was signed by Senators Caffery, Petros, Turley, Harris and Burrows, the st named the only Republican signing it. The minority report bears the sigpatares of Senators Hoar, Chandler, Pritchard and McComas, all Republicats, and advocates giving the seat to

Mr. Quay. The majority report first reviews the grumstances under which Mr. Quay's ontment was made, including the ure of the Fennsylvania legislature shet a sensior. It then says: ther a vacancy in the office of U.

S senator occurs or comes to pass, if Be next legislature does not fill it, it mainues to exist. It is the same vamay not a new one. Now the State tive is given power to make a tempair appointment in case of a va-My, not as long as it continues or easy but only until the next meeting d he legislature, which is then re-gind to fill the vacancy. This clearly wass that the paramount intent to have the legislature choose the senators and that, whenever the is to prevall. episture has had the opportunity to the vacancy, either before or after it us, the executive has no power mint And when we take the phrase, vacancies happen by resignation, or derwise, during the recess of the leg. same of any State,' if we concede that the general word 'otherwise' is not quilfied nor limited by the specific word resignation,' and that it includes mancles which are caused by efflux of the and which can be foreseen as well avarancies which are caused by a cas. say or the happenings of an unexpect. elevent and which cannot be foreseen, it must be construed and defined with reference to the balance of the use so as to give effect to all its arts; and it thus results that the vay, no matter how it is produced. mist happen, take place or begin during recess of the legislature; and this of self would be decisive against Mr.



QUISPILLE SH CALCING HEW YOOK FOR SALL BY ALL CRUGSISTS PRICE SOL PER BOTTLE been in session between vacancies at

the beginning of a term and vacancies beginning after the term itself has begun and the office for that term once filled, are without importance. We think that the former is the true mean, ing of the Constitution. We think that t was the intent of the Constitution to provide, as far as possible, that eve-ry State should have two senators.

First-The constitutional convention hesitated between conferring the power f appointing senators upon the executive and the legislature in the State in the beginning. Like the legislature, the executive of the State was supposed to represent the will of the people. Under the Constitution then existing, he appointed all State officers and appoint-ed judges, who held their offices for ife. For there is no reason to supan unfit instrument for such appoint-ment. And they settled the question by giving the power of permanent ap-pointment to the legislature and of tem-porary appointment to the executive

"Second--We can concelve no reason likely to have influenced the framers of the Constitution for making a distinction between cases of vacancy occurring in one way or at one time and vacancies occurring in any other way or at any other time. The offices of senator may gas's claim." Continuing, the report says: Thus construed, this clause of the Constitution affords every facility for always keeping the Senate filled with ators who are real representatives into every workshop and almost every their respective States. A senator family in Pennsylvania. We do not believe that when the Constitution enacted it would have occurred to any-body that if a senator died within a week of the adjournment of the legis-lature or at a time when there were three parties in the legislature who could not agree, or at a time when the two houses who formerly made an election by concurrent vote were of ways of thinking in politics so different that they could not be reconciled, that the State must remain unrepresented until

KRUCER IS CONCILIATORY. We Just Sell But the Boers Will Fight to the Last for Good, honest shoes at good, Independence. honest prices-give every cus-tomer his or her money's worth -that's the way we're building this solid shoe business-occa-Dr. Leyds Says England Will Have sionally we want to clean up our odd lots as instance—These wo-men's and children's shoes—that to Send More Troops Yet, Before Beating the Transvasiers. we used to sell for \$1.00 to \$2.50 New York, Jan. 23 .- A Brussels correspondent of the World obtained the Are going at 50c and \$1.00. Not many left-better hurry following statement from Dr. Leyds, the Transvaal envoy extraordinary in Europe, before he left for Paris yesterday on his diplomatic mission: **ROBINSON BROS'. CO.,** "In view of the new and critical phase into which the war is now en-SHOE BUILDERS, . 124 Main St. tering, I send to the people of America a few words on the subject of any eventful proposals in regard to the suspension of hostilities, a desire for DAVIS IS A COOD OFFICIAL which appears to be gaining strength on both sides of the Atlantic. "I am as confident as ever of the ultimate triumph of our cause. A tem-Assistant Secretary of the Interior Will Not porary success of the British arms would merely have the effect of infusing Retire. fresh vigor into our men and strengthening their determination to hold out at whatever cost. His Excellent Record-Trip to South at whatever cost. "While the actual fighting strength of both forces is only now about equal, England might even double her army now in South Africa without crushing Africa Solely on Account of His Health, and to See the Country. our powers of resistance. "But, however resolved to continue the struggle, we have ever been desir-New York, Jan. 23 .- A special to the Tribune from Washington says:

