

prescribed, to personally inspect and scrutinize such registry, and for purposes of identification to affix their signature to each page of the original list, and of each copy of any such list of registered voters, at such times, upon each day when any name may be received, entered, or registered, and in such manner as will, in their judgment, detect and expose the improper or wrongful removal therefrom, or addition thereto, of and name.

"SEC. 2017. The supervisors of election are authorized and required to attend at all times and places for holding elections of Representatives or Delegates in Congress, and for counting the votes cast at such elections; to challenge any vote offered by any person whose legal qualifications the supervisors, or either of them, may doubt; to be and remain where the ballot-boxes are kept at all times after the polls are open until every vote cast at such time and place has been counted, the canvass of all votes polled wholly completed, and the proper and requisite certificates or returns made, whether the certificates or returns be required under any law of the United States, or any State, territorial, or municipal law, and to personally inspect and scrutinize, from time to time, and at all times, on the day of election, the manner in which the voting is done, and the way and method in which the poll-books, registry lists, and tallies or check books, whether the same are required by any law of the United States, or any State, territorial, or municipal law, are kept.

"SEC. 2018. To the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the endorsement on the ballot, or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section two thousand and twenty-five, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates and returns of all such ballots as such officer may direct and require, and to attach to the registry-list; and any and all copies thereof and to any certificate, statement, or return, whether the same, or any part or portion thereof, be required by any law of the United States, or of any State, territorial, or municipal law, any statement touching the truth or accuracy of the registry, or the truth or fairness of the election and canvass, which the supervisors of the election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known."

Section 2019 describes the positions the supervisors are to take at elections.

Section 2028 provides that a supervisor of election must be, at the time of his appointment, "a qualified voter of the city, town, county, parish, election district, or voting precinct in which his duties are to be performed."

Section 2025 provides for the appointment of a chief supervisor of elections in each judicial district of a circuit, and sections 2020 and 2026 describe his duties.

Section 2029 restricts the duties of supervisors for counties or parishes, so that they are only authorized "to be in the immediate presence of the officers holding the election, and to witness all their proceedings, including the counting of the votes and the making of a return thereof."

#### CONCERNING UNITED STATES MARSHALS AND THEIR DEPUTIES AT ELECTIONS.

The following sections of the United States Revised Statutes refer to the attendance of United States marshals and their deputies at elections—

"SEC. 2021. Whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants or upward, the marshal for the dis-

trict in which the city or town is situated, shall, on the application, in writing, of at least two citizens residing in such city or town, appoint special deputy marshals, whose duty it shall be, when required thereto, to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times and places when and where the registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct.

"SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but no person shall be arrested without process for any offense not committed in the presence of the marshal or his general or special deputies, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals; nor shall any person, on the day of such election, be arrested without process for any offense committed on the day of registration.

SEC. 2023. Whenever any arrest is made under any provision of this Title, the person so arrested shall forthwith be brought before a commissioner, judge, or court of the United States for examination of the offences alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

SEC. 2024. The marshal or his general deputies, or such special deputies as are thereto specially empowered by him, in writing, and under his hand and seal, whenever he or either or any of them is forcibly resisted in executing their duties under this Title, or shall by violence, threats, or menaces, be prevented from executing such duties, or from arresting any person who has committed any offence for which the marshal or his general or his special deputies are authorized to make such arrests, are, and each of them is, empowered to summon and call to his aid the bystanders or posse comitatus of his district.

"SEC. 5522. Every person, whether with or without any authority, power, or process, or pretended authority, power, or process, of any State, Territory, or municipality, who obstructs, hinders, assaults, or by bribery, solicitation, or otherwise, interferes with or prevents the supervisors of election, or either of them, or the marshal or his general or special deputies, or either of them, in the performance of any duty required of them, or either of them, or which he or they, or either of them, may be authorized to perform by any law of the United States, in the execution of process or otherwise, or who by any of the means before mentioned hinders or prevents the free attendance and presence at such places of registration or at such polls of election, or full and free access and egress to and from any such place of registration or poll of election, or to and from any room, where any such registration or election or canvass of votes, or of making any returns or certificates thereof, may be had, or who molests, interferes with, removes, or ejects from any such place of registration or poll of election, or of canvassing votes cast thereat, or of making returns or certificates thereof, any supervisor of election, the marshal or his general or special deputies, or either of

them; or who threatens, or attempts, or offers so to do, or refuses or neglects to aid and assist any supervisor of election, or the marshal or his general or special deputies, or either of them, in the performance of his or their duties, when required by him or them, or either of them, to give such aid and assistance, shall be liable to instant arrest without process, and shall be punished by imprisonment not more than two years, or by a fine of not more than three thousand dollars, or by both such fine and imprisonment, and shall pay the costs of the prosecution."

