DESERET EVENING NEWS.

Saturday, - - April 18, 1891.

Copy for advertisements which are expected to appear in the EVENING NEWS on the day which should be issued in to the business department and not later than 7 p. m.

Notice of Advertising accepted upon application.

Rates for advertisements made known on application.

FRAGMENTS.

HOLY missionaries will visit the country wards tomorrow.

SPECIAL evening services in the Seventh Ward will hereafter commence at 7:30 o'clock.

THE Fourth Quorum of Elders will meet in the Seventh Ward meeting house next Monday, at 7:30.

TOMORROW (Sunday) evening Mr. Charles Ellis will lecture in the meeting house in East Bountiful.

THE Supreme Court of the Territory was in session today. Several important decisions were rendered and will be found elsewhere in our columns.

A PARTY of railroad magnates are expected to reach Salt Lake tomorrow, including W. H. Vanderbilt and Chauncey M. Depew.

THE lengthy Supreme Court opinions will be found on pages 5 and 8. Owing to the great pressure on our space we are obliged to hold over several other opinions already in type.

THE sidewalk pavement on the east side of State Street, between First and Second South, is now completed and the laying of the Scandinavian tourist paving will be commenced some time next week.

THE death of Patriarch Thomas Evans Jones, of this city, is announced in our obituary column of this paper. The funeral will take place tomorrow from the Nineteenth Ward meeting house. A biographical sketch will appear later.

MESSRS. RAWLINS AND BROWN, attorneys for Fergus Ferguson in the motion filed some days ago for the custody of Salt Lake County, gave notice in the Territorial Supreme Court this afternoon that the motion would be carried to the Supreme Court of the United States.

THERE will be a meeting of the Salt Lake County Woman's Suffrage Association in the Thirteenth Ward Assembly Room on Tuesday, April 21st. It is desirable that all the members should be present. All others interested in the subject are also cordially invited.

C. C. RICHARDS, Secy.

DR. E. S. WRIGHT, who recently graduated with honors at New York, has returned to this city and has already secured upon the practice of his profession, having hung out his shingle at the Salt Lake House. He is a bright, intelligent and upright young man, and will, doubtless, soon make headway in the momentum in the line for which he has unfortunately qualified himself.

THE Young Ladies' M. I. A. of the Twentieth Ward have arranged to give a social entertainment next Tuesday evening, in the Ward meeting house. An excellent programme, consisting of musical selections, etc., is in course of preparation, and refreshments will be served upon its conclusion. A most enjoyable time may be looked forward to, for none know better than the young ladies of the Twentieth Ward how to entertain their friends and acquaintances. The gathering will take place at 7:30.

TODAY, shortly after noon, a horse that had been lost to a long heavy peat on First South Street, just west of Main, runaway, dragging the peat. The animal almost collided with the clock at the Jennings corner, and then made a bee line for the door of the Deseret National Bank, apparently having urgent business with the cashier. Many people were on the street, and several narrow escapes narrowly missed by the runaway. The horse dashed up almost on to the steps of the house of the Deseret National Bank, his bridle and trapped him. No damage was done.

A Fearful Fatality.

Shortly after 10 o'clock this morning the Rosette Block, recently erected at the corner of Broadway and Theatre alley, opposite the Spencer Clawson wholesale house, was the scene of a fatal and heartrending accident. The building is a four-story brick structure. The first floor is used as a wholesale commission market, while the upper floors are occupied by tenants.

