THE DESERET WEEKLY,

PUBLISHED BY

THE DESERET NEWS COMPANY.

SALT LAKE CITY, UTAH.

SUBSCRIPTION RATES:

Per Year, of Fifty-two Numbers, - - - - - $2.50
Per Volume, of Twenty-six Numbers, - - - 1.50

IN ADVANCE.

CHARLES W. PENROSE, EDITOR.

Saturday, - - - May 2, 1891.

NO REDRESS.

THE decision rendered on April 18th by the Territorial Supreme Court, in the Ferguson-Allen election case, presents an anomaly in civilized jurisprudence. Notwithstanding the fact that if certain duly qualified electors of South Cottonwood Precinct had not been illegally and fraudulently prevented from casting their votes, Ferguson would have been elected to the office of clerk of Salt Lake County. The position was given to Allen, who was, so it was proved, elected by a fraudulent process.

The ordinary reader is occasionally unable to grasp the main points of a subject by the perusal of a lengthy legal document, such as this decision of the Court; hence we here reproduce some of the leading features, minus the authorities quoted, upon which the conclusion depends for its consistency:

"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 this election; that the deputy register, 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 for the contestant, with an affidavit of their qualifications as legal voters. They were refused because their names had been illegally and erroneously stricken from the list of voters by order of the deputy registrar. This illegal act, if it was such, upon the part of the registration officers cannot be justified upon any pretext whatever.

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

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

* * * * * * *

"I am satisfied that no case can be found in the books which presents a stronger appeal in behalf of justice to an elector than is presented by the record in this case. Yet the law seems to be settled that unless the ballot is actually cast it cannot be counted in a local election contest.

* * * * * * *

"And in such cases the injured parties have their right of action against the registration officers who violate their oath and maliciously or corruptly strike the name of a legal voter from the registration list, or maliciously 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."

It is held by the court that the act of "these registration and election officers" may "properly be reviewed and questioned in a proceeding to contest or try the title to any office made elective by the laws of the Territory." Unless such an investigation leads to the rectification of a wrong it is useless for the purpose for which it is instituted. Such a review was had. It proved that a "Liberal" registration officer committed a fraud that prevented the election to office of the candidate who was the choice of the majority. After this inquiry, which disclosed this state of facts, the candidate who was fraudulently robbed is informed that their is no remedy for him under the law. Such law may exist but it is not in accord with justice, sound sense, or civilized jurisprudence. Unless a remedy for a wrong lies at the end of a judicial review it is useless for any practical purpose except to expose the perfidy of "Liberal" election officers, partisans, and candidates, who accept of offices to which they could not have been elected without the aid of fraudulent manipulation.

This decision sweeps the official viands out of the reach o the defrauded candidate—so far as the local courts are concerned. It has the appearance, however, of not submitting the defrauded electors to the starvation process, but tenders the wronged and robbed citizens of that class a quantity of legal cold soup which is sufficiently antiqated to have become sour. They can have recourse to a civil or criminal action against the registration thief who deprived them of the exercise of the suffrage.

This was not intended by the court to be ironical mockery of the misused citizens who were prevented from voting, but it is a tantalizing statement, in the light of recent events. The history of the case against W. J. Allen, a "Liberal" election judge, charged with having stuffed the ballot box of Poll No. 2, Fourth precinct, this city, with votes for the candidate of his party, and throwing out these tendered for the candidate of the People's Party, proves this. When the consequent contest came before him, Judge Zane, on the basis of Allen's guilt, decided that R. W. Young was elected and not Mr. P. L. Williams. His honor referred Allen's case to the grand jury, who indicted him. In the face of Judge Zane's decision, which, in effect, declared Allen guilty, a "Liberal" trial jury acquitted the accused.

In connection with this trial Fred Kesler, L. R. F. P., one of the witnesses for the defense, sounded a "Liberal" bugle keynote to the situation. In response to a question from counsel for the "Liberal" Party, as to whether he held any office at a specified time, and if so to state what it was, he said: "Yes, I was 'Liberal' registrar for the Fourth Precinct." There is, in our opinion, so much "Liberal" partizanship connected with the courts, that a cordon of "jurorical" protection is thrown around the tools and corruptionists of that party. This obstructs the course of justice, and prevents the obtaining of redress, from enemies of American institutions, by citizens and electors fraudulently deprived of the rights of suffrage.

THE SCHOOL BONDS ELECTION DECISION.

THE opinion of the Territorial Supreme Court in the case involving the right of the Utah Commission to take charge of the school bond election, is important as affecting not alone school matters, but other political interests of the Territory. The extremely light vote cast at the bond election indicated a popular belief that the interference of the Utah Commission with it rendered it invalid, and that the courts would pronounce it void. It was expected that Judge Anderson's decision would be reversed, but it was generally believed that the ground of the reversal would be the proposition that school elections are not public elections, and are not included within the meaning of that term as used in the legislation of Congress; and that they have rather the nature of elections by stockholders of corporations.

Judge Anderson's decision was reversed, and with considerable emphasis, but not upon that ground, the opinion of the Territorial Supreme Court containing scarcely a distinct reference to it. Hence the question whether or not school elections have ever been of a sort that properly comes under the supervision of the Utah Commission has not been passed upon by that tribunal.

The principal reason why Judge Anderson's decision is overturned is a new one; at least it has not, so far as our observation has extended, been sug-