GLENN COUNTY.

Who Shall be Entitled to Vote at the Coming Election?

Attorney-General Hart Renders an Opinion as to the Qualifications of Electors Thereat.

Recently the Commissioners appointed to call an election to determine whether or not the proposed County of Glenn shall be formed addressed a communication to Attorney-General Hart, requesting his opinion as to the qualifications of persons entitled to vote at the election. In response thereto General Hart yesterday addressed to the Commissioners the following opinion:

Board of Commissioners of Glenn County, Willows, Cal.—GENTLEMEN: At your request I have examined the Act passed at the last session of the Legislature, approved March 11, 1891, creating the County of Glenn; and in reference thereto will state:

Section 2 of the Act referred to definitely fixes the boundaries of said Glenn County.

Section 4 of said Act fixes the day for the election, and declares that "at said election there shall be submitted to the qualified electors of said County of Glenn, as hereinafter described, the question whether they desire a separate county government; * * * said election shall be conducted in every respect, except as hereinafter otherwise provided, in accordance with the general law for the election of county and township officers."

Section 6 of said Act provides that the Board of Commissioners appointed under the provisions of Section 5 shall meet at the town of Willows two weeks before the day of election, and at said meeting they shall designate the precincts of the (Glenn) county, the house or place within the precincts where the election must be held, and the offices to be filled, and appoint two inspectors, two judges of election, and two clerks for each of said precincts.

Section 7 provides that "after designating the precincts of the county" and appointing the election officers, they shall give notice, etc., and "that at said election there will be submitted to the qualified voters within the said County of Glenn the question of the final establishment of the said county."

In order to determine the questions submitted to me by you, it becomes necessary to ascertain when Colusa County had or made its last Great Register. I am informed that at the last general election the Board of Supervisors of Colusa County ordered a re-registration of the voters, and I take this to be the fact.

Section 1094 of the Political Code, as amended and approved March 20, 1889, reads as follows: "Section 1094. A register, in which shall be entered the names of the qualified electors of each of the counties in the State, shall be kept at the office of the County Clerk of such county, and in each of the cities and counties of the State such a register shall be kept in the office of the person charged with the registration of voters in such city or county. There shall be in each of the counties and cities and counties in the State (when required by the Board of Supervisors) a new and complete registration of the voters of such counties and cities and counties, who are entitled thereto, and who apply with the proper proof. Such registration shall commence one hundred days before a general election, and shall continue for eighty-five days thence next ensuing, when such registration shall cease; provided, that nothing in this section shall be held to repeal any election or registration law applicable to or in force in the City and County of San Francisco."

By the provisions of this section, in making up the Great Register of Colusa County for the last election, re-registration commenced one hundred days before the last general election and continued for eighty-five days thence next ensuing, terminating on the 20th day of October, 1889.

Section 1, Article XI., of the new Constitution of the State of California, provides: "Section 1. Every native male citizen of the United States, every male person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every male naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of 21 years, who shall have been a resident of the State one year next preceding the election, and of the county in which he claims his vote ninety days, and in the election precinct thirty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; provided, no native of China, no idiot, insane person, or person convicted of any infamous crime, and no person hereafter convicted of the embezzlement or misappropriation of public money, shall ever exercise the privileges of an elector in this State."

By this section of said Article, in addition to citizenship, five things must exist in order to qualify a person to vote, viz:

1. That citizenship must exist ninety days prior to election.
2. He must be a male citizen of the age of twenty-one years.
3. He must have been a resident of the State one year next preceding an election.
4. He must have been a resident of the county in which he claims his vote for ninety days.
5. He must have been a resident in the election precinct in which he votes thirty days next preceding the election.

Section 17 of the Act creating Glenn County provides that said Act shall take effect and be in force from and after its passage. On account of this provision and from the language of said Act there can be no doubt that since the 11th day of March, 1891, Glenn County has been a county, under the laws of the State of California, without reference to a vote to be had thereon, for the following purposes: For fixing the boundaries of said county; for fixing the seat of justice of said county; creating a Board of Commissioners; nominating county officers; fixing the election precincts of said county, and the polling place in each precinct; for the appointment of Inspectors, Judges of Election and Clerks for each precinct; fixing the election for the first Tuesday in May, 1891; for canvassing the votes cast at said election; fixing the class to which Glenn County belongs; fixing the terms of the officers to be elected at said election, and especially for the purposes of an election as provided in said Act, and everything necessary to constitute a county, with the exception that it is to be ratified by a majority of the qualified electors living within Glenn County. In order for a person to vote at said election he must be a qualified elector of Glenn, not Colusa, County.