sion claims.

and the President.

These statements need no denial to

those who are familiar with the rela-

Mr. Davis, after Major McKinley's election, announced his candidacy for the place of U. S. attorney for the west-

ern district of Missouri, and shortly after the inauguration came to Wash-

hind the line of the receiving party.

When the reception was over he accom-panied the President to his private of-

ter had already seen his application for

have Mr. Davis accept another office. The President said that he had not then

chief executive have been the most cor-

ous to take advantage of any turn in affairs which might leave the doors open to terms of honorable settlement. "And I am grateful to Mr. Stead and that considerable portion of the public, both British and American, who are agitating the discontinuance of the war on terms satisfactory to both belligerents. "Although not a signatory to the peace conference, the Transvaal has ever been willing to profit by that por-

tion of The Hague convention which invites friendly interference on the part of a neutral power. Moreover, indica-tions have not been wanting since the outbreak of hostilities that, President Kruger would never bar the door to a resumption of those negotiations which were broken, if not through the bad faith of the British government at least by an unfortunate misunderstanding which friendly conference might at that time have settled.

"But it is not our place-especially while England is hurrying fresh troops to South Africa-to make the first advance. Past events absolutely preclude such a course, and I am equally confident of the future, "Yet this does not alter the fact

that President Kruger's attitude is and will remain one of conciliation and that would be both ready and desirous to treat on any terms which assured the South African Republic that independence so much insisted on in a British statement during the earlier period of the negotiations."

BUTTER FOR OTHER PEOPLE

Government Encouraging a Foreign Market for the Foreign Product.

European and Asiatic Countries, and the Pacific Islands Visited

********************************** | mond ear-rings, joined the woman who came here with him and whom he claims is his wife. When taken into custody Stickney made the following stateme "The woman gave me the carrings to ak, and I soaked my watch at the soak same time, and we lived on the money, but when I rejoined my wife and she made up with her bushand, in order to square herself with him she says I tole her earrings and soaked them Why, she has the pawn ticket now, and she knows her jewelry is in Sacramento. I haven't seen it since, but I will go back and face the charge, without de-

manding requisition papers." The accused is a man of spiendid ap-pearance, is well dressed and bears evidence of education and refinement. His wife is a handsome little woman. She seems not at all concerned at the ar-rest of Stickney. The authorities at Sacramento have been apprised of the capture and Stickney will be taken back is Colligned. to California. An officer is expected to arrive from Sacramento this evening or tomorrow.

AMUSEMENTS. (mmmmmmm)

