The fighting began at 6 o'clock a. m., and did not end till evening. There is not enough water for the horses, which are much fatigued. Our cavalry charged on the enemy early in the morning, over heavy ground, forcing them to retire, leaving ten prisoners in our hands. Towards midday the enemy got our range more completely and landed shells right in our midst. By noon the heat was so intense that many of our men were attacked with disentery and sunstroke. In the second day's fight the dragoons charged the enemy, cutting down many and taking some prisoners Major Bibby was shot through the chest, but rode a considerable distance afterwards. Headquarters are likely to remain at Abu Risheh for the present to enable the stores to come up. Prisoners state that many dead and wounded were taken away by the train which our cavalry nearly captured.

We captured a spy and handed him over to the native authorities, who tortured him with thumbscrews and ordered him to be shot. He said Arabi Pasha had only one strong regiment of artillery, 2,000 cavalry and a few infantry in front of us. Signalling has been proceeding during the past few nights with Arabi Pasha, but we have been unable to discover who is sending the signals.

Alexandria, 27. — Abdul Rassek and four other staff officers have escaped from Arabi Pasha. They were well received by the Khedive. It appears that they have been for some time in communication with the Khedive, through members of General Stone's family. They were entrusted by Arabi Pasha with the defense of Tel-El-Kebir, but abstained from making earthworks. They escaped and went to M De Lesseps and asked his assistance to get away. De Lesseps tried to dissuade them, accussing them of want of patriotism. They finally sought Rear Admiral Hoskins, who forwarded them to Alexandria.

Ismailia, 27.—When the mounted infantry of the household troops charged into Marsameh, Sir Havlock Allen showing the way, the enemy dashed into the lake and swam for safety. They were plied with rifle bullets as they dived and floundered through the water.

London, 27.—The *Court Circulor* says: The Queen is greatly gratified at Gen. Wolseley's success.

Ismailia, 27.—An engine and nine trucks arrived to-day from Suez. The line is in fair working order. The rebel position at Tel el Keber is very strong with entrenchments right across, and on both sides of the railway. The position is flanked on each side by water.

Our losses on Friday were about 50 killed and wounded, of which the cavalry lost 20 or 30 from the heavy shell fire and from charging a square of infantry. Our total forces in Ismailia district, under Gen Wolseley, is about 4,000 men, 2,500 horses and 27 guns.

PORT SAID, 27. — The steamer *Calypso* arrived on Saturday, with 150 Turkish troops and moored inside the inner harbor, when the *Monarch* at once sent two armed boats, covered with a gatling gun, from the *Monarch*, to learn their errand. The Turks stated that they were the annual relief for the Turkish garrison at some fort in the Red Sea. During the night, armed boats from the British fleet cruised around, with orders to prevent the Turks from landing. The *Calypso* entered the canal on Sunday morning, a steam pinnace from the *Hecla* accompanying her, with orders to prevent the disembarkation of the troops.

Port Said, 27.—DeLesseps embarked for Marseilles to-day.

Ismailia, 27.—All is quiet at the front.

British cavalry have advanced to Kas-assan Lock.

Locomotives arrived at Suez, today from Bombay.

Alexandria, 27.—The commander of the British ironclad *Achilles* reports the Aboukir garrison making an entrenched camp, on which several thousand laborers are working.

Malta, 27.—The transport *Adjutant*, with military police and infantry numbering 310 men has arrived.

Ismailia, 27.—At the outset of the fight we were under a very heavy fire, especially from the Egyptian left, where ten guns rained shells upon us, incessantly.

The Eighty-fourth moved in this direction in skirmishing order. As the men were scattered, the losses were slight. Finding that they were doing little harm, the enemy directed their attention upon Gen'l Wolesley and staff. The enemy played freely upon the household cavalry and all the hopes entertained of the usefullness and bravery of the latter were fully realized. Two gatling guns were served by marines who were unable to go into action on account of the severety of the enemy's artillery fire.

Constantinople. — The Kurdish Chief Obeidallah, in a telegram to the Sultan, states that he quitted Constantinople without any hostile intention, and remains a faithful servant of the Sultan.

Alexandria, 27. — The British forty-pounders, at Ramleh, cannonaded the enemie's lines to day.

A CONVINCING ARGUMENT.

"THE MAIN QUESTION" BY MESSRS. MARSHALL & ROYLE. REVIEWED FROM A LEGAL STANDPOINT.