There is no provision in the Constitution requiring a voter to be registered; but all power is reserved to the people which is not limited by the provisions of the Constitution. A voter must have the qualifications provided for in the Constitution, *and such other qualifications as the Legislature may require.* On April 16, 1880, the Legislature, in order to make the law or statutes of California conform to the provisions of the new Constitution, and to provide for the registration of voters, amended Section 1083 of the Political Code, to read as follows:

"Section 1083. Every native male citizen of the United States, every male person who shall have acquired the right of citizenship under or by virtue of the treaty of Queretaro, and every male naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of 21 years, who shall have been a resident of the State one year next preceding the election, and of the county in which he claims his vote ninety days, and in the election precinct thirty days, and whose name shall be enrolled on the Great Register of such county, shall be a qualified elector thereof."

By this section, in addition to the five constitutional conditions, aforesaid, the Legislature has added another or sixth condition, viz.: that the name of the voter shall be enrolled on the Great Register of such county; and it is only when this condition, together with the five constitutional conditions, are complied with, that a person is a qualified elector.

In regard as to what register shall be used at this coming election for completing the organization of Glenn County, it is provided by the Act of the Legistature, approved February 9, 1878, concerning special elections, as follows:

"Section 1. At any special election to be held in any county * * * copies of the Great Register of such county * * * which were printed before, and used at the next preceeding general election shall be used.

"Section 2. Before the day on which said special election is appointed to be held, the Board of Supervisors of the county, * * * must furnish the Board of Election of each precinct in the county at least one copy of the aforesaid printed Great Register. * * * If the Board cannot otherwise obtain a sufficient number of copies of the register for the purpose, it must take the copies filed in the office of the County Clerk, in pursuance of Section 1268 of the Political Code.

"Section 3. If the copy of the register which shall be furnished to any precinct shall have been used at a previous election, the letter 'v' may be used instead of the word 'voted,' as required by Section 1228 of the Political Code.

"Section 4. It shall not be the duty of the Board of Election to post copies of the Great Register, as required by Section 1149 of the Political Code."

For the purposes of the election provided for in Glenn County on the first Tuesday in May, 1891, the election must be called a special election, and the Board of Supervisors or Clerk of Colusa County must furnish copies of the Great Register of Colusa County (as Colusa County existed before the passage of the Act creating Glenn County), used at the last general election, covering the territory of and sufficient in number for each precinct of Glenn County; but in using this register no person enrolled thereon can vote at the election to be held the first Tuesday in May, in Glenn County, unless he is a qualified elector of Glenn County.

Section 1227 of the Political Code provides that if the name of the party presenting the ballot is found on the register in use at the precinct (the Great Register of the county) where the vote is offered, and the vote is not rejected upon a challenge taken, the inspector, or judge acting as such, must, in the presence of the Board of Election, place the ballot, without opening or examining the same, in the ballot box, *and no person shall be allowed to vote whose name is not on said register in use at the precinct.*

Sections 1230, 1231, 1232, 1233, 1234, 1235 and 1236 of the Political Code provide and specify the grounds upon which a voter may be challenged.

Section 1237 of the same code provides how a challenge on certain grounds is to be tried and disposed of.

Section 1238 of the same code provides that if the person challenged refuses to take the oath tendered he is not to be allowed to vote.

Section 1239 of the Political Code lays down the rules for determining the question of residence; however, that section as it now exists was passed and approved March 30, 1874, and has not been amended since the adoption of the new Constitution. The third subdivision of said section is as follows: "A person must not be held, by reason of having moved from one precinct to another, in the same county, within thirty days prior to the election, to have lost his residence in the precinct so moved from, provided he was an elector therein on the thirtieth day prior to such election."

This provision is unconstitutional and void, the same being modified and repealed by the provisions of Section 1, Article II., of the new Constitution, and by Section 1083 of the Political Code, which was amended and took effect April 16, 1880. The old Constitution of California did not require any length of residence in a voting precinct as a prerequisite of the right to vote; but the new Constitution changed this rule entirely and the third subdivision of Section 1239 ceased to be a law in this State upon the adoption of our present Constitution.

This matter was fully disposed of by Chief Justice Beatty in the case of Russell vs. McDowell, 83 Cal. 70 (see opinion pp. 80-1), in which opinion, after quoting the third subdivision of Section 1239 of the Political Code, as aforesaid, he says: "It is to be observed, however, with respect to this provision of the Political Code, that it was adopted while the old Constitution was in force, and though perfectly valid at the time of its adoption—the old Constitution not requiring any length of residence in a voting precinct as a prerequisite of the right to vote (Const. 1863, Art. 2, Sec. 1)—it has ceased to be a law since the adoption of the new Constitution, with which it is in direct conflict. By the new Constitution (Art. 2, Sec. 1), residence in his election precinct for thirty days preceding the election is just as essential a condition of the right to vote as is residence in the county of ninety days, and in the State for one year."