The sixth performance by the Nance O'Neil company was given last night at the Theater before a fair audience. It would no doubt have been larger had a different play been chosen, but "Camille" is a tale that has so often been told in Salt Lake that even Miss D'Nell's popularity could not overcome the feeling of partial indifference to it. All the respects in which this version of "Camille" is a "new" one are not apparent, unless one sat with the old play book to make comparisons as he went along. The main difference seems to lie in the fact of the costuming, which places the period some sixty Trustworthy information here does years back, and better fits the romantic atmosphere of the play, than the up-tonot sustain recent stories in regard to date dress suits in which it is usually rendered. Miss O'Nell, too, makes a dethe prospective retirement from the interior department of the assistant seccided departure from most of her preretary, Webster Davis, now in South decessors in the fact that she discards the racking cough which always made Africa. These stories have endeavored Camille more or less objectionable. One fit of coughing in the first act, and a to make it appear that Mr. Davis's trip to the Cape is the forerunner of his respell of fainting, to indicate the presence of the disease that will ultimately prove fatal, is the one suggestion that tirement to private life. It has been asserted that President McKinley was the heroine is a consumptive. In this dissatisfied with his administration of respect the new rendition is a decide his office as assistant secretary, particu-larly his rulings with relation to penimprovement over the old. In Camll Miss O'Neil again proves that there in height in dramatic action which sh cannot scale. While her role of Camillis not the well rounded, complet tions between the assistant secretary study from first to last, that her Magd is, in places it rises above that creatio Certainly she has done nothing find than in the act where she sinks upo the floor and bewails her fate aft learning from Armanda's that she must take the ste that separates her from he ington and presented his papers. The following Saturday he met the Presi-dent at one of the public receptions. To lover. It was not acting at all, i was life. Equally terrible in its real istic effectiveness was her death scene the surprise of the young Missourian, Mr, McKinley invited him to step beand while her earlier work during the play had been rewarded with heart curtain calls, the audience here pai her the highest of all tributes, by allow fice, and to his utter amazement was informed by Mr. McKinley that the lating the curtain to descend in perfe silence; the absolute hush that fell ove the house, caused by her simu lation of the gradual approach of death was almost painful, and the most blas theatre goer was not ashamed to b U. S. altorney for the western district of Missouri, but that he would rather seen wiping the tears from his eyes a he silently wended his way out of th The President said that he had not then decided what place he could offer. Within a week the President informed him that he had decided to give him the assistant secretaryship of the in-terior. Mr. Davis accepted the office, and his appointment followed a few days later. From that day the relations Theater, Miss O'Neil wore some beaut ful stage gowns and her dressing the part throughout was superb. As e Jewess' she suffered a lit at times from the lac a support keyed up to he The tle days later. From that day the relations of between the young Missourian and the ow own high strung and tense conception Mr. Clement was uneven. Sometime



appreciate the purity, sweetness, and delicacy of CUTICUEA SOAP and to discover new uses for it daily. Its remarkable emollient, cleansing, and purifying properties, derived from CUTICURA, the great skin cure and purest of emollients, warrant its use in preserving, purifying, and beautifying the skin, scalp, hands, and hair, and in the form of baths and solutions for annoying irritations, itchings, inflammations, and chafings, too free or offensive perspiration, and also in the form of washes for ulcerative weaknesses, as well as many sanative, antiseptic purposes, which will readily suggest themselves. All that has been said of CUTICURA SOAP may also be said of CUTICURA Ointment which should be used after the SOAP, in the severer cases, to hasten the cure.

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SISTERS'	********************

en by the legislature of his State is likely to be the choice of the majority of the citizens of his State. A senator who is apponted by an ex-cutive is frequently only the personal or political favorite of the executive. "The legislature, as we construe the thuse, chooses the senator in the first tance. If he declines to serve or dies before he is inducted into office, or if fter qualifying, he dies, resigns, or is expelled, the executive may make a temtorary appointment until the legislameets again; or, if, owing to changes in State constitutions. the ure, which is authorized to fill the arm at its commencement cannot meet atil after the term commenced, the recutive can also make a temporary pointment.

