

Duplicates of Letters in

Bridgeport, California file

COPY

Paris Hotel, San Francisco, California
November, 27, 1934.

Mr. Harry Cortwell,
Colwell, California.

Dear Friend:

I feel that I may address you so since our election day's work, for we undoubtedly did some fairly good work that day. I regret exceedingly that I did not have the opportunity of spending a few hours in the library before going over to Colville. Of course, a fellow always knows best what he has to make after it is over.

Even if a Nebraska matter or election I would have known. However, on principle I was right that voters may swear in their votes. The decisions hold that election officers charged with the duty of controlling election voters, by interfering with their rights, or holding them, are supposed to know the law, and are guilty of preventing voters voting when they decided wrongfully on the law. No matter what the challenges are, if the voter asks to be sworn, and is sworn he is then allowed to vote, and if denied after being sworn and answering all questions he then has the right to vote, right or wrong.

In the case of the People v. Gordon, 5 California 208, the court said in that case, against the Election Inspector, who denied the person a ballot, and did not allow the elector to vote:

Then the voter has been challenged, and the judges have administered the oath, and it has been taken, and the right to vote has been concluded. And when in the exercise of their discretion, the judges have once administered the oath, and it has been taken, the right to vote has been concluded, and it is error to deny it. The party swearing falsely, and voting without right, is punishable under the provisions of the original law, and that alone is intended as a remedy.

The defendants were Judges of Election, and were indicted for refusing to receive the vote of one Blawen, who was challenged on the ground of alienage. The defendants declined to administer the oath of qualifications, upon the ground that the certificate of naturalization was not best evidence and he should produce it. This was certainly erroneous.

While an important part of the object of the election law is to guard the ballot box against illegal voters, it is equally important in its purpose to simplify and facilitate the process of voting; and this could not be successfully affected, if resort was to be had, in every case of challenge of a voter, to a trial requiring the highest order of evidence, and an inspection of written and sealed certificates involving an inquiry into their genuineness, objections to their form, in all litigious points which are unusual in trials at law.

The conviction in the above case was sustained by the Supreme Court.

BURNS v. People 75 Cal. 2d 827

Defendant, Inspector of elections refused to count the voter Saegerson when requested to do so. (Carter act, 4 Penal Code) Every person charged with the performance of a duty, under the provisions of any law relating to elections, who wilfully neglects or refuses to perform it, is chargeable with a wrong. Saegerson of area to vote, was challenged and denied.

The defendant is presumed by law to know the law at his peril, it would furnish no excuse to him that he may have supposed that the law was different from what it was. Defendant convicted. We find no error in the record, and the judgment is affirmed. All Justices of the Supreme Court concur. Rehearing denied.

Numerous cases from other states discuss the circumstances of this case. One such case says, the courts have universally rejected the defense that the election officers were advised by their attorney as to what they did, and they followed his advice. In rejecting such a defense the courts have said; "It has been said that any other view would make the opinion of the attorney the paramount law." They then go on say as in the first case People v. Gordon, that the officers act and decide at their peril.

It seems to me that from what I heard said, that the District Attorney prepared the forms of challenges against all the persons who were challenged. If so he may be mixed in a conspiracy, for if he arranged before hand to issue challenges, and in conformity thereto he advised the board, as he did, wrongfully, and thereby deprived voters from exercising their right of franchise, all who took part in it might be subject to prosecution. That would also include the persons who made the challenges.

I realized along during the day that the District Attorney was not sure of himself, and that he was dodging. He said to me, if you want to make a complaint against the board, or any of them, I'll prosecute it. After some further talk I told him I was ready to make a complaint, but he did not want to do so then.

The two decisions that I have given you, People v. Gordon, 5 Cal. 2d 827, and People v. Burns, 75 Cal. 2d 827, have not been overruled, nor set aside down to the first of September, 1964.

Under the law and the decisions every voter who was sworn and denied the vote has a criminal action against the members of the election board, and also a civil action for damages against the board.

If the votes denied acceptance by the board makes a difference in the election, and if they were counted, it would elect the other man, and was defeated it is a good contest.

That Board were so unfair, I feel that you should ^{all} know, and so I am enclosing you an original and two carbon copies of this memorandum and letter. The inconsistent way the Board did, first they stood on the affidavit of registration, saying that the County Clerk had settled the question. Then with the kinder they disregarded the affidavit and registration. The Inspector was harsh and insulting, and arbitrary. If she is to run the elections there, it would be well to teach her the law by complaints that would put her on trial both criminally and for civil damages. It is not pleasant to say such things of judges who say that they are right, but the rights of citizens must be protected whenever the election officers say so.