Section 2028 provides that a deputy marshal appointed under the preceding sections must be, "at the time of his appointment, a qualified voter of the city, town, county, parish, election district, or voting precinct in which his duties are to be performed."

Section 2008 provides that any officer of election wrongfully refusing or omitting to receive, count, certify, register, report, or give effect to the vote of a legal voter shall forfeit \$500 to the aggrieved party, to be recovered by action, with costs and counsel fees.

Section 2009 provides that every officer or other person, having official powers or duties to perform under the laws relating to the "Elective Franchise," who shall hinder, delay, obstruct, or prevent any citizen from qualifying to vote, or from voting at any election, shall forfeit \$500 to the party aggrieved, to be recovered by action, with costs and counsel fees.

Certain other sections provide heavy fines and lengthy imprisonment for fraudulent voting, for non-fulfillment of duty by supervisors and marshals, and for interference by others with them in the fulfillment of their duties, for the prevention or hindrance, by officials or non-officials, of any legal voter from depositing his vote at the polls, or for forcing the reception of any illegal vote, and army or navy officials after conviction are disqualified from further holding office under the United States. So that supervisors, marshals, deputy marshals, army and navy officers, etc., have need to be careful of their conduct on election days.

The authoritative attendance of the marshals and their general and special deputies at elections comes from what is known as the enforcement law, a partisan republican act for the extension of federal authority in the States, and generally considered an encroachment upon States rights.

It has been boastfully published in this vicinity that on election days, such as next Tuesday (Nov. 7, 1876), State, Territorial, and municipal authority falls almost entirely into abeyance, being all but supplanted by federal authority, and that local officers for the conservation of the public peace are entirely supplanted by United States marshals, and their general and special deputies.

This view does not seem to be sustained by the Supreme Court of the United States, which, in a decision upon an appealed case under this enforcement act, said—

"Certainly it will not be claimed that the United States have the power or are required to do mere police duty in the States. If a State cannot protect itself against domestic violence the United States may, upon the call of its Legislature or Executive, lend their assistance for that purpose."

"The powers of internal police are not surrendered or restrained by the constitution of the United States."

In the case alluded to, the United States Supreme Court decided that Congress had the constitutional right to interfere at elections to protect voters from discrimination on account of race, color, previous condition of servitude, and but that the enforcement act, which had provisions of that nature, had other provisions which the Constitution would not sustain, and therefore the whole law was unconstitutional and void, it not being the business of the courts to pick out and act upon the constitutional portions of an act, while obliged to reject other portions as unconstitutional.

Attorney General Taft, however, in his recent circular to marshals, and his defences of the same, shel-

ters himself under the plea that the case upon which the United States Supreme Court rendered that decision involved a State election only, and therefore was not applicable in a federal election, or an election of a person to federal office or place.

Consequently, the subject of constitutionality or unconstitutionality remains an open and fiercely disputed question, and before being finally settled will probably have to go again before the United States Supreme Court on a case involving the election of a person to federal office or place.

#### WHO ARE LEGAL VOTERS IN UTAH?

MALE citizens of the United States, above the age of 21 years, who have been constant residents in the Territory during the six months next preceding the election, and who are tax-payers in the Territory.

Female citizens who are above the age of 21 years, and have resided in the Territory six months next preceding any general or special election. They are not required by law to be tax-payers.

Citizens in the United States navy, whose permanent domiciles for six months have been in the Territory, who have been constant residents in the Territory during the six months next preceding the election, and who are tax-payers in the Territory.

Citizens in or subject to the United States army, whose homes and places of residence were in the Territory at the time they engaged in the service, who have been constant residents in the Territory during the six months next preceding the election, and who are tax-payers in the Territory.

Thus all voters, male and female, must be citizens of the United States, over 21 years of age, and constant residents in the Territory during the six months next preceding the election.

All male voters must be tax-payers in the Territory.

The following persons are citizens, unless they have forfeited their citizenship for cause—

All persons born in the United States and not subject to any foreign power, Indians not taxed excluded.

Children, born out of the United States, whose fathers were or had been citizens at the time of the birth of the children, unless the fathers never resided in the United States.

Alien women married to citizens, which women themselves might lawfully be naturalized.

Alien men and women who have been naturalized.

Widows and children of aliens who declared their intentions and died before they were actually naturalized, but such widows and children must take the oaths prescribed by law.

Children, living in the United States, whose parents have been naturalized, which children were under 21 years of age when their parents were naturalized.