Every contingency is thus provided for except the sole contingency that the legislature will fail to, perform its worn duty. Against a contingency of this kind the framers of the Constituon did not intend to provide

After discussing at length the circumsances under which the Constitution vas framed, the majority announces conclusion as follows:

We think that the framers of the onstitution never contemplated nor stended to provide for a case where a Sate, by its own deliberate act, should prive its legislature of the power to it an entire term at its beginning. In ar opinion they never intended to give be executive of a State the power to fill a entire term by original appointment miess possibly, in a case where the egislature had chosen and the person lected had refused to accept or died elore qualification. In other words, is conclude that the power of appointent was not to be exercised unless vacancy occurred in the recess of he legislature and was occasioned by

ne casualty like death or resigna-The report then quotes numerous precedents, beginning with that of Ken-sey Johns, of Delaware, in 1794, and desing with the case of Henry W. Cor-bett, of Oregon, in 1898. It then ends as follows:

The statement of these cases and recedents shows that from the beginting of the government to the present the the s. nate has never recognized the right of a State executive to make appointment where the atancy happened or occurred during masion of the legislature. It shows other, that for twenty-five years the Senate has refused to recognize the tight of a State executive to make a mporary appointment, even where e vacancy happened or occurred during a recess of the legislature, if the epslature either before or after courred and prior to the date of the appointment, had had an opportunity

"The fundamental principle thus es-tablished is that if the legislature, either before or after the happening of vacancy, has had an opportunity h there is no power in the utive to appoint. The result State executive to appoint. fatal to the claims of Mr. Quay. No danger or evil has resulted to the govif this principle.

"We therefore submit that the Senlitefor its own honor and dignity, should trevious solemn and de-Hberate

ority report takes the oppo-She view. Quoting section 3, article 1. of the Constitution, the minority say that the failure of the governor to call the legislature together to elect a senelor does not act to deprive the goverand of power of appointment. Referring constitutional provision, the **(Destion**

Does the language of the Constitu-tion of the United States mean just validh of Pennsylvania says, 'In case of a vacancy in the office of United States senator in a recess between sesor does it mean that the vacan ty must be one which comes by chance, so that it does not apply at all to the case of a vacancy at the beginning of a term, which does not come by chance, but is foreseen and inevitable?"

This question is answered as follows: "It he words have the former meaning, then all distinctions between cases where a legislature has been in session ad these where a herbiature has not and these where a legislature has not

a new legislature should be chosen "They meant, as we believe, that for the interest of the State and the interest of the whole country, the Senate should always be full, so far as they could devise a constitutional mechan-ism to accomplish that purpose."

They say further that "The language of the very clause in question cannot be construed as the opponents of Mr. Quay would construe it, or in any other way than the undersigned construe it. without destroying its own purpose. If there be no power in the executive of Pennsylvania to appoint a successor to Mr. Quay under this clause of the Constitution there is no power in the legislature to choose such successor until the end of the term; and in every case where a senator dies or resigns, where the legislature is not in session, where, after such death or resignation the legislature has met and adjourned without a choice, or whatever, at the beginning of a term, the vacancy re-mains unfilled, it must remain unfilled until the end of the six years, according to the logic of the majority of the committee

On another point the minority says: "It is said that if the legislature has

been in session after a vacancy and has failed to fill it the State is in fault; that the legislature has neglected its duty, and so it is not unjust that the State should suffer. There are two answers to this argument. First, that it is for the interest of the whole peo ple that every State should be fully represented; and, second, that there is no fault to be imputed to the legisla ture of a State or to the people where a majority vote is required, if there b a failure to elect a President for want of a constitutional majority, a case provided for by conferring a power upon the House of Representatives voting by States, is the case of fault or negli-gence on the part of the people?" The minority then give considerable

attention to the various cases and conclude as follows:

"The case of Allen, of Washington, was decided with the Lee Mantle case and without argument, a decision to which Mr. Beckwith, of Wyoming, submitted without further contest. that time there was an earnest division in the Senate on an important question relating to the currency, which created for the time being more earnest differences of opinion than those existing be-tween the two great political parties on other questions. It was a time not favorable to a dispassionate, non-partisan judgment. We prefer the authority of the New Hampshire case which was acted on, also in the case of Pasco of Florida, and we think that a decision, which must inevitably deprive States in the Union for long periods of time of their rightful representation under the Constitution, will not be permitted long to stand, and that no settlement of the question in derogation of the rights of the States and, as we con-ceive, in violation of the intent of the framers of the Constitution, should be acquiesced in.