Mr. and Mrs. Frank Clark, who came here from Denver eight months ago, are occupants of a suite of rooms in the northwest corner of the third story. Toby had but one child, an exceedingly bright and affectionate little fellow of three years, in whom all their fond hopes of the future were centered. "Little Chester," as he was familiarly called, was a general favorite with everyone and made many warm friends as he romped gleefully along the corridors of the building. His childish prattle and merry peals of laughter were heard daily along the hallways. This morning was no exception to the rule, unless he was, if possible, more cheerful than ever. When the morning meal had been eaten and Mr. Clark took his departure for his place of business at the Saddle Rock Restaurant, on East Temple Street, the little fellow followed his father to the head of the stairs as was his custom, and to bring his arms lovingly around his neck bade him good-bye. He then returned to the parlor, overlooking and facing on Broadway, and for an minute amused himself for a time with his toys. One of the windows, the bottom of which is but a few inches above the floor, had been raised for airing the apartment. To this "little Chester" went and peered curiously into the street below. The movement was watched by the mother, who became riveted to the spot. She vainly endeavored to rescue the child from its perilous position, but was unable to move a muscle. In the meantime the unfortunate child crept gradually over the sill, but its balance was precipitated backward upon the same pavement beneath. As the child disappeared through the window Mrs. Clark with a shriek of horror fell unconscious to the floor. She soon recovered, however, and dashed frantically down stairs. On reaching the ground she found her darling child in the arms of another lady, who was surrounded by a crowd of excited people. Examination showed that the child had been crushed to a pulp. The left arm, right leg and three ribs were broken in the fall. Death was instantaneous. Dr. McKeen was summoned, and under his direction the body of the child was carried upstairs, washed, dressed and prepared for burial. The date of the funeral has not been definitely decided upon, but will probably be held on Monday next.

The grief-stricken parents are almost crazed with sorrow at the death of their cherished child.

FERGUSON VS. ALLEN.

The Judgment of the Lower Court is Affirmed.

BINGHAM POLL 3 NOT REJECTED.

The Fifteen Rejected Votes at South Cottonwood Present a Serious Question.

Judge Minor, in the Supreme Court of the Territory, to-day, delivered the following opinion in the case of Fergus Ferguson, plaintiff and contestant, vs. Clarence E. Allen, defendant and contestee. It was an appeal from a judgment made and entered in the Third District Court in favor of the defendant (J. T. Anderson, Judge):

The plaintiff, Fergus Ferguson, and the defendant, Clarence E. Allen, were each respectively candidates for the office of county clerk of the county of Salt Lake, Territory of Utah, at the August election in 1889, and the only candidates therefor.

At the canvass of the votes by the county canvassers of the precinct returns, that body adjudged that defendant Allen had received a majority of fifteen votes; the said plaintiff had received 3749 votes, and the defendant having received 3755 votes; and a certificate of election was accordingly given to the defendant Allen, who is now in possession of the office.

The plaintiff, within the time required by law, filed his notice of contest, and now claims that there are ten distinct errors in that computation, that is:

First—In the Bingham Precinct, three polling places were provided by the Utah Commission, but no division was had of the registration list—the whole registration was left with the judges of each poll; that Poll No. 3 in such precinct was established up the canyon, in the mountains, for the accommodation of the voters at the Brooklyn mine. At this poll forty-one ballots were cast at this election—thirty-three for the contestee and one for the contestant. Thirteen of the thirty-nine votes cast for contestee Allen were proved to be cast fraudulently, by persons not entitled to vote, and were rejected by the trial court, thus leaving Allen's vote in this precinct twenty-six.

It is now claimed by the contestant that the court erred in not rejecting the entire vote polled at this precinct, for the reason that the whole of the poll was proven fraudulent, and no legal votes were shown to have been cast.

The contestant also claims that he is entitled to have counted in his favor 15 votes in the South Cottonwood precinct, which were not returned by the judges of elections, and claims that the facts concerning these 15 voters are that 15 legal voters, whose names appeared upon the registration list, who were entitled to vote, were wrongfully stricken from the registration list by the judges of election themselves, so as to prevent their vote. That the said 15 voters, however, tried to vote, so far as they were able to do so, and that each of them tendered a ballot, together with an affidavit, which was in due form by each of said persons offering to vote, containing the oath required by the Act of the Legislature of Utah, 1887, known as the Edmunds-Tucker law, and that the judges refused to put their ballots into the box. Each of the voters caused said ballots to be preserved, and his name written upon it, identified and brought into court—so that the ballot was cast by each of the 15 voters so far as it was in the power of the voter to cast it. Each of these votes contained the name of the contestant. Counting these 15 votes, he would have a majority over the contestee of eight votes.