I have read with pleasure the ingenious article of those able and experienced lawyers and felt at the beginning that if there were solid grounds on which to place the power of the Governor to appoint successors to the territorial and county and district officers, for such as might have had successors elected in August, that they would palpably and successfully show it, but their article has confirmed me that there are no such grounds. I agree with them in the importance of the question and that it is one rising transcendently above partisan politics, religious creeds, or local divisions of the people of the Territory, and one that should be decided on enduring principles.

The rule of construction derived by them from the Slaughter House cases, in 16th *Wallace Reports* of the Supreme Court of the United States, seems to be far-fetched and inapplicable as will be seen from a statement of the case. The Louisiana legislature granted a charter by which the incorporation had the exclusive right for twenty years to have slaughter houses, landings for cattle, and yards for inclosing cattle intended for sale or slaughter within the parishes of Orleans, Jefferson and St. Barnard, and the controlling question was, did this act of the Louisiana legislature conflict with the 13, 14 and 15 amendments to the United States Constitution, for it was conceded that it conflicted with no previous provision of the Constitution. The 13th amendment simply abolishes slavery; the 14th amendment declared all persons born or naturalized in the United States to be citizens, and the second clause provided that: "No State shall make or enforce any law which shall abridge the privilege or immunities of citizens of the United States." And it was upon this clause that the assailants of the Louisiana statute denied its validity.

As it had previously been decided by this court that such acts fell within the public powers of the States and not in conflict with the United states Constitution the underlying question was whether the police powers of the States had been abridged by this 14th amendment, which was intended to enfranchise those who had been freed by the previous amendment. Hence, on the page preceding the language quoted by Messrs. M. & R. Mr. Justice Miller said: "On the most casual examination of the language of these amendments, no one can fail to be impressed with the one pervading purpose found in them all, lying at the foundation of each, and without which none of them would have been even suggested; we mean the freedom of the slave race," etc.

Now on the most casual examination of the Edmunds bill it will be seen that the first eight sections apply to all the Territories and other places over which the United States has exclusive jurisdiction, (it is the eighth section which disqualifies polygamists and bigamists from voting and holding office), and no more applies to Utah than to the District of Columbia or any other Territory, and this fact and idea must be kept in view if we would arrive at a clear solution of those sections applicable alone to Utah. For it is evident that the Edmunds bill did not intend to declare vacant all the offices held by polygamists in all the Territories of the United States and other places over which it has exclusive jurisdiction, but only to put them under future disabilities. And this feature of the Edmunds statute seems to have been overlooked by the judges of the Territorial Supreme Court, by the author of the Hoar amendment, and by the Congress of the United States. Significant and almost conclusive as it is, for neither the Edmunds statute nor the Hoar amendment provides for filling any vacancies except in Utah.

"Wade on Retroactive Laws," on this subject of office, shortening the term and regulating the compensation of statutory offices, says:

"Nevertheless, the same rules of construction will be applied to legislative acts of this kind as to those directly calculated to disturb vested rights. Thus where it was provided in an amendment to the charter of a municipal corporation that an officer of the city who accepted a seat in the general assembly of the State should be deemed to have vacated his office, in the absence of express words giving the statute a retroactive operation, it was construed as prospective, and held not to apply to officers who had already become members of the legislature." Section 48.

And so held by Appellate Court of New York, 58, N. Y. 295, the People *vs.* Green.

This universal rule recognized by this able law writer, is exceedingly apropos to Utah and its officers. The Edmunds bill declared the registration and election offices of Utah vacant, but did not declare any other office vacant, and the Hoar amendment did not even squint at declaring any office vacant, but did provide for filling vacant offices in Utah, but nowhere else.

But Messrs. M. & R. say the Supreme judges of the Territory did ask Congress to "take such measures as will provide for legal succession to all the present incumbents of office whose successors would have been chosen at the August election, and thereby secure the continuance of good order and the regular and undisputed support of organized government," and reasons because the judges so asked that Congress granted the request.

But on the contrary the Congress failed to authorize the Governor to appoint successors for such officers. Had Congress intended to declare such offices vacant and to authorize the Governor to fill them, direct and emphatic language would have been used, as was done in the Edmunds bill as to registration and and election officers. The Hoar amendment, however, only authorized the Governor to fill such offices as became vacant by reason of the not holding of the August election, leaving the question as to what offices, if any, did become vacant with the law and to be determined by its provisions. And no doubt the Governor can fill all the offices which became vacant on the day the election should have been held, but not such as did not then become vacant, for in the language of the able Supreme Court of Ohio, it is a legal impossibility for a vacancy to occur whilst there is a legal incumbent in an office.

