

Our Country Contemporaries.

Beaver Enterprise, Aug. 28—

In the investigation before U. S. Commissioner Wilkins, on the 20th inst., of the charge against John E. Lloyd, accused of illegal voting on the 3rd of August, at Beaver City, defendant admitted the voting as charged, but pleaded not guilty to the illegality of such act, for though he was of foreign birth he claimed to be a citizen of the United States by virtue of having been naturalized by order of the Probate Court of Washington County, Utah Territory.

"In support of the legality of orders of naturalization made by the Probate Courts of said Territory, defendant's counsel cited and read sections 1 and 3 of an act of Congress, entitled 'An act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on that subject,' approved April 14th, 1802; section 29 of an act of the Legislative Assembly of Utah Territory, entitled 'An act in relation to the Judiciary,' approved Jan. 19, 1854, and from sec. 3 of an act of Congress entitled 'An act in relation to Courts and Judicial Affairs in the Territory of Utah,' approved June 23, 1874.

"The Commissioner in delivering his opinion, said: That sec. 1 of the act of Congress, approved April 14, 1802, and above referred to, did not empower the Probate Courts of Utah Territory to naturalize aliens, but only authorized the courts of the Territorial Districts of the United States in said Territory to perform such acts of naturalization. That the 3rd section of said act related to courts in the States, not to courts in the Territories. That sec. 29 of the act of the Legislative Assembly of Utah, above referred to, was irrelevant to the questions before the Commissioner. That section 3rd of the act of Congress, approved June 23, 1874, and above referred to, in its language in regard to the confirmation of the decrees and judgments of the Probate Courts, referred to suits, etc., and not to such matters as orders of naturalization. That in his opinion the defendant was guilty of the charge in the affidavit contained, and that he would hold defendant to bail in the sum of five hundred dollars, to appear before the District Court of the Territory of Utah, at a term thereof to be begun and held on Monday, the 7th day of Sept., 1874, to answer any indictment which may be found against him on said charge.

"Mr. Shipp appeared before Commissioner Wilkins at 10 a. m. yesterday, as per adjournment. The case was again continued until Monday the 31st. Cause assigned, no officer to serve subpoenas for witnesses.

"How is this? We are credibly informed that Pony Duncan was in Court at the time of adjournment, and that he left this morning to summon jurors to serve in the District Court. Is the Commissioner's a higher court, or is there some shenanigan in the matter? Or is our information at fault? We have it from what we consider a perfectly reliable source. This everlasting continuance is not in accordance with the Constitution of our country, which provides that persons accused of crime shall be entitled to a speedy trial.

"We understand that Mr. Shipp's bondsmen tendered him to the Court to be released, and that he (Commissioner) refused to release them.

"To us the whole affair appears like persecution and that the law is not regarded. A bondsman, or bondsmen may at any time surrender the principal and be released, and the Court has no right to hold them. Such measures are strictly arbitrary, and against the genius of American law."

Beaver Enterprise, Aug. 28—

"Since writing in our last, on the subject of 'The United States vs. Austin Shipp,' we have been told that the Commissioner could not release Mr. Shipp's bondsmen except in open court. This is well enough, but the public should understand that while the Commissioner sits as a committing Magistrate, he is a mere Justice of the Peace, and governed by the same laws as other Justices. Justices of the Peace hold no terms of Court, but their courts are always open. It will be seen, however, by reference to the Commissioner's legal 'opinion' in Lloyd's illegal voting case, that he assumes again what does not belong to a Justice of the

Peace or committing Magistrate. He finds the defendant 'guilty.' The following is his language:

"That in his 'opinion' the defendant was 'guilty' of the charge in the affidavit contained, and that he would hold defendant to bail in the sum of \$500, to appear before the District Court of the Territory of Utah, at a term thereof to be begun and held on Monday, the 7th day of September, 1874, to answer any indictment which may be found against him on said charge.

"In the first place all that a committing magistrate has a right to do is to find whether there is 'probable cause of guilt.' He is not even allowed to ask or entertain a leading question, or to ask or demand a plea of 'guilty' or 'not guilty.' His duty is to render his 'opinion' as to 'probable cause' and not positive guilt. Courts who have the right to find guilty need not, should not bind to a higher court, but in this case we find the defendant convicted, but instead of sentence being passed upon him, he is held to answer an indictment after the fact, in case one should be found, which amounts to nothing more or less than the 'opinion' of a grand jury as to whether there is evidence enough to put him on trial or not. If not he goes scot free, although the Commissioner, in his legal 'opinion' in this case, finds him 'guilty.'

"When shall we have done with carpet-bag humbuggery and usurpations? We answer, when Utah obtains her constitutional right of self-government."

Provo Times, of Aug. 29, informs its readers that a jointstock or co-operative company has been formed, in order to increase the capital and publish a paper in the interests of the people of the County, besides enlarging and otherwise improving its tone and appearance; that an executive committee was appointed to negotiate with the proprietors of the Times for the presses, type and other fixtures, which has been satisfactorily arranged, and that on Tuesday next, the 1st day of September, will be issued the first number of the Utah County Times, under the auspices of the Utah County Printing and Publishing Company, with an Executive Committee as editors and managers.

The editors of the Times announce that they are engaged in the new enterprise and retain a large interest therein.