Contestant claims, 1st, that the court erred in not following out the entire ballot of the third poll of the Bingham Precinct, and deducting all the 39 votes from Allen's majority, for the reason that the whole of said poll was proven to be fraudulent, and no legal votes were shown to have been cast.

2d—The Court erred in not allowing the fifteen votes which it determined to have been wrongfully and illegally kept from the ballot box in South Cottonwood precinct, and found by have been by the votes tendered for Fergus Ferguson, to be counted for him.

The evidence upon which this case was tried in the Court below is not brought before this Court by the record, and the only question before this Court on the record is whether or not the findings of fact, by the lower Court, justify the conclusions and judgment of the Court below, or whether other and different conclusions of law should have been reached upon the facts as found. Upon these points the Court below found, among others, the following facts:

5th. "That at said Poll No. 3, in Bingham precinct, said thirteen ballots were cast by persons who were not qualified electors of said precinct, but who fraudulently personated the names of persons whose names appeared upon the registration list as the same appeared in vote. That each of said Thirteen ballots were cast, counted and returned for the incumbent, contestee Allen, for said office of county clerk."

6th. "That in the precinct of South Cottonwood, in said county, fifteen different persons presented themselves at the polling place on the day of election, and claimed the right to vote, and each tendered to the judges of election a ballot for contestant for said office of clerk of the county court, and with said ballot tendered an affidavit, sworn to before a justice of the peace, by the persons so offering to vote, which affidavit contained the oath required by the Edmunds-Tucker law, and the ballot of each of said persons was refused by the judges for the reason that the name of none of said persons was upon the registry of said precinct."

"That the names of each of the 15 persons had prior to the said day of election been upon the registration list of said precinct, but each of said names had been by the judges of election stricken from said list before the opening of the polls, in accordance with the directions in writing from the deputy registration officer of said precinct. That the right of each of said 15 persons to vote at said election had been objected to by a qualified voter in writing before said deputy registrar, and a hearing had been had upon each of said objections after due notice had been given such of said persons before said deputy registrar; and said deputy registrar had determined on such hearing that the names of each of said persons should be stricken from the registration list of said precinct, which said determination was erroneous and against the law and 15 persons being qualified voters—but was duly entitled to vote, and judges and the vote of each of said persons was refused by said judges of election for the reason that the name of each had been so stricken from the registration list."

Upon the foregoing facts, as found, the trial court found therefrom the following conclusions of law:

"That in the majority of fifteen for the incumbent, as shown upon the face of the canvass and returns, there should be added six votes on account of the matters set out in the fourth, fifth and sixth paragraphs of the foregoing findings of facts, and that from the majority for the incumbent, as thus increased, should be deducted fourteen votes, on account of the matters stated in the third and eighth paragraphs of said findings, and that the incumbent is clear majority of seven votes out of all the legal votes cast for said office at said election. 2d—"That the ballots cast to be cast for contestant in South Cottonwood precinct, as referred to in the ninth paragraph of the said findings of fact, should be rejected by the judges and were not in fact cast, cannot be counted, nor can any of them be counted nor made available to the contestant in this proceeding." And upon the foregoing facts and conclusions, it is adjudged and determined by the court below that the contestee's complaint be dismissed, and that he take nothing by this proceeding, that the incumbent was legally elected to said office of clerk of the county court of said Salt Lake County and he the right to said office is confirmed."

The above findings include so much only as may be material in this discussion. On examination of the eighth finding of fact, we are unable to discover any error in any error of the court in its findings of law, for as they apply to the third poll of Bingham precinct. It is apparent from the findings that 13 ballots were cast fraudulently by persons who were not qualified electors of that precinct, by personating those whose names appeared on the registration list, but did not vote, and those thirteen votes were properly deducted from the vote of the contestee Allen.