I hope that I may be with you again next year. Regards to all, I am

Yours truly,

(signed) THOMAS L. SLOAN,
Thomas L. Sloan

25 Appraisers Building,
San Francisco, California

March 11, 1935.

FROM: Michael Harricott
TO: Roy Nash, Field Representative
SUBJECT: Election at Coleville, California

Sir:

Arriving at Coleville, California on the afternoon of March 6, 1935, I established contact with Mr. Roy Tracy, Justice of the Peace at Coleville, who also has a store and runs a small hotel at this place. I told him that I represented the Indian Service and that the office had gotten a report to the effect that Indians had been denied the right to vote at an election held in Coleville, November 6th last, and that I had come to Coleville to ascertain the facts in the case.

Mr. Tracy then told me that the Indians suspected some of them would be denied the right to vote and that Harry Cornwell had wired Collett to come to Coleville to help them in their fight. Pursuant to a wire sent Collett about the 2nd or 3rd, Mr. Collett and Mr. Sloan appeared in Coleville on the 5th, and held a meeting with the Indians that night, advising them of their constitutional rights and telling them that under the law of 1911 and 1890, they did have the right to vote. On the morning of the 6th Collett and Sloan appeared at the polls with the Indians and there entered into numerous arguments with the Election Board when Indians were challenged. Collett and Sloan were paid their expense money amounting to some \$30.00, contributed by Indians in that vicinity and Mr. Tracy

I asked Mr. Tracy if it would be possible to talk to some of the Indians and he called in Harry Cornwell, who is a leader among the Indians at Coleville and Collett's representative in that district. Mr. Cornwell told me exactly what Mr. Tracy had previously stated. I then informed Mr. Cornwell that in order to make a test case, it would be necessary to obtain affidavits from those interested, and asked him if he would make an affidavit and whether or not he could talk to Streeter Dick, one of the Indians who was challenged, to see whether or not he would make an affidavit. Mr. Cornwell informed me that he would be glad to make such an affidavit and he felt certain Streeter Dick would also. I then made an appointment to meet both men the next morning, March 7th, at 8:00 A.

That night, March 6th, I wrote up the affidavits attached, and the next morning they were read by Mr. Cornwall, who stated to me that they presented the case as it actually happened. We then picked up Mr. Dick at his home, and before going down to the post office to have them sworn to before Mrs. Cornelia M. Hardy, the Deputy County Clerk, I read to Mr. Dick the affidavit to which he was to swear. Before Mr. Cornwall, he stated that his affidavit presented the case as it actually happened.

We then went to the post office where Mrs. Hardy acknowledged the affidavits, which are attached hereto.

The Indians, Mr. Cornwall and Mr. Dick, and Mr. Roy Tracy, the Justice of the Peace, talked freely and without prompting as to the activities of both Mr. Collett and Mr. Sloan.

I left Coleville, the morning of the 7th, and arrived in Berkeley, at 5:00 P. M., the afternoon of the 8th.

Yours very truly,

Incl. (2 affidavits)
(copy of letter from Thomas L. Sloan
to Mr. Harry Cornwall)

MICHAEL HARRISON

With regard to the Sloan letter attached - Mr. Tracy told me that the original of this letter had been sent to Mr. Cornwall, the duplicate to himself (Tracy). I asked if I might borrow the letter in order to make a copy of it, and Mr. Tracy replied that he was through with it and that I could have it.

M.H.

STATE OF CALIFORNIA }
COUNTY OF MONO }
}

Harry Cornwall being first duly sworn, deposes and says: That affiant is over the age of twenty one years and is a resident of the County of Mono, State of California.

That affiant, on or about the 2nd day of November 1934, contacted Mr. Frederick G. Collett and Thomas L. Sloan and it was agreed that said Collett and Sloan would come to Coleville, Mono County, California, and assist and aid the Indians there to enable said Indians to vote at the General Election held November 6, 1934; that said Collett and Sloan were paid approximately \$30.00 for the rendering of the above services.

That at said General Election said Collett and Sloan were present at the place where said election was held and several of the Indians right to vote was challenged; that said Collett and Sloan each and severally and collectively took an active part in defending said Indians right to vote before said Election Board and for that reason many of the Indians did vote who would not otherwise have been allowed to vote by said Board; that said Collett and Sloan on or about November 5, 1934, held a meeting with said Indians advising them of their constitutional rights and that they could vote irrespective of educational qualifications on account of said election being to elect U. S. Senator and Congressman and said Indians being wards of the U. S. Government could, therefore, vote in a National election.

Subscribed and sworn to before me this 7th day of March, 1935.