My conclusions are as follows:

1. No person can vote at the election to be held in Glenn County on the first Tuesday in May, 1891, unless he be a qualified elector of Glenn County; and in order to be such the following conditions must exist: (a) He must have been a citizen of the United States for at least ninety days prior to the day of election. (b) He must be a male citizen at least 21 years of age. (c) He must have been a resident of the State at least one year next preceding the day of election. (d) He must have been a bona fide and actual resident of Glenn County, residing within the exterior limits of that county, for at least ninety days next preceding the election. (e) He must have been a bona fide resident in the election precinct in which he votes for thirty days next preceding the day of election. (f) His name must be enrolled on the Great Register of Colusa County. Should any of these conditions be wanting he is not entitled to vote.

2. The election to be held in Glenn County on the first Tuesday in May, 1891, will under the law be termed a special election, and for the purposes of said election the Great Register of Colusa County used at the last general election must be used for determining who shall vote at the election to be held in Glenn County.

3. Any person having each of the qualifications mentioned in the first hereof will be entitled to vote at said election, even though not registered at the last general election, provided his name has been properly enrolled on said register since that time, and provided he has been registered more than thirty days prior to the day of election.

4. It is the duty of the Board of Supervisors or Clerk of Colusa County to furnish sufficient copies of the Great Register of Colusa County (as Colusa County existed before the passage of the Act creating Glenn County), used at the last general election, to supply each precinct of Glenn County with a copy for the election to be held on the first Tuesday in May.

5. It is not necessary for the Board of Election of each precinct in Glenn County to post copies of the Great Register, as required by Section 1149 of the Political Code.

6. The Board of Supervisors of Colusa County should print a supplement to the Great Register containing the names of persons registered since the last general election, up to and including the thirty-first day prior to the election to be held on the first Tuesday in May. Upon a failure to do so such persons may vote upon a certificate issued and provided for in Section 1107 of the Political Code.

7. It is not proper for the Board of Supervisors of Colusa County to order a new register printed.

8. Without any action of the Board of Supervisors the Clerk of Colusa County should furnish a certified copy of the Great Register of Colusa County, used at the last general election, for each precinct established by the Board of Commissioners of Glenn County.

9. An elector of that portion of Colusa County outside of the boundaries of Glenn County cannot move into Glenn County at any time within ninety days prior to the day of election and be a qualified elector of Glenn County.

10. The Board of Commissioners of Glenn County have no right to order a new or any register of the qualified electors of Glenn County; neither have they the right to print a register.

11. If there are not sufficient printed Great Registers of Colusa County to supply the requirements of the election to be held in Glenn County, it will be the duty of the County Clerk to furnish the Board of Commissioners of Glenn County the copies actually used at the last general election, to be used by the Election Board in the same manner as provided by Section 3 of the Act of the Legislature, approved March 9, 1878, concerning special elections. (Statutes of 1877-8, p. 73.)

12. The Board of Commissioners of Glenn County have the right to fix the precincts, and polling place within each precinct, at such place as they may see fit; but I would advise that the polling places be fixed in such places as will enable the expression of the bona fide electors upon the questions to be submitted at the election. Yours, respectfully,

WM. H. H. HART,
Attorney-General of California.

FISH COMMISSIONERS.

They Meet in San Francisco and Appoint Certain Officers.

At the recent meeting of the new Board of State Fish Commissioners, Thomas Tunstead was appointed as Chief of Patrol, at a salary of $110 per month. The Deputy Chief of Patrol will be selected after consultation with the Chief of Patrol in a couple of days.

The board appointed George M. Koppitz as Deputy Fish Commissioner, with the special duty of License Collector, at a salary of $100 per month.

J. G. Woodberry, late Superintendent of Hatcheries, was asked for information regarding the hatcheries at Sissons and Shovel Creek belonging to the State. He was asked to make an estimate of the cost of obtaining 3,000,000 salmon eggs and hatching them, the State to allow the use of the hatchery for the purpose.

George T. Mills, Fish Commissioner of the State of Nevada, was heard on the subject of sawdust in the Truckee River from the Schaefler Mill and the Truckee Lumber Company, which is destroying the fish in the State of Nevada.