And in the guarded language of the Hoar amendment, Congress acted most wisely, as is demonstrated by its own provisions. The term to be filled by the Governor can last but for eight months under any circumstances, and he is only authorized to appoint successors for the offices becoming vacant in August 1882, and not their successors. So, should he fill such vacancies in August, their terms would expire in April, 1883, when no election of their successors could occur until the following August, and here would be a hiatus of several months, when no legal successors could be appointed by the Governor, and a state of anarchy would thus be produced.

To save all such trouble and difficulties, and that the continuance of good order and the regular and undisputed support of organized government may be secured, let the law as it is be administered, let the well adjudicated and universally recognized rules by the American people and their governments be applied to Utah, and let there be no attempt by new and unrecognized rules of construction applied to oust the present legal incumbents, and all will be well, otherwise interminable confusion, doubt, danger and loss to capital and labor will ensue.

The construction attempted by Messrs. M. and R. will have produced great confusion and loss already, for if they be right there has been no incumbent in those offices since the first Monday in August, and all that has been done by such pretended incumbents is nugatory and void; or if they should say these are *de facto* officers and their acts good and valid, I respond then let them remain *de facto* officers until their successors are duly elected and qualified, for the appointees of the Governor may not be even *de facto* officers.

The universally recognized rule, however, in the American States is that when the statute provides for the holding over until the successor is duly elected and qualified that the term lasts until the election and qualification of the successor, and such rule has been recognized by the United States Supreme Court in places over which the United States has exclusive jurisdiction.

The reasons and philosophy of the rule are that by law the people retain the right at given periods, and disregarded ways, to elect or appoint the successors but that if from any cause this reserved privilege of election or appointment be not exercised the term of the incumbent continues until the successor be duly elected or appointed and qualified, in the way and at the time provided by the law; so that no confusion and injury may result to the public or individuals because of there being no such officer. In the slaughter house cases the United States Supreme Court restricted the meaning of the general language of the 14th amendment to the legitimate purposes of its enactment, and held that it was not intended to, and did not abridge the police powers of the States, but Messrs. M & R. give to the Hoar amendment a latitudinous construction, most unnatural, in order to make it embrace objects foreign from its purpose, and such as will produce the very evil that it intended to remedy. In other words, instead of applying the restrictive rule of the U. S. Supreme Court, they have reversed it into a most expansive one, and such as that able body of learned and experienced jurists can never sanction, for it is at war with all American ideas, rules of construction, and decisions of their courts.

Messrs. M. & R. indulge the very violent presumption that Mr. Hoar and the Senate understood the laws of Utah and knew what they were about. Had these gentlemen turned to the debates in the Senate this presumption would have been dissipated at once.

For instance, Mr. Brown objected because this Hoar amendment authorized, as he understood it, the Governor to appoint all the officers until their successors should be elected and qualified, and that it might be years before the commission would bring on an election. This brought Mr. Hoar to the following explanation:

These Commissioners go on and provide for a new election of the *Territorial Legislature* forthwith, *that is their duty*; and that Territorial Legislature in its turn is to provide for elections for all these county and other subordinate Territorial offices.

Mr. Hoar evidently thought that the commissioners could order an election and assembling of the Territorial Legislature at their pleasure, whereas they can order neither, but the Territorial Statute provides that the members of the Legislative Assembly shall be elected in August, 1883, and the law requires them to assemble the following January.

But again in that same debate Mr. Brown said:

"I will suggest that the usual provision in States, and I suppose in Territories, where no election is made to fill an office is that the incumbent remains in office until his successor is elected and qualified. *Is there anything in Utah in conflict with that?*"

Mr. Hoar. "The difficulty with that is this. *The present officers are very many of them, polygamists and the Edmunds act provides that no polygamists shall continue to hold office. Therefore the present officers do not hold there.*"

The italics are mine. Now did Mr. Hoar mean to say that because the Edmunds bill put polygamists under disabilities in all the Territories and places where the United States had exclusive jurisdiction, that therefore the terms of monogamist officers terminated in Utah because no election was held in August?