That there was fraud practiced at this poll there can be no question, but it does not appear from the findings of fact, that the incumbent or any of the officers combining the election participated in such fraud or knew of it, or that the proceedings were so tarnished with fraud, neglect or improper conduct on the part of the officers that the result of the election was rendered so uncertain and fraudulent as to make it impossible to determine the actual vote from other evidence in the case.

Where the result of a poll, as shown by the returns, is false and fraudulent, and the conduct of the officers is such that legal vote from other evidence in the case, the vote of such poll cannot be wholly rejected.

Revised Statutes, section 499.

Mc. Cary on election, section 495, 496, 497.

Phelps vs. Shroeder, 26 Ohio State, 548.

Ex Parte Murphy, 7 Ohman 155.

Lloyd vs Sullivan, 24 Pac. Rep. 218, 222.

12 Cal., 352.

84 Am. Decisions, 242.

Cooley's Con. Limitations, 788.

State vs. Hillhouse, 2 Wis., 422.

In this case the court was able, from the testimony, to purge the poll of the thirteen fraudulent votes and give effect to the legal or untaintedvotes cast at this election. We find no error in this. We also find that this court in this case, the court below had jurisdiction under sections 3252 and 3253, C. L., 1888.

24 Pac. Rep., 183.

The ninth finding of fact, as to the votes at South Cottonwood Precinct, and the conclusion thereon, present a more difficult question for determination. The statute provided for a hearing before a deputy registrar, upon all of objections to the right to vote of any persons registered.

Section 2735, page 321, 1st compiled laws of Utah, 1888, provides among other things "(1) Upon such hearing, the judges (by construction deputy registrar) shall find that the persons objected to are not qualified voters, he shall within three days prior to the election transmit a certified list of such persons, with the grounds of objection to the judges of election, and such judges shall strike such names from the registry list before the opening of the polls."

Section 2751, compiled laws of Utah, 1888, reads as follows:

"No irregularity or improper conduct in the proceedings of the judges or any of them in such examination as aforesaid, unless the irregularity or improper conduct tends so to prevent the person whose right to the office is contested to be declared elected when he had not received the highest number of legal votes."

See Russell vs. McDowell (Cal.) 23, Pac. Rep., p. 183.

These statutes should be construed with reference to the laws of the United States, applicable to this subject.

The trial court took testimony and made its findings as above given. It appears from the findings of fact (from which the contestant only appeals) that the names of fifteen qualified voters of South Cottonwood Precinct had, prior to the day of election, been duly entered on the registration list of such precinct—that on the morning of the election these names were stricken from such list by the judges of election, in accordance with the directions of the deputy registration officer of that precinct, after due notice had been given such of them. That such determination of the deputy registrar was erroneous and illegal—the said fifteen persons being qualified voters. That each of said fifteen persons presented themselves at the polling place on the day of election and claimed the right to vote, and tendered the judges a ballot containing the name of the contestant for the aforesaid office, together with an affidavit, as required by the act of Congress of March 3rd, 1887, and that they were refused for the reason that their names had been so stricken from the registration list.

The question presented here is whether the judges of election should have received the votes, if, upon examination of these 15 votes, as tendered for the contestant, notwithstanding their names had been illegally and erroneously stricken from the list of voters, no challenge being interposed as provided in sec. 231, vol. 1, C. L. 1888. It is apparent that if these votes had been received or counted for the contestant, the result of the election would have been different, and the contestant, instead of the contestee, would then have received eight majority over the vote of Mr. Allen, the contestee. The authorities are divided upon this question as somewhat near in and conflicting, depending largely upon the statutes of different States.