The same paper says—

"We learn from Mr. David Cluff, Jr., who has just returned from a trip to Provo Valley, that the people in that vicinity are now in the midst of their harvest. The grain crops are turning out well and the people generally feel jubilant over the prospects. At Cluff's rancho, they have already put up 200 tons of hay, and intend increasing the amount to 350 tons. In Deer Valley, over the divide, some parties are putting up a couple of stamp mills, one of them being ready for operation. The grain crops in Weber Valley are looking better than they have for years and the people are looking forward to a bountiful harvest."

CONTESTED ELECTION.

TERRITORY OF UTAH.

Geo. R. Maxwell vs. Geo. Q. Cannon.

Argument of Halbert E. Paine, Counsel for Sitting Member.

(Before the Committee on Elections of the House of Representatives of the United States, Washington, D. C., 1874.)

(CONTINUED.)

Under the first and only notice to take depositions, printed in the contestant's record, no depositions were taken. In not a single instance is any notice attached to the contestant's depositions. No other notice to take depositions appears in the record, or was ever served, excepting only that under which the depositions of C. D. Handy, on page 9, and of J. B. McKean, on page 12 of the record, were taken. That notice did not state the name of the officer before whom the deposition was to be taken. On that ground Mr. Cannon's counsel objected to the taking of the deposition, referring to the defective notice as exhibit "A," which exhibit, for some reason, the officer, or some one else, has seen fit to suppress. The depositions of V. A. Witcher, Samuel Bee, J. A. Thompson, M. V. Ashbrook, Jesse Buckner, John Leetham, C. A. Allen, W. Gammon, S. B. Moore, and Thomas Gammon, printed on pages

13 to 17 of the Record, do not purport to have been taken pursuant to any written notice; nor do they show exactly when they were taken. They appear to have been taken between the 20th and 28th days of December, 1872. For the notary public dates his certificate on the day last mentioned; and on page 13 Mr. Witcher says that he served the notice to take these depositions on the 20th of December upon Frank Tilford, one of Mr. Cannon's attorneys, who had previously informed him that he was authorized to accept such notice. But Frank Tilford, a witness for the sitting member, testifies on page 83, that the notice served upon him by Mr. Witcher was a verbal notice, that it was not accepted by him as sufficient; that he did not then nor at any time waive any of the formalities of notice required by the act of Congress, nor the time required by that act; that before this time he had more than once informed Mr. Witcher, in direct language, that he would not waive on behalf of Mr. Cannon anything required in the notice by the act of Congress; that this information was given to Mr. Witcher in answer to his request that he (Tilford) would enter into a stipulation to take testimony upon less than the statutory notice. There was no cross-examination of any of these last-named witnesses. To the next deposition, which is that of Abraham Taylor, commencing on page 17 of the Record, objection was made on the ground that no notice of taking the deposition had been served on the sitting member. The next witness for the contestant is W. Mansfield, whose deposition commences on page 23 of the Record. This deposition was, like Mr. Handy's, (page 9,) taken before W. P. Appleby, a register in bankruptcy. The same objection was made to this deposition as to that of Mr. Handy. And, besides, it was stipulated (see page 23) that objections might be taken by either party to any question or answer at any time before the hearing before the committee to this witness or any other witnesses hereafter examined. All the remaining witnesses for the contestant were examined after the date of this deposition. Their testimony is to be found on pages 29 to 51 of the Record.

On Monday, March 23, 1874, by virtue of the stipulation, the sitting member served on the contestant and filed with the committee his objections to all the questions and all the answers in each and every one of these depositions.

These various objections apply to and exclude all of the depositions offered by the contestant, without a single exception.

There is, therefore, no admissible proof in this case introduced on behalf of the contestant. There is no proof tending to establish any of the grounds of contest specified in his notice, or urged in the argument of his counsel. This disposes of the case before you. I might have demanded a dismissal of the contest on this ground.

But I submit, gentlemen of the committee, that even if these so-called depositions were, as they are not, admissible evidence in the case, you would be able to find, in their biased, hostile and discredited hearsay statements, no sufficient proof of the charge of polygamy made by Mr. Maxwell in his notice of contest.

[TO BE CONTINUED.]

PRICE OF GOLD.

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TO BISHOPS AND OTHERS.—For the benefit of those who desire a complete and faithful record of their families, when born, blessed, confirmed, etc., in their respective wards, and with a view of securing uniformity of information under suitable headings, a Bishop's Record has been carefully compiled by the authority and sanction of the bishops and the leading men in Israel, and as such is recommended, hoping the bishops and brethren of wards will avail themselves of a correct record that may be handed down to posterity.

Respectfully yours,
EDWD. HUNTER,
L. W. HARDY,
J. C. LITTLE.SALT LAKE CITY, Utah,
August 22nd. 1874.

To my numerous friends and patrons throughout the Territory of Utah: Please take notice, to address all communications in care of B. Judson, DESERET NEWS Office.
H. H. WADMAN, M. D.
s80 w30 3t

NOTICE.

HAVING SOLD MY INTEREST IN THE Lumber Business in Salt Lake City to the SEABARD NEVADA LUMBER ASSOCIATION. I wish to extend to this community my sincere thanks for liberal patronage, and take pleasure in recommending the above Association to all who may have occasion to give them a call.

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