by Agents. Chicago, Jan. 23 .- A special to the

Tribung from Washington says: Dairymen throughout the country will undoubtedly be interested in the efforts of the agricultural department to create a market for dairy products in Europe and Asia. Today Secretary Wilson sent to the House the report of the operations of the bureau of animal industry, which deals with this subject. The report says special agents have visited Great Britain, France, Germany, China, Japan, Hawali and the Philippine Islands, and made arrangements for experimental exports of butter in those countries. Trial shipments to Germany and France have demon-strated the markets for choice dairy products from America were by no means as good as in Great Britain while the difficutiles in transportation and the import duties imposed added to disadvantages experienced. Ac cordingly the experimental experts made almost every week during the year of 1898 and until the summer of 1899 were confirmed to England, and mainly to the market of Manchester. The desired information having been obtained by these experiments, extending through three years, they were dis-continued last May. Then work was from San Francisco to Pacific ports. No results from these experiments can as yet be reported. Experimental ex-

ports of selected creamery butter to Manchester for more than a year were highly satisfactory. The result was a good reputation well established for American butter in that district and the merchants urged shipments of larger quantities. Excepting an occasional variation from the standard and a few instances of deterioration inci-dent to imperfections in the facilities of transportation, this butter was em! nently satisfactory to merchants and nsumers. It replaced Danish butter of the first quality although the merchants demanded a slight concession in prices.

Refrigerating transportation cannot be furnished by the steamship lines on the Pacific, and this may not be desirable at present, as cold storage plants are not to be found at most of the Oriental markets. It will be necessary, therefore, to send all butter, and per-haps cheese, as well as canned and condensed milk and cream, in heremeti-cally sealed packages to preserve their contents during long voyages in hot climates. The art of canning butter so will remain in good condition for months and when subjected to great changes of temperature has not changes of temperature has not yet been brought to perfection in this country.

Fortune for Charity.

San Francisco, Cal., Jan. 23 .- The Call says: When the will of Captain I. Friedman, who died in he Palace hotel Sunday morning, is opened, it found that an estate valued at \$750,000. three-quarters has been given to char ity. After bequests which will reach an aggregate of \$500,000 are paid, the residue is bequeathed to the Hebrew Home for aged and disabled persons. This legacy will amount to at least \$250,000.

OFFICERS OF THE Y. M.C. A

Doctor Silver Enters Upon His Fourth

The directors of the Y. M. C. A. met

last evening and elected officers to

serve for the ensuing year, as follows:

Dr. E. V. Silver, president; Prof. W. H.

Tibbals, vice president; Samuel Raney,

fourth term as president, will announce the standing committees this week. Mr. Raney, who succeeds John T. Axton as

ecretary; J. P. Evans, treasurer. Dr. Silver, who now enters upon his

young man.

Term.

he gave the impression that he might be doing Armand for the first time Although the youngest man who has ever filled the place of assistant secreagain, in the tary. Mr. Davis has accomplished more in that office than, any of his predeces. ors, and at the same time has taken an active part in many political campaigns. Early in 1898 some friction arose be-

tween the commissioner of pensions and the assistant secretary of the interior, by reason of the fact that many of the decisions of the pension office were reversed by the assistant secretary. The commissioner of pensions frequently appealed the cases decided by the assist-ant secretary to the secretary of the in-In each of these cases the decis terior. ion of the assistant secretary was sus-tained, notwithstanding the fact that many of the cases were referred to the attorney general of the United States for a judicial opinion, and many more to the assistant attorney general for the interior department. The records of the interior department show that in not single case has a decision of Mr. Davis been reversed, but, on the contrary, they have all been sustained by the

secretary. After the retirement, last March, of Cornelius N. Bliss as secretary of the in-terior, it was currently reported that there was friction between Mr. Davis and Secretary Hitchcock. But there has certainly been no friction between the two in the last six months. On the contrary, the utmost harmony has prevalled. Last fall Mr. Davis was invited and took a prominent part in the political campaign in Ohio. As a result he returned to Washington in impaired health, and at the suggestion of his physician decided to take a long sea voyage. The war in South Africa had begun and Mr. Davis concluded to visit that country.