Dealing upon this question, we find in Payne on election, sec. 489, the following general proposition:

"Illegal votes may be their votes through the criminal misconduct of dishonest officers of election. While it is to be admitted that the more regular mode with the legal requirements of the law, or the performance of duty in a methodical manner, without fraud, will be productive of the best and justly the rejection of an entire poll, is in equity well such a that when the proceedings are so tainted by fraudulent, reckless or corrupt conduct on the part of the officers, that the result of the election is rendered uncertain, the entire returns will be rejected and the parties left to seek redress at the hands of the voters, by their votes for them." But when fraud on the part of the officers of election is so pervasive that poll will not be adjudged unless it shall prove to be impossible to purge it of the fraud.

In other words, the votes of fraudulent rejection of a entire ballot. Fraudulent elections in a precinct where, if they had voted, could have changed the result of the election, we take to be void the votes in that precinct.

Penner vs. Bennett, 21 Ohio State, 421.

Fifth Florida, 8 So. 707.

People vs. Cook, 8 Ark., 111.

Phelps vs. Shroeder, 26 Ohio, 548.

State vs. Rice, 26 W. Va. 57.

8 Am. Eng. of Law, 292, 422, 493, 504, 591.

McCrary on Elec., sec. 423, 509, 474, 1105, 3d ed.

Floyd vs. Sullivan, 24 Pac. Rep., 218, 222.

Russell vs. McDowell, 23 Pac. Rep., 183.

People vs. Bell, 8 N. Y. S., 234.

State vs. O'Clay, 36 N. W. Rep., 842, 71 N. C., 49.

People vs. Kennedy, 21 Am. Rep., 465.

Seller vs. Chapman, 54 Mo., 592.

I am unable to see the injustice in the doctrine of fraud or misconduct presented by a case where the election officers fraudulently and wrongfully strike the name of a qualified voter from the registry list, or in which they illegally and fraudulently place the names of illegal voters on the registry list. In the latter case it is held to be malconduct in the officers.

While a disregard of a mandatory provision in a statute as to the conduct of an election will ordinarily vest an election, it is generally well settled that neglect or disregard of a directory provision of the statute intended to prevent fraudulent voting followed by actual fraud of that character, sufficient in extent to cast no doubt on the true result of the election, is a good ground for rejecting the entire vote of a precinct, providing there were no means of purging the fraud.

Officers of election are like all other persons, presumed to know the law, and their deliberate neglect to do their duty, or their illegal, wrongful and fraudulent performance of the duty imposed upon them, to register and permit all persons having such qualifications to vote, are sufficient to cast no doubt on their part. In the case in hand, the contestee's counsel may claim that the evidence of fraudulent was offered before the court, before to explain or justify the acts of the election officers. This omission cast suspicion upon their integrity, so with the testimony before the court was reasonably sufficient prima facie to make out a case of erroneous and illegal conduct on their part, as found by the court trial.

The case of Russell vs. McDowell (California), reported in 23 Pac. Rep. 183, fully sustains this doctrine and also gives construction of the statutes, 2751, Compiled Laws, 1888, which is similar to the California statute.

The object of the registry law is to preserve the purity of the ballot box and to guard against abuses to the elective franchise, and not to prevent any qualified elector from voting or unnecessarily to hinder or impair his privilege. This right should not be impaired by the regulation. It must be a regulation, not a destruction, of the right.

Atty-Gen'l vs. Bennett, 79 Mich., 243.

People vs. Allen, 24 Pac., 86, 738.

Dells vs. Kennedy, 49 Wis., 555.

Warden vs. Bay, Board, 72 Mich., 298.

People vs. Gordon, 40 Cal., 285.

Webster vs. Byrne, 54 Cal., 275.

It is has been held that the carelessness of legal voters through error in the registration of their names, or in their at an election, because it cannot be known with certainty afterwards how the excluded electors would have voted, not in such case, permit the voter to come and rely upon the voters' subsequent statements as to their intention, when unfortunately such intention was inefficiently expressed, after it is ascertained precisely what effect their votes would have upon the result.

Cooley's Con. Lim., 788.

Newcome vs. Kimpel, 3 D Mon. 513.

