

of, any order, organization, association, corporation or society, which teaches, advises, counsels, encourages or aids any person to enter into bigamy, polygamy or such patriarchal or plural marriage, or which teaches or advises that the laws of this State, prescribing rules of civil conduct, are not the supreme law of the State; nor shall Chinese nor persons of Mongolian descent, not born in the United States, nor Indians not taxed who have not severed their tribal relations and adopted the habits of civilization, either vote, serve as jurors or hold any civil office.

The express disfranchisement of embezzlers of public funds also appears in Alabama (29 AMERICAN LAW REGISTER 872), California (874), Georgia (878), Louisiana (885).

SEC. 4. The Legislature may prescribe qualifications, limitations and conditions for the right of suffrage, additional to those prescribed in this Article, but shall never annul any of the provisions in this Article contained.

A registration law is expressly authorized in Alabama (29 AMERICAN LAW REGISTER 872), Florida (878), Georgia (878), Kansas (882), Louisiana (886), Maryland (887), Mississippi and Missouri (893), Montana (895), Nevada (897), North Carolina (902), Pennsylvania (906), Rhode Island (908), and Washington (916); and has been upheld under more general provisions in California (875), Colorado and Connecticut (876), Illinois (880), Iowa (882), Kentucky (884), Massachusetts (889), Michigan (891), Tennessee (911), and Wisconsin (917).

SEC. 5. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of this State, or of the United States, nor while engaged in the navigation of the waters of this State or of the United States, nor while a student of any institution of learning, nor while kept at any almshouse or other asylum at the public expense.

There are similar provisions in Alabama (29 AMERICAN LAW REGISTER 872), California and Colorado (875), Illinois (880), Kansas (883), Kentucky (884), Louisiana and Maine (886), Michigan (891), Minnesota (892), Missouri (894), Montana (895), Nevada (897), New York (901), North Dakota (903), Oregon (904), Pennsylvania (906), South Carolina (910), South Dakota (910), Texas (912), and Washington (915).

There are no references in the above to the Constitution of *Wyoming*, which will be separately considered in the future.

JOHN B. UHLE.

## ABSTRACTS OF RECENT DECISIONS.

### ATTORNEY.

*The services rendered* by the complainant's attorney, in a suit by a second mortgagee for the appointment of a receiver, where such receiver is appointed with the consent, and for the advantage of all parties, will be allowed out of the assets of the company: *Bound v. South Carolina Ry Co. et al.*, U. S. C. Ct., D. S. C., August 4, 1890.

## CONSTITUTIONAL LAW.

*The Act of Congress* of 1885, as amended in 1887, which provides that any alien passenger arriving in this port in any ship or vessel, who comes under contract or agreement, parol or special, express or implied, made previous to the importation or migration of such alien, to perform labor or service of any kind in the United States, shall not be permitted to land, is a valid exercise of the power of Congress "to regulate commerce with foreign nations," and therefore constitutional: *In re Florio*, U. S. C. Ct., S. D. N. Y., May 12, 1890.

## CONTRACTS.

A contract entered into between an employer, whose business extends throughout the entire United States and Canada, and an employee engaged to canvass, and advertise the products of the business, who had for several years prior to making such agreement been employed by him in a similar capacity, whereby the employee covenants not to travel, canvass, or advertise for, or otherwise assist anyone engaged in, nor himself engage directly or indirectly in, any line of business carried on or contemplated at the termination of his employment by the employer, nor furnish information directly or indirectly to anyone engaged or interested in any such line of business, within three years from the termination of his employment by the employer, is not in restraint of trade, and therefore valid: *Carter et al. v. Alling et al.*, U. S. C. Ct., N. D. Ill., June 30, 1890.

A proposition in the following words: "We will take your \* \* bonds \* \* at par, you to furnish us written opinion of your city attorney as to legality of bonds," &c., written to the mayor of a city, is conditional on such opinion that the bonds are valid, and the city is not bound by its acceptance: *Coffin et al. v. City of Portland*, U. S. C. Ct., D. Ind., Sept. 20, 1890.

## CRIMINAL LAW.

A motion to acquit on the counts of an indictment which charge the defendant, a post office employee, with embezzling letters, will be overruled, provided the proof conforms to the averments in one count as to the description of the letters, and the defendant's capacity, even though such proof differs from the allegations contained in the other counts with reference to such particulars: *Walster v. United States*, U. S. C. Ct., N. D. N. Y., July 11, 1890.

Decoy letters stamped and postmarked as from another office, placed upon the distributing table by the postmaster and an inspector, which get into the mail, are "letters intended to be conveyed by mail" under Section 5467, of Rev. St. U. S., provided they were not intended to be intercepted by such postmaster or inspector before reaching their proper destination: *Id.*

On a prosecution of a post office employee for embezzling letters, under Rev. St. U. S. Section 5467, the fact that such letters were merely decoy letters does not avail as a defense: *Id.*

To constitute false pretense under the Act of Congress of April 18, 1884, by falsely assuming to be an officer or employee of the United States, and in that assumed character demanding or obtaining from any person, or

from the United States, or any department or officer thereof any money, paper, document, or other valuable thing, it must be proved that the defendant assumed or pretended to assume such character; that such assumption or pretense was false; that he made this false pretense or assumption with the intention of defrauding, and that the intention was carried out, and that he, in such assumed or pretended character, or because of such false assumption or pretense, defrauded, or attempted to defraud: *United States v. Curtain*, U. S. D. Ct., W. D. S. C., August 12, 1890.

## EQUITY.

*A rehearing* cannot be granted after the term at which the final decree was rendered, and therefore after the lapse of several terms since the decree was made and entered of record, the court has lost its power to grant the petition for rehearing, equity rule 88 providing: "No rehearing shall be granted after the term at which the final decree of the court shall have been entered and recorded, if an appeal lies to the Supreme Court. But if no appeal lies, the petition may be admitted at any time before the end of the next term of court, in the discretion of the Court": *Glenn v. Noonan et al.*, *Same v. Lockwood et al.*, *Same v. Lucas et al.*, *Same v. Dimmock et al.*, U. S. C. Ct., E. D. Mo., Sept. 20, 1890.

## LIBEL.

The mere sending of a sealed libelous letter to the plaintiff, although punishable criminally, will not support a civil action without further publication, and Section 4762 of the Tennessee Code (Mill. & V. § 5552) has not changed the common law rule in this respect: *Warnock v. Mitchell*, U. S. C. Ct., W. D. Tenn., August 26, 1890.

## MALICIOUS PROSECUTION.

*No action* lies where defendant has fully stated his case to counsel and is advised that he has a good cause, provided his suit is brought under such advice: *Coggswell v. Bohn*, U. S. C. Ct., D. Minn., Sept. 18, 1890.

## MUNICIPAL CORPORATIONS.

*Where a statute* requires that on the passage or adoption of any by-law, ordinance or resolution, the yeas and nays shall be taken and entered on the record, the taking of the vote in such manner is a condition precedent to the validity of an ordinance or resolution of a city council: *Coffin et al. v. City of Portland*, U. S. C. Ct., D. Ind., Sept. 20, 1890.

## SPECIFIC PERFORMANCE.

*Insolvency of the plaintiff*, where there is no concealment or fraud, is no defense to an action for specific performance, especially where the defendant voluntarily made the contract with full knowledge of the complainant's financial condition: *Brush-Swan Electric Light Co. v. Brush Electric Light Co.*, U. S. C. Ct., N. D. N. Y., June 20, 1890.

ERNEST WATTS.