The Secretary was instructed to notify the District Attorney of Nevada County, asking him to act under the present law, and to send a letter to the United States Fish Commissioner asking for a copy of the Macdonald fish ladder.

The President stated that a local hatchery should be started in the vicinity of San Francisco, and Commissioner Wilson was appointed a committee to see the Country Club and see what arrangements can be made with them.

The President announced that the Deputy Patrolmen and Deputy Commissioners would be named in a few days.

PAID HIS FINE.

Brooks' Delinquent Boarder Squares Up and Gets His Liberty.

George Fern, who was convicted on Saturday of petit larceny and sentenced to pay a fine of $30 or serve as many days in jail, has been liberated, a friend having paid the money for him.

Landlord Brooks of the City Hotel, the complaining witness, thinks the RECORD-UNION reflected too severely on him in stating that the young man was arrested simply that he (Brooks) might collect his bill for board. He says that under the law known as the "Anti-Hotel Beat Act" he would have had the right to cause the delinquent's arrest and prosecution without expense to himself. This is perhaps true, but the question is, would there have been any prosecution unless there appeared to be a prospect for Brooks to enforce the payment of his bill for board?

Brooks further states that after he got the money from Fern, and an order for his own and the latter's effects, then in the hands of Ward, he told Fern's counsel, Easterbrook, that he was willing to drop the case, but that the latter would not consent thereto. He also claims that he could have made out a worse case against Fern had he seen fit to do so.

Executive Appointments.

The following appointments were made yesterday by the Governor:

Directors of the Industrial Home of Mechanical Trades for the Adult Blind in Oakland—A. D. Thompson, vice J. C. Ainsworth; F. A. Campbell, vice Warren Olney; J. P. Irish, vice himself.

F. M. Lutts, to be Supervisor of the Fourth District in Colusa, vice John Keeran, deceased.

J. F. Kidder, vice M. H. Hecht, resigned, to manage the Yosemite and the Mariposa Big Tree Grove.

H. J. Finger, to be a member of the State Board of Pharmacy, vice himself, an error in his initials having been made in his former appointment.

Directors of Agricultural District, No. 37, Santa Barbara—W. T. Lucas, T. Boyd, B. Pezzoni, A. Leslie, Joseph Dimmick, R. Machire, H. Gifford, Con. Murphy.

Chained to the Rock.

Prometheus was chained to the rock while vultures gnawed his entrails. So are many people chained to the rock of prejudice while all manner of violent medicines inflict injury upon the sensitive lining of the stomach and intestines. They are apparently immovable in the belief that to experience benefit they must keep dosing with drastic medicines. Unless the action of these is powerful and excessive, they are not satisfied. They would distrust a remedy of gentle action, however effective. It is not by such purblind extremists as these that the acknowledged merits of Hostetter's Stomach Bitters are recognized. That benign regulator of the stomach, the bowels and the kidneys appeals to the rational—not only appeals, but is awarded a just valuation. Constipation, liver complaint, dyspepsia and kidney troubles yield to its action. So also do malaria and rheumatism.

COUGHS.—Brown's Bronchial Troches are a sure remedy for coughs and sore throat. 25 cents a box.

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Both the method and results when Syrup of Figs is taken; it is pleasant and refreshing to the taste, and acts gently yet promptly on the Kidneys, Liver and Bowels, cleanses the system effectually, dispels colds, headaches and fevers and cures habitual constipation. Syrup of Figs is the only remedy of its kind ever produced, pleasing to the taste and acceptable to the stomach, prompt in its action and truly beneficial in its effects, prepared only from the most healthy and agreeable substances, its many excellent qualities commend it to all and have made it the most popular remedy known.

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100 dozen Men's Fancy Socks at.....5c per pair
50 dozen Men's White Merino Shirts.....35c
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300 pairs of Men's Dogskin and Goat Driving Gloves.....50c per pair

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Regular price, $3 50.
Lot of Men's Black Soft Hats.....50c

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15 cases of Men's and Boys' Straw Hats, all of the latest styles and shapes, from..10c to $2 50
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Fine Residence of Six Rooms
—AND—
West Half of East Half Lot 6, L and M, Fifth and Sixth Streets.

I WILL SELL BY ORDER OF F. BAUMLE, Esq., the above-described property on
Tuesday, April 21, 1891,
At 11 o'clock, on the premises. This is a very desirable home, being right in the heart of the city and only two blocks from K street. The house contains all of the modern improvements, such as stationary washstand, closets, marble mantels, gas, hot and cold water and a stationary range. Sold only on account of ill health.
Sale Positive. Terms Cash.
WENT. T. CROWELL & CO.,
td Auctioneers.