#### IMPORTANT TO ALIENS.—

About ten days ago, says the San Francisco Post of October 30th, Judge Sawyer, of the United States Circuit Court, made an order that, in accordance with the United States Revised Statutes of 1874, all declarations of intention of citizenship must be made in open court, and not before the clerks of courts, as has been the practice, and held that all declarations of intention which were made before Court Clerks subsequently to the date when the Revised Statutes went into effect—June 22, 1874—were invalid. In accordance with this ruling he last week refused final papers to a man who had made his declaration before a court clerk two years previously, but later than June 22, 1874. The ruling has created a good deal of excitement among foreigners who have taken out their first papers during the last two years and four months, for under it nearly all of them would have to do the work all over again, thereby losing just so much time. But, as will be seen by the following communication from Judge Sawyer, news has been received from Washington which sets the whole question at rest, and validates the declarations made before clerks since the Revised Statutes went into operation:

"Editor Post: The pamphlet laws of the last session of Congress were received this morning, and I find

that the omission in the Revised Statutes to authorize the filing of a declaration to become citizens before Clerks of Courts was supplied by an Act which provides that the declaration may be made by an alien before the Clerk of any of the Courts named in the said section, number 2,165; and all such declarations heretofore made before such Clerks are hereby declared legal and valid, as if made before one of the Courts named in said section.

"Please call attention to the Act, as it validates all the declarations made during the period of four months, between June 22, 1874, and October 30, 1874, upon which the parties are now entitled to final papers, some of which were recently rejected."

"LORENZO SAWYER,  
Judge United States Circuit Court."  
—Sacramento Record-Union, Nov. 3.

#### Correspondence.

"If He is Liable to Be, He Is."

SALT LAKE CITY,  
Nov. 3, 1876.

Editor Deseret News:

The following has been published as the opinion of Judge Schaeffer—

"1st. If a resident of the Territory has at any time paid a tax in the Territory, whether it be a poll-tax or any other species of tax, he is, under this act, a tax-payer.

"2d. If a resident is in such a condition that the duly authorized officers of the people of the Territory can, by ordinary diligence, levy and collect a tax of any species from him, he is, under this act, a tax-payer.

"3d. Negligence on the part of the agents of the people in failing to levy or collect a tax should not deprive a citizen of the right to vote."

The first point goes on the old principle of once a tax-payer always a tax-payer, which may or may not have been the meaning of the legislators who made the law.

The second point in this opinion is tortured by the ringites into the following—"Any resident who is liable to pay a tax," is a tax-payer.

I do not understand the language of the Judge in that way. If he really means that, then, by analogy, if a woman is liable to be married she is a married woman, if an alien is liable to be naturalized he is naturalized, if a man is liable to be a resident he is a resident, if a man is liable to be a legal voter he is a legal voter, if a man is liable to be a bankrupt he is a bankrupt, if a man is liable to be a merchant he is a merchant, if a man is liable to be a swindler he is a swindler, if a man is liable to be hung he is hung, if a man is liable to die he is dead, if a soldier in battle is liable to be shot he is shot and his heirs should have a pension, and, in the elegant language of the politicians, if an official is liable to be a "dead duck" he is a "dead duck." If a man does not own any taxable property, let him buy or beg or steal a dog and swear it is his, and then he will be held to own taxable property, to be liable to be a tax-payer, and to be a tax-payer.

This is the logic of the ringites. It is all of a piece with their constant sophistry.

Z.

A clergyman at East Bolton, Quebec, recently seized a bride as security for the non-payment of his fee by the impetuous bridegroom, and the husband had to give security for \$1.25 ere he could obtain his spouse.

#### DIED.

At Farmington, Davis Co., Utah, Oct. 8, 1876, LAVINA WALKER, eldest daughter of Hyrum and Jerusha Smith.

Deceased was born in the town of Macedon, Wayne Co., New York, Sept. 18, 1827; married to Lorin Walker, June 23d, 1844, at Nauvoo, Hancock Co., Ill., to whom she proved a devoted and faithful wife and companion until the day of her death; was the mother of thirteen children, eleven of whom and thirteen grandchildren she has left, in connection with many kindred and friends, to feel and mourn their temporal loss in her sudden and apparently untimely death.

At the time of the exodus of the Saints from Nauvoo, she remained with her husband in Illinois until the Spring of 1856, when, with her husband and family, she went to Florence, Nebraska, on their way to Utah, where they remained four years, crossing the plains in 1860, in the company of emigrants in charge of Patriarch John Smith. Soon after their arrival in the Territory they settled at Farmington, Davis Co., where the deceased resided until her demise.

To the truly faithful no encomiums are necessary. It is therefore sufficient to say that as she had always lived, so she died, firm in the faith of the gospel as restored through the Prophet Joseph Smith.—Com.