so uniformly maintained that the law which is in existence at the time a contract is made becomes a part of the contract, that it would be idle to cite authorities on that proposition, or to further mention it. In this case it is especially stipulated in the mortgage that the laws in force at the time the contract was made should become a part of the contract; but, in the absence of such stipulation, the effect would be exactly the same. Under the law in existence at the time the contract was made, the mortgagee had a right to the sale of this land at once upon the issuance of his execution, subject only to the redemption provided for by law. This was a valuable right, and a right no doubt that was taken into consideration by the judgment creditor, or, in this case, the mortgagee, when the contract was made. The law now compels him to wait more than a year after judgment before he can have the sale made. It seems to us to be beyond controversy that, as to antecedent contracts, this provision of the law is void." Further on in the opinion the court cited and quoted from a number of cases from the Supreme Court of the United States, showing that the question was one of federal cognizance, and that the highest federal court had announced a similar rule. In the light of these cases, therefore, there can be no question that the sheriff was justified in selling the property under the execution without the delay of a year and without having the land appraised.

[2] But, while the courts deny the power of the Legislature to make such radical changes in the remedy for enforcing a contract as to impair its obligation, they are agreed that whatever belongs merely to the remedy, and does not affect the obligation of the contract, can be changed at the pleasure of the Legislature. So in this instance it was perfectly proper for the Legislature to require on a foreclosure sale that one of the notices thereof be posted in a public place on the land to be sold, and that copies of such notices be published in the county official paper if there be one, although the law in force at the time the contract was entered into allowed such notices to be posted in three public places in the county generally, regardless of the location of the land, and allowed copies thereof to be published in any paper published in the county where the land was situated, regardless of the question whether such paper was the county official paper or not.

[3] In the case at bar it is alleged that no one of the notices of sale was posted on the land, nor was a copy thereof published in the county official paper, and the question is presented whether these omissions avoid the sale. It is our opinion that they do not. While the omissions may have rendered the sale so far irregular as to have warranted the court in refusing to confirm the sale, we do not think they rendered the sale so far void as to be incurable by the order of confirmation.

[4] Moreover, this action was begun, as will be noticed from the dates given, more than nine years after the sale took place, and no reason is shown why it could not have been prosecuted at any time during that period. On the ground of laches alone the court would be justified in denying relief on any ground other than the actual invalidity of the sale.

The judgment is affirmed.

DUNBAR, C. J., and PARKER, MOUNT, and GOSE, JJ., concur.

BOARD OF COM'RS OF MONTEZUMA COUNTY v. FREDERICK.

(Supreme Court of Colorado. May 1, 1911.)

1. TRIAL (§ 404*)—"GENERAL FINDING"—EFFECT.

A "general finding" is a finding on all the issues in favor of the successful party.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 957–962; Dec. Dig. § 404.*

For other definitions, see Words and Phrases, vol. 4, p. 3064.]

2. APPEAL AND ERROR (§ 1011*)—FINDINGS—CONCLUSIVENESS.

A finding on conflicting evidence is conclusive on appeal.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. § 3083; Dec. Dig. § 1011.*]

3. ELECTIONS (§ 157*)—LIST OF NOMINATIONS—PUBLICATION—STATUTES.

Under 3 Mills' Ann. St. Rev. Supp. §§ 1625k, 1625r, providing for the publication in newspapers of a list of nominations for state and county officers in the form in which such nominations shall appear on the official ballots, and authorizing separate columns for the candidates and for the political designations, a newspaper publication of a list of nominations in two columns, the name of the office and the candidate being in one column, and the party designation being in the other column, is proper, and the publisher is entitled to compensation therefor.

[Ed. Note.—For other cases, see Elections, Cent. Dig. § 130; Dec. Dig. § 157.*]

4. NEWSPAPERS (§ 5*)—NOMINATION OF CANDIDATES—PUBLICATION—COMPENSATION.

Under 3 Mills' Ann. St. Rev. Supp. § 1878, declaring that publishers for the publication of a list of nominations for state and county officers shall be paid at a specified rate for each line, etc., the compensation must be by line, and not by rule, and necessary blank spaces must be paid for as if solid type.

[Ed. Note.—For other cases, see Newspapers, Dec. Dig. § 5.*]

5. COUNTIES (§ 134*)—"COUNTY PRINTING."

A newspaper publication of a list of nominations for state and county officers as required by statute is "county printing," for the work must be paid by the county.