AUCTION SALE
—OF—
REAL ESTATE

BELL & CO., AUCTIONEERS, WILL sell on the premises, TUESDAY, April 21, 1891, the elegant business property of JOHN CONRAD, No. 417 J street, Fourth and Fifth, at 10 o'clock A. M., sharp, the west quarter of lot No. 6, in block bounded by Fourth, Fifth, I and J streets, 20x160 feet, with all the improvements. A fine store 100 feet deep and fine residence above of six large rooms, bath-room and all modern improvements. Please examine the property, as it will be a positive sale to the highest and best bidder. Title perfect. [ap12-10t] BELL & CO., Auctioneers.

Auction Sales of Real Estate.

ON TUESDAY, APRIL 21st,
At 10:30 o'clock, by order of the Superior Court, on the premises,
Lot 8, D, E, Fourteenth and Fifteenth streets, with Three Houses thereon.
FRANK D. RYAN, Att'y for Estate.
SECOND SALE.
At 10:45 we will sell the House and Lot No. 1529 G street, being corner Sixteenth and G.
THIRD SALE.
At 11 A. M. Lot 5, G and F, Fifteenth and Sixteenth, 100x100; will be subdivided to suit purchasers.
Sale positive. D. J. SIMMONS & CO.,
ap18-4t Auctioneers.

NOTICE OF SALE OF REAL ESTATE.

THE UNDERSIGNED WILL SELL ON TUESDAY, the 21st day of April, 1891, at 10:30 o'clock A. M., on the premises, at public auction, to the highest and best bidder, pursuant to an order of the Superior Court of the County of Sacramento, all of Lot Eight (8), in the block bounded by D and E, Fourteenth and Fifteenth streets, in the City of Sacramento, County of Sacramento, State of California, and the improvements thereon. Ten per cent. of the purchase price to be paid at the time of sale, balance on confirmation by the Court. Deed at expense of purchaser.
THOMAS GRACE,
Executor of the will of Margaret McKeon, deceased.
Dated March 24, 1891.
FRANK D. RYAN, Attorney for Executor.
D. J. SIMMONS & CO., Auctioneers,
mr30-3w Office, 1005 Fourth street.

AUCTION SALE
—OF—
Furniture and Carpets.

BELL & CO., AUCTIONEERS, WILL sell on the premises, 814 Seventh street, between G and H, on THURSDAY, April 23, 1891, at 10 o'clock A. M., all the well-kept furniture of seven rooms, consisting in part of 1 plush parlor suite of six pieces, parlor tables, willow rocker, mirrors, 1 fine bed-lounge, lace curtains, pictures, 3 bed-room suits, spring and top mattresses, feather pillows, blankets, comforts, sheets, spreads, wardrobes, Brussels and 3-ply carpets, hall and stair carpets, gasoline stove, extension table, dining chairs, kitchen furniture, 4 toilet sets, crockery, glassware, etc. Sale positive. Terms cash. BELL & CO., Auctioneers.
ap19-5t

W. H. SHERBURN,
AUCTIONEER,
323 K STREET, - - SACRAMENTO.
I have the Largest Stock of
SECOND-HAND -:- FURNITURE
In Sacramento. Also a fine line of
NEW CARPETS,
Crockery and Glassware,
Which I will sell less than any house in Northern California. Try me for prices, as I will not be undersold.
ALSO AGENT FOR
AMERICAN FIRE INSURANCE COMPANY
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TRADE COMPOUND MARK.
Sulphur Powder!
—THE—
Most Perfect Laxative and Cathartic
KNOWN:
Will Give Instant Relief and Effect Permanent Cures in Cases of
HABITUAL CONSTIPATION,
INDIGESTION,
PILES,
BILIOUSNESS,
DISEASED LIVER,
SCIATICA,
RHEUMATISM,
GRAVEL, ETC., ETC.
The Greatest Blood Purifier
OF THE AGE.
Pleasant to the Taste! Wonderful in Its Results.
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LEE HAYS,
WELL BORER AND TANK BUILDER, tin, sheetiron and copper work, plumbing, gas and steam fitting, jobbing, etc.
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A. MEISTER,
CARRIAGES, VICTORIAS, PHAETONS, Buggies and Spring Wagons.
910, 912, 914 Ninth St., Sacramento.

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EXCEL IN DOING FIRST-CLASS WORK in Paper Hanging, House Painting, Graining, etc., with the BEST of material and at MOST REASONABLE RATES. For our Paints, Oils, Artist Materials, etc., we claim GOOD QUALITY and FULL WEIGHT.
626 J STREET. ap14-1m