"If, however, the inspectors of election shall exclude legal voters, not because of fraudulent intent, but wilfully or carelessly, and to an extent that affects the result, or if legal votes are intimidated and prevented from voting, or for any other reason, the electors have not had opportunity for the expression of their sentiment through the ballot box, the election should be set aside, or, if it is a contesting failed in the purpose for which it was called.

Cooley's Con. Lim. 653.

41 Kansas, 111.

Penner vs. Bennet, 21 Ohio St., 421.

Phelps vs. Schroeder, 26 Ohio St., 548.

Bell vs. Snyder, 4 Con. El. Cases, 247.

McCrary Am. Law of El., Sec. 11.

State vs. Jefferson Co. Comm., 17 Florida, 707.

People vs. Bell, 29 N. E. Rep., 805.

People vs. Gardner, 75 N. W., 334.

Payne on El., sec. 512—513.

People vs. Pease, 27 N. Y., 63.

59 Am. Dec., 476; 28 Am. Dec., 645; 2 Am. Dec., 641.

A proper rule in such cases is that any irregularity in conducting an election which does not deprive a qualified elector of his vote, or admit a disqualified person to vote, or which, if committed on the result, should be overturned in trying title to an office.

Cooley's Con. Lim., 816.

But no legal voter should be deprived of that privilege by any illegal act of the election authorities is a fundamental principle of law, but in order for such voter to avail himself of that privilege, he must conform to such reasonable rules as are prescribed by law—the proper course in taking issue on his part that he should die in order to bring himself within the rule—he must see that his name is on the registration list, and otherwise entitled to vote. When he has done this he has done all that the statute required in this territory.

In this case it appears that each of these fifteen electors had their names properly enrolled—that they were legal voters and entitled to vote at the election held that day, thereby, without any authority of law whatever, erroneously and illegally ordered their names stricken from the lists of qualified electors on the morning of the election—that each of them went and tendered a vote at the contestant, with an affidavit of their qualifications as legal voters. They were present but their names had been illegally and erroneously stricken from the list of voters by order of the deputy registrar. The illegal act, if it was such, on the part of the registration officers cannot be justified upon any present whatever.

The rights and privileges of all people are too sacred to be cast aside and subjected by the illegal and wrongful acts of civil servants, no matter under what pretense or pretext, such acts are sought to be justified. This right is a fundamental right. All other rights, civil and political, are secondary to the exercise of this one, and any material impairment of it is, to that extent, a subversion of our political system.

These legislative and election officers act ministerially, or at most quasi-judicially, and their acts may properly be reviewed and questioned in a proceeding instituted to try the title to any office made elective by the Territory.

People vs. Power, 27 N. Y., 48.

Dillard vs. Pulice, 24 W. Va., 344.

State vs. Robb, 18 Ind., 335.

2 Cal., 235.

People vs. Vandine, 35 Am. Dec., 68.

Path vs. McKeever, 7 S. Dak., 305.

25 N. E. Rep., 536.

54 Hamm, 361.

Perry vs. Whitelar, 71 N. C., 475.

People vs. Kearney, 21 Am. Rep., 465.

The acts of the Legislature herein quoted can properly be considered in connection with the Edmunds-Tucker law as applicable to this Territory in the registration of electors and conduct of elections, and should be so construed as to give every elector in this Territory the right freely to register and vote and to have that vote honestly counted. Section nine of the Edmunds-Tucker law devolves upon the registration and election officers of every description in the Territory, and each and every duty relating to the registration of voters and conduct of elections, the opportunity registering voters, and the canvassing of the same, etc., shall, and other powers as may be made by the Legislature of the Territory, as hereinafter provided, be performed by and under the existing laws of the United States and of said Territory, by proper persons appointed by the Utah Commission."

and no person shall be excluded from the polls who is otherwise eligible to vote, on account of any error in the list; "nor shall they refuse to count any such vote on account of the opinion of the persons casting the same is the wrong place to vote."

The construction of this statute may be found in—

McCrary Am. Law of El., Sec. 11.