I cannot so understand, for that would be logic that would disgrace a Bannack Indian. His meaning was that because the Edmunds bill had vacated the offices held by polygamists that polygamist incumbents could not hold over and therefore the Governor should fill those vacancies; and even in this he misapprehended both the purport and provisions of the Edmunds bill, but this statement of his puts beyond doubt that it was not his intent nor the understanding of the Senate by this amendment to the Sundry Civil Appropriation bill to declare any vacancies but only to provide for such as would become vacant under the provisions of the Edmunds statute because of the non-holding of the election.

And this is made doubly sure by what Mr. Blackburn, one of the conference committee, said in the House of Representatives when it concurred in this amendment, that such officers as could hold over under the territorial law were not embraced in or to be ousted by this Hoar amendment, and indeed there is not a word or syllable that authorizes the ousting of any officer whose term lasts until his successor is elected and qualified under the territorial statutes in this Hoar amendment. Whether construed by its own terms, which is the legal rule, or by the debates thereon, it is equally clear that the Hoar amendment made no vacancies, but only provided for the filling of such as the Edmunds bill and the not holding of the August election produced.

If those offices be all vacant, which they are if Messrs. M. & R.'s construction of the Edmunds act and the Hoar amendment be correct, will they please tell how and before whom the Governor's appointees are to execute the required bonds and have them approved and take the necessary oath of office? If the county treasurer's office be vacant, how can the Governor's appointee of Probate Judge qualify? If the office of Probate Judge be vacant, how can the Governor's appointee of County Clerks execute bond and qualify, and so on, *ad infinitum*.

RESDENT GENTILE.

Ogden, Utah.

DIED.

In the 21st Ward, Salt Lake City, Aug. 22d, 1882, of diphtheria, ANNIE FRANCES, daughter of Thomas and Fanny E. Moss, aged 13 years and 5 months.

In the Sixth Ward, Salt Lake City, August 27th, 1882, of septicæmia, MARY T., wife of George Burt. Born May 7th, 1851, at Midgston, Stirlingshire, Scotland.

At Springville, August, 17th. 1882, of scarlet fever. HARLES L., son of James and Martha Dowdell, aged two years, eight months and six days.

At St. George, Washington County, Utah, August 20th, 1882, of summer complaint, PARLEY PRATT, son of Elijah M. and Henrietta Steers, aged 16 months and 8 days.

At Almy, Wyoming Territory, Aug. 16th, 1882, PETER ROUGHLEY. Born at St. Helens, Lancashire, England, February 2d, 1812. Deceased came to his death by a fall of coals in No. 4 Mine, Almy. He was among the first to embrace the gospel after its introduction in England, being baptized at Preston in that country. He died as he had lived, a faithful Latter-day Saint, in the hopes of a glorious resurrection.—[COM.

Millennial Star please copy.

At Pleasant Grove, August 17, 1882, after a protracted illness of several months, BENJAMIN HAWLEY; infant son of Hyrum L. and Susan E. Thompson, aged 1 year and 5 months.

Mrs. Thompson has lost her mother and two of her children within the last eight months, the last named in the absence of her husband. The bereaved parents have the sympathy of all their friends.

In the 4th Ward, Salt Lake City, August 20, 1882. EMILY, daughter of Nimshi and Emily Smith, born July 18, 1882.

In the 11th Ward of this city, August 23d, 1882, of debility, CHARLES W., son of Robert C. and the late Louisa V. Beck, aged 4 weeks and 5 days.

WHOLESALE PRODUCE LIST

List of Buying Prices of Produce in the Salt Lake Market, corrected Semi-Weekly for the DESERET EVENING NEWS, by Z. C. M. I. and others:—

Wheat, Old	90 @ 95cts. ₱bushel.
Wheat, New	75 cents ₱bushel.
Oats	$1.90 ₱ 100 lbs.
Barley, Old	1.70 " " "
Barley, New	1.40 " " "
Shelled Corn	1.50 " "
Flour, XXXX	2.75 " " "
" XXX	2.50 " " "
" XX	2.20 " " "
Bran	1.00 " " "
Shorts	1.10 " " "
Butter	32 " pound.
Eggs	20 " doze
Beef on foot	4 pr.
Mutton, dressed	3½ to 6c. p. lb
Pork	9 @ 10cts. "
Wool	14 to 19c. p. lb
Hides, Dry Flint	10 " 14c. "
" Salted	8 " 12c. "
" Green	4 " 6c. "