He called on Secretary Hitchcock and asked for an indefinite leave of ab rence, explaining his reasons therefor which was promptly granted. If Mr Davis has any intention of retiring, it is not known to his friends here.

NEWSPAPER MAN ARRESTED

Wanted in Sacramento for Grand Larceny-Stealing Diamonds.

Robert Stickney, allas Snowden, who was arrested yesterday afternoon by Detective Sheets, is badly wanted in Sacramento, Cal., for grand larceny. It was last Sunday that Chief Hilton received a communication from Chief of Police Sullivan of Sacramento request ing the officers here to look out for Stickney, and giving a brief description of the man. Yesterday Detective Sheets located his man at the Raybould block. Stickney's wife was with him. The information from California is to the effect that Stickney is a newspaper man and was recently employed on the San Francisco Chronicle. It is said that he became infatuated with some woman who had left her husband and the two Woman

went to Sacramento and fived together, but only for a short time, as their funds were soon exhausted. Then, it is as-serted, Stickney stole the woman's dia-

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ARLINE

laintive finish of the play he acquitted himself admirably; but one rises from seeing Mr. Clement in this round of plays with the feeling that, admirable artist though he is, his forte lies along the lines of character work rather than the emotional or heroic Mr. Hill's delineation of the elder Duval was a careful one, and Miss Allen made an excellent "Prudence." Th stage settings were most beautiful, and Mr. Weihe's rendition of the "Traviata, music with which the play is filled, was exquisite. "Camille" goes tonight and tomorrow afternoon for the last time. Plays may come and plays may go,

quarrel scene and in th

treated

but farce comedy bids fair to go on forever. At the Grand last night the house was thoroughly filled in all jarts, and the light comedy skit "His Better Half." with the usual accumulation of darkey monologues, dances and specialty acts, etc., seemed to go with the same old fervor which always greets such works at the Grand. While some of the features have been better done, the whole thing goes with a rush and makes up a merry evening, and without doubt it will do good business on the two remaining nights of its engage-ment. The best individual members of the company are Sue Belle Mead and Burton Swor, and Edith Pollock, who was once a member of the Grand Stock Co., did some clever soubrette work.



Officers' Association at Christensen's Hall on March 26th.

The officers' association of the National Guard of Utah met last night with the following named officers present: General John Q. Cannon, Colonel J. D. Ford, Major H. M. H. Lund, Captains J. A. Greenwald, O. H. Hassing, M. Y. Cannon, L. E. Gilbert, L. S. Heywood; Lieutenants W. H. Riley, W. H. M. Burningham, W. H. Tobias, A. P. Goodmanson, C. C. Forsland, J. Durand, C. Carstensen; also several noncommissioned officers. It was decided that the anniversary

ball should be given on the evening of March 26th at Christensen's hall. The organization of a regimental band was also talked of and will be further considered at a future meeting.

ALLEGED CRAZY MAN DISCHARGED

The charge of insanity against Frank Doe King has been dismissed without even an examination of the alleged crazy man. It seems that King and F. T. Voight, the man who swore to the complaint, had a guarrel last Saturday and the latter getting the worst of it conceived the idea that King was insane. When the officers went to arrest King they concluded there was nothing to support Voight's charge,



Send Peddleis and some unscrupulous grocers will tell you "this is as it Back good as" or "the same as Pearline." IT'S FALSE-Pearline is never peddled, and if your grocer sends you something in place of Pearline.



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