8 Am. & Eng. Ency. of Law, p. 295—493.

Murphy vs. Ramsey, 114 U. S. 15, and

Buchanan vs. Manny, 2 Ellis, 247.

Section 2067 of the Revised Statutes, relied upon by counsel for the contestant, might be a potent factor in the determination of this question, but if the Supreme Court of the United States declared it unconstitutional in—

U. S. vs. Reese et al.

I am satisfied that no case can be found in the books which presents a stronger appeal in behalf of justice to an elector who is prevented by the record in this case. Yet the law seems to be settled that unless the ballot is actually cast it cannot be counted a moral election contest. Justice Campbell, in his opinion in People vs. Cook, 8 Mich., 311, says: "There is no case, so far as I have been able to see, where under any system of voting by closed ballot, which has held that any account can be taken of rejected votes in a suit by title to office."

Judge Cooley, in his work on Constitutional Limitations, p. 653-54, says: "We have seen that no evidence is admissible to show how a qualified elector who was wrongfully prevented or excluded from so doing; such a case is one of many without a remedy, or at least without a full remedy."

And in such cases the injured parties have their right of action against the registration officers who violate their oath and neglect or corruptly strike the name of a legal voter from the registration list, or unlawfully or corruptly refuse to place such names upon the register, and such parties may be made liable to a civil action in damages or prosecuted criminally for such corrupt, wilful and malicious acts. Ashby vs. White and Lord, Raym. 938. Gillispie vs. Palmer 20 Wis 544 and Amsdell Reg. Elec. of Leg. pages 366-368-54. Hardesty vs. Smith, 47 Am. Dec. 564. Jinkins vs. Walden 11 John 114-34 Am. Dec. 364, Canfield vs. Bliss 11 N. Mon. (N. Y.) 476.

By Sec. 3752, Compiled laws of Utah, it is enacted that when any election held for an office exercised in and for a county or precinct, shall be vitiated by any misconduct on the part of the board of Judges of any precinct election, or any member thereof, the election should be adjudged void, and a new election ordered, unless the rejection of the vote of such precinct or precincts would change the result as to such officers in the remaining vote of county.

Also see Sec. 3751—3753—3761—2762, Comp. Laws, 1888.

It is contended with much reason that under the provisions of these statutes no vote can be counted by a court or tribunal, but actually cast for him while the polls are open, and that the power of this Court is limited to the rejection of such fraudulent votes as were not cast and to the determination of the votes of contestants on account of fraud in the officers conducting the election in precincts where it appears that the rejection of such votes of fraudulent votes would change the result as to such office in the remaining vote of the county. The full vote of South Cottonwood precinct is not produced (or found by the trial Court) so that we are unable to determine whether or not the rejection of the entire vote of South Cottonwood precinct would change the result of the election for this office; therefore

Because the whole record we find no error. The findings and judgment of the Court below are affirmed with costs.

We concur in the result—

KING C. J.

BLACKBURN, J.

To the High Council.

The members of the High Council of Salt Lake Stake of Zion are requested to meet at the Sixteenth Ward schoolhouse tomorrow (Sunday) at half-past 11 a.m., in order to attend the funeral of Patriarch Thomas E. Jeremy. The deceased was formerly, for many years, a member of the Council.

ABSON M. CANNON,
President.

Highest of all in Leavening Power.—U. S. Gov't Report, Aug 17, 1889.

Royal Baking Powder
ABSOLUTELY PURE

Amusements.

The John S. Lindsay Dramatic Company will, on Tuesday and Wednesday next, play "Damon and Pythias" and "Dagon and Pythias" at the Salt Lake Theatre. He will be supported in the leading lady's roles by his three daughters, all recognized actress in the legitimate drama. Salt Lake Theatre goers will give the Lindsay company a grand reception.

At "Wonderland" there will be a new programme for the coming week. Crowds are flocking to see the jugglers, wazzlower workers and Asia today.

Dr. Archer at the Tabernacle.