COUNTY OF MONO }
STATE OF CALIFORNIA }

Streeten Dick, being first duly sworn deposes and says: That affiant is ___ years of age; that affiant cannot read nor write; that on November 6, 1934, that affiant requested the Election Board at the General Election held in Coleville in the County of Mono on that date for the right to vote; that said Election Board requested affiant to read one hundred words of the Constitution of the State of California; that affiant informed said Election Board that affiant could not read and affiant was, by said Board, denied the right to vote.

That F. G. Collett and Thomas L. Sloan and each of them, before affiant requested the right to vote did tell affiant that affiant had the right to vote and for affiant to demand of said Board the right to vote. That when affiant went to and before said Board and requested the right to vote that F. G. Collett went with affiant and stood alongside of affiant during the entire proceedings before said Board, and said F. G. Collett did insist that affiant had the right to vote.

This affidavit has been read to affiant in the presence of the witnesses subscribed hereto and affiant knows the contents thereof, the penalty for making a false affidavit and makes this affidavit freely and of his own accord.

WITNESSES:

Harry Cornwell
Michael L. Harrison

Subscribed and sworn to before me this 7th day of March, 1935.

Coleville, California,
March 22, 1935.

I, Frank Brown, a resident of Mono County, California,
make the following statement of my own free will:

That on the night of November 5, 1934, at a meeting in Coleville,
California, presided over by F. G. Collett and Thomas L. Sloan, the Indians
of the Coleville District were instructed by F. G. Collett and Thomas L.
Sloan that it made no difference whether an Indian could or could not read
or write and irrespective of age, the Indian had the right to vote because
the Federal law of 1911 gave the Indian that right; further, all that was
necessary was for the Indian to swear in his vote; further, the Indians were
instructed by F. G. Collett and Thomas L. Sloan to appear at the polls at
8:00 A. M., on the morning of November 6, 1934 and those Indians who could
read would vote first to be followed by those who could not read; further
that pursuant to these instructions from F. G. Collett and Thomas L. Sloan
the Indians appeared at the polls at 8:00 A. M., on November 6, 1934, cer-
tain of them being coached by F. G. Collett and Thomas L. Sloan in reading
the Constitution of the State of California but were challenged by the
Election Board and denied the right to vote because they could not read the
Constitution of the State of California.

I am an Indian and attended the meeting of November 5, 1934, above
mentioned.

(s) FRANK BROWN

Coleville, California,
March 22, 1934.

I, Roy Tracy, a resident of Mono County, California, do hereby make the following statement of my own free will:

That on the night of November 5, 1934, at a meeting in Coleville, California, to which I was invited, and presided over by Mr. F. G. Collett and Thomas L. Sloan, the Indians of the Coleville District were instructed by F. G. Collett and Thomas L. Sloan that it made no difference whether an Indian could or could not read or write and irrespective of age, the Indian had the right to vote because the Federal law of 1911 gave the Indian that right; further, all that was necessary was for the Indian to swear in his vote; further, the Indians were instructed by F. G. Collett and Thomas L. Sloan to appear at the polls at 6:00 A. M., on the morning of November 6, 1934 and those Indians who could read would vote first to be followed by those who could not read; further that pursuant to these instructions from F. G. Collett and Thomas L. Sloan the Indians appeared at the polls at 6:00 A. M., on November 6, 1934, certain of whom were coached by F. G. Collett and Thomas L. Sloan in reading the Constitution of the State of California, but were challenged by the Election Board and denied the right to vote due to the fact that they were unable to read the Constitution of the State of California.

Coleville, California,
March 12, 1935.

I, Wm. P. Morehouse, a resident of Lane County, California, make the following statement of my own free will:

That on the night of November 5, 1934, at a meeting in Coleville, California, presided over by F. G. Collett and Thomas L. Sloan, the Indians of the Coleville District were instructed by F. G. Collett and Thomas L. Sloan that it made no difference whether an Indian could or could not read or write and irrespective of age, the Indian had the right to vote because the Federal law of 1911 gave the Indian that right; further, all that was necessary was for the Indian to swear in his vote; further, the Indians were instructed by F. G. Collett and Thomas L. Sloan to appear at the polls at 6:00 A. M., on the morning of November 5, 1934 and those Indians who could read would vote first to be followed by those who could not read; further that pursuant to the instructions from F. G. Collett and Thomas L. Sloan the Indians appeared at the polls at 6:00 A. M., on November 5, 1934, certain of them being coached by F. G. Collett and Thomas L. Sloan in reading the Constitution of the State of California but were challenged by the Election board and denied the right to vote because they could not read the Constitution of the State of California.

I am an Indian and attended the meeting of November 5, 1934, above mentioned.

(sgd) WM. P. MOREHOUSE