[Ed. Note.—For other cases, see Counties, Cent. Dig. § 202; Dec. Dig. § 134.*]

6. NEWSPAPERS (§ 5*)—LIST OF NOMINATIONS—PUBLICATION—COMPENSATION.

The printing authorized by 3 Mills' Ann. St. Rev. Supp. § 1625k, requiring the county

clerk to provide for the publication of lists of nominations for public office in not less than two, nor more than four, newspapers published within his county, one of which publications must be made in a newspaper advocating the principles of the political party at the last preceding election which cast the largest number of votes, etc., is not necessarily within the scope of a contract for the county printing, since the selection of the newspapers rests with the county clerk, who must be guided by the statutory directions, and a newspaper chosen may not include the one holding the contract for county printing, though a contract for county printing may be made so as to apply to such a publication on the county clerk selecting the newspaper whose publisher holds such contract.

[Ed. Note.—For other cases, see Newspapers, Dec. Dig. § 5.*]

Error to District Court, Montezuma County; Charles A. Pike, Judge.

Proceedings by C. A. Frederick to establish a claim against the County of Montezuma. From a judgment of the District Court allowing plaintiff's claim in full, rendered on appeal from a decision of the Board of County Commissioners disallowing the claim in part, the Board brings error. Reversed and remanded.

S. W. Carpenter, for plaintiff in error. W. F. Mowry, for defendant in error.

CAMPBELL, C. J. The plaintiff, Frederick, who is the publisher of the Montezuma Journal, presented to the board of county commissioners of Montezuma county his claim of $110.88 for publishing in his newspaper a list of nominations for state and county officers which the county clerk had certified to him for such purpose. The board allowed the amount of $66.36 thereon and disallowed the remainder. From its determination the plaintiff appealed to the district court of Montezuma county, where a trial was had resulting in a judgment for plaintiff in the full amount of his claim. The board sued out this writ of error to review it.

[1] The finding of the district court was general, which means that all the issues were found for the plaintiff.

[2] In so far as, if at all, there is a conflict in the evidence, the finding of the district court is conclusive upon us.

[3] It appears that a copy of the list which was furnished to the plaintiff by the county clerk indicated only one column of solid matter. That is, that there were not blank spaces or separate or double columns; while the form, as it appeared in the newspaper, was two separate columns, the second one showing considerable blank space. Our reading of the record discloses that there is some dispute as to whether the county clerk at the proper time gave any verbal instructions to the publisher as to the form. The evidence is not very definite upon this point; there being an apparent conflict. Certain it is, however, that the court was justified in finding that no instructions other than the appearance of the clerk's copy itself were given to the plaintiff until after the form had been set up and published in one issue. The copy which was first furnished was concededly incomplete, as full information with regard to the list had not been received by the clerk from the Secretary of State at the time the first copy was prepared. Later a second and complete copy was furnished by the clerk and published in another issue of plaintiff's Journal; the form being the same as in the first issue. After the first publication, it may be that explicit direction was given by the clerk to the plaintiff to publish the list as solid matter. The court, however, in the circumstances, was justified in finding that, in legal effect, such verbal instructions were not seasonably given so as to make them material to the present controversy. The list as printed the second time was in two columns, the name of the office and the candidate with his residence and place of business being in the first column, and opposite the name of each candidate and in a separate column was the appropriate party designation. We must not be understood as holding that a publisher of a list of nominations which is required by our statute may determine for himself the form in which it shall appear in his newspaper. Indeed, we think, if that power is vested in any ministerial officer, the clerk should prescribe the form, and, if any mistake is made therein, the publisher will be protected in following the instructions of the clerk, and the latter, if anybody, will be held responsible if any mistake is made in the form. In this case, however, it is appropriate to say that section 1625k, 3 Mills' Ann. St. Rev. Supp., which constitutes the authority to the clerk for requiring such lists to be published, directs that the publication "shall be, as far as possible, in the form in which such nominations shall appear upon the official ballots." Section 1625r of the same volume, which pertains to the form of the printed official ballot, while it does not in specific terms provide for a separate column for political designations, yet we think that a fair interpretation or construction thereof so requires, since opposite the name of each candidate must be added the party name, and this, in some cases at least, might not be done without double columns. Such being true, and under the facts, we cannot say that plaintiff may not recover against the county because of an alleged disregard of the statute, or for a supposed nonobservance of the directions of the clerk. As matter of fact, the list was published in the form contemplated, or at least permitted, by the statute, and, if the law is not what it should be, the General Assembly is the appropriate body to change it.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes

[4] A second question is as to the amount of the recovery. In measuring the space occupied by the printed list in the newspaper, the plaintiff, in his estimate, observed what is known in the printing trade as the "rule" instead of "line" measurement. Section 1878, 3 Mills' Rev. Supp., declares that publishers of newspapers for the publication of such advertising matter as this shall be paid at a certain rate for each line of nonpareil. It also provides that all "rule work and necessary blank space shall be paid for as if solid type." The section, however, permits the county by contract to stipulate for a less price. Whether this printing was done under contract, which is the subject of our third and later inquiry, or was made at the legal rate independent of contract, is immaterial so far as the method of measurement is concerned. It must in any case be by "line" and not by "rule." Whatever necessary blank space there is, however, must be paid for as if solid type. It seems that the court adopted the rule measurement observed by the plaintiff, and, in this, error was committed.

A third question is as to whether the printing was done under contract. The county board had made a contract with a former publisher and owner of this newspaper at a rate lower than the statutory rate, and it is claimed by the county that when plaintiff bought from such owner he assumed and agreed to carry out the obligations of his vendor's contract with the county.

[5] The plaintiff claims, first, that this is not county printing; but with this we cannot agree. It is work for which the county must pay and is clearly county printing; but such conclusion is not determinative of the point here involved.

[6] Plaintiff further says that the contract, if he assumed its obligations at all, did not include, or apply to, these lists, and that he did not assume the contract of his vendor, if any, that applied to such publications. In section 1625k, already mentioned, is found the authority of the county clerk for publishing lists of nominations. He must have the publication made in not less than two nor more than four newspapers published within his county, and one of such publications must be made in a newspaper which advocates the principles of the political party at the last preceding state election which cast the largest number of votes, and another such publication shall be made in a newspaper which advocates the principles of the political party which at such election cast the next largest number of votes. While the printing of such lists is "county legal printing" yet we do not think the evidence shows, at least the trial court did not find, that this printing necessarily comes within the scope of the contract which plaintiff's vendor had with the county, even if the plaintiff assumed its obligations, because it was not such a publication as, under the contract, plaintiff could demand for, or such a contract as the board would be compelled to insert in, his paper. The selection of the newspapers rested with the county clerk, who must be guided by the directions which the statute itself prescribes, and, if followed, the newspaper chosen might not include the one that held the contract for county printing, and, in any event, such publication would be in at least one newspaper that was not under contract. If the printing of this list was not within the contract, the price therefor must be at the legal rate fixed by section 1878. Of course a contract for "county legal printing" might be made so as to apply to such publications as this, if the county clerk selected therefor the newspaper whose publisher held such contract. But plaintiff testified in effect—and he must have been believed by the trial court—that in his purchase of the newspaper he did not intend to assume, and did not assume, the obligations, if any, of his vendor to publish these lists at the contract rate.

The record does not contain sufficient data upon which a proper judgment may be entered by us. The judgment must be reversed for a new trial by the district court. The computation of the amount to which plaintiff is entitled must be based upon the list as printed in the form in which it appeared in his newspaper, to be estimated by the line, instead of by the rule, measurement, with just allowance for necessary blank space to be reckoned as solid type, and at the legal rate prescribed by section 1878, unless, at the second trial, further evidence establishes that plaintiff assumed a contract that required him to do such work at the contract, and lower, price.

The judgment is reversed, and the cause remanded for a new trial in accordance with the views expressed in this opinion. Each party to pay his, or its, own costs of the appeal.

Reversed and remanded.

WHITE and BAILEY, JJ., concur.

STEWART et ux. v. AUSTIN.

(Supreme Court of Colorado. Dec. 6, 1909. On Rehearing, May 1, 1911.)

WATERS AND WATER COURSES (§ 247*)—IRRIGATION DITCH—USER—EXTENT OF RIGHT.

In a suit to determine the rights of the parties in an irrigation ditch, evidence *held* to require a finding that complainant was only entitled to two-fifths of the water flowing in the ditch, while defendants were entitled to the remaining three-fifths, and that the parties were bound to contribute, to keep the ditch in repair, in the same proportion.

[Ed. Note.—For other cases, see Waters and Water Courses, Dec. Dig. § 247.*]

*For other cases see same topic and section NUMBER in Dec. Dig & Am. Dig Key No. Series & Rep'r Indexes