Dr. Frederick Archer, of London, a gentleman who has the reputation of being one of the most talented organists of the world, visited the Tabernacle yesterday afternoon and executed some exquisite selections on the grand organ. This instrument is a wonderful in itself, but when manipulated by such an accomplished master, works caused adequately describe the magical effect. There were quite a number of tourists present on the occasion.

It is understood that the Doctor tested the organ with a view of making some valuable suggestions as to certain contemplated changes in the instrument.

A Successful Trip.

Yesterday Mr. Joseph Ball, long connected with this establishment, returned from his twenty-second annual business trip in the east in the interest of the NEWS. While absent he visited nearly all the leading manufacturing centres located between Louisville Ky., and Boston, Mass. His trip was highly successful, as the well-filled advertising columns of this journal have shown and now exhibit. The business expansion of the NEWS in the eastern portions of the NEWS and this office have existed without interruption since Mr. Ball's first trip, twenty-two years ago. The latter returns home in good health.

Another Wheat Boom.

CHICAGO, April 18.—There was another boom in wheat this morning, occasioned by the higher prices abroad and possible poor crops throughout Europe. May option opened ½ lower than yesterday's closing, at 1.00 and within one minute had sold up to 1.11. From there the wheat continued transmance steadily until 10:35, quoted at 1.14 and July 1.10. Heavy offerings now had the effect of forcing the price of May to 1.12, but from that point there was a rally to 1.15, succeeded later by a decline to 1.12. By 11 o'clock the market quieted down, May selling at 1.12 and July 1.09.

DEATHS.

JENNEY.—In the city April 17, 1891, aged 76 yrs., of old age, Thomas E. Jenney, aged 76 years and 7 months.

Funeral services will be held in the Nineteenth Ward meeting house tomorrow, Sunday, April 19, commencing at 11:30 a. m. Friends respectfully invited.

DR. BRANDEN, Eye, Ear, Nose, Throat and Lungs, 31 and 34 Commercial Block. Have Multitudes from the ends of Freeman & Business. 4ff

In a Few Days

The Utah Commercial and Savings Bank will introduce in this city the Nickel Savings Stamp system, to encourage the adoption of small savings among the children and working class. They will have an agency established in every ward in the city to sell their Savings Stamps. Everybody can then have a bank account of their own.

Save your nickels. 4d

Change of Time on Union Pacific.

Commencing Sunday, the 19th, the through train for Milford and intermediate points will leave Salt Lake at 4 p.m., instead of 7:10 a. m., arriving at Milford at 8 a.m. and Frisco at 9:30 a. m. the following morning. North bound train. The through train from Frisco will leave that point at 5 p. m. and Milford at 7:35 p.m., arriving at Salt Lake at 8:30 a.m., instead of arriving here at 10:05 p.m., as at present. This change carries passengers between Juab and Milford during the night. d2

In 1850 "Brown's Bronchial Troches" were introduced, and their success as a cure for Colds, Coughs, Asthma and Bronchitis has been unparalleled.

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THIRTY-EIGHTH DIVIDEND.
Z. C. M. I.
SALT LAKE CITY, April 15, 1891.
A QUARTERLY DIVIDEND OF THREE per cent. has been declared on the Capital Stock of this Institution, payable on April 20th, to shareholders of record on April 15, 1891. Transfer books will be closed from the date of the check certificate, or upon their written request.
T. G. WEBBER, Secretary.

NOTICE.
Z. C. M. I.
SALT LAKE CITY, April 15, 1891.
THE TRANSFER BOOKS OF THIS INSTITUTION will be closed from April 20th, 1891, and re-opened on May 5th, 1891.
T. G. WEBBER, Secretary.

ADVICE TO MOTHERS.
MRS. WINSLOW'S SOOTHING SYRUP should always be used for children teething. It soothes the child, softens the gums, allays all pain, cures wind, colic, and is the best remedy for diarrhœa. Twenty five cents a bottle. 1m0d4

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