Dickson and McBride entered a demurrer. Mr. Dickson made the first argument, which was very brief. He claimed that mandamus proceedings were not the proper course to pursue in the case, and insisted that the Ogden decision precludes the chief justice from considering the present case; his position was that Judge Zane was bound by the Ogden decision to an extent that he could not hear and determine the issues presented here. Mr. Dickson entered into no discussion of the merits of the case.

Le Grand Young followed. His position was that the remedy was proper as to the issuance of the certificate of election. This would not determine the right to the title. The certificate was *prima facie* evidence of the right to hold the office, but its issue did not prevent the other party from making a contest. The returns showed that certain persons in the precinct had received a majority of the votes cast in the precinct. Th co urt asked to direct the secretary, as canvasser, to issue a certificate to those having the majority, aud if there was any contest, that could be made in the regular manner. Mr. Young discussed the act providing for the incorporation of cities, and showed how Judge Henderson's opinion was inconsistent with itself, aud was opposed to the more recent decision of the Territorial Supreme Court.

F. S. Richards took the position that the Ogden decision was not authority in the present case, as the issues were entirely different. It did not cover the point at issue in the present proceedings, and was only binding as to the question raised in the other case. It was the evident intention of the statute to make a new set of officers, aud to allow their election from municipal wards. It was a strained construction to say that the officers should be as provided by the new law, but should not be elected in the way the new law prescribes. Such a separation made the law contradictory, while the other position made it harmonious. The Supreme Court had decided that in the case of Salt Lake City the officers were changed, and it should follow as a consequence that they should be elected from wards, as the law directed. The proviso related only to cities where the board of aldermen or city council were already elected from wards, and with the manner of selecting—not electing—officers by the city council.

Judge McBride closed. He claimed that the action of the secretary could not be interfered with, as he acted in a judicial capacity.

Judge Zane inquired whether it was meant that the canvassing board, in which capacity the secretary acted, could not be directed by the court.

Judge McBride then corrected himself, and stated that the secretary had a discretion in the matter.

Judge Zane again asked if the discretion was such that the court could not direct him to issue the certificate to the one which the court had ascertained was entitled to it.

Judge McBride again shifted his position and asserted that the canvasser was not a continuing officer, but had discharged his duty when he issued the certificate; that his act was conclusive, and he could not be required to change.

Mr. Richards took up this proposition, and pointed out that the canvasser's duty was not discharged until he gave the certificate to the proper person. If he issued it to one who had no title, he did not perform his duty, and could be required by the court to proceed according to the law.

Judge Zane announced that he would decide the case on Tuesday, February 18th.

### THE PROVO CONTEST.

While the Utah Commission decided that they would not consider the question as to whether or not Hon. John E. Booth was a polygamist, in the matter of the contest over his election as mayor of Provo, they did agree on Saturday afternoon to withhold the certificate of election until after the matter was ruled on by the courts, whenever that may be. The same position was taken with regard to the question as to whether the election should have been for aldermen or justices of the peace. Following is the commission's queer ruling:

"Salt Lake City, Feb. 15, 1890.

"Whereas, A. Saxey, chairman Liberal committee, Provo City, has filed a petition requesting that no certificate of election be issued to James (?) E. Booth, who received a majority of the votes cast for mayor at the late municipal election, held in and for said city, on the ground that he is a polygamist under the law—although not charged with living in polygamy.

"And also that certificates of election be withheld from two persons voted for at the said election for the office of aldermen, and that certificates be given to certain other two persons who were voted for at said election for office of justices of the peace, on the ground that said city is a city of the third class, and that therefore no election for aldermen could legally be held. The Commission after due consideration, in view of the fact that both questions are of importance and are open and mooted questions, which should be judicially settled, advises the secretary as canvassing officer to withhold all such certificates of election until the parties to be affected thereby have a full opportunity to apply to the courts for the proper use and judgment thereon.

G. L. GODFREY, chairman."

## FROM BISHOP WHITNEY.

Bishop O. F. Whitney sends us a a letter, which was published in yesterday's *Herald* in regard to the arbitrary action of the registrar in striking his name from the registration list. The Bishop is confined to his house with an attack of illness, but will probably be out in a few days. Following is the letter.

From the decision of the registrars published in this morning's *Tribune* and in this evening's NEWS, I learn that my name is among those which have been ordered to be stricken from the registration lists. The reason given is as follows: "The evidence shows that each of the defendants has, at some period since the passage of the anti-polygamy law of 1862, entered into the relationship of bigamy or polygamy."

Now, so far as this allegation relates to myself, it is absolutely and entirely false. The evidence shows nothing of the kind. The registrars are not in possession of any evidence that would substantiate such a charge, and for the best of all reasons—there is none to be had. I suppose they surmised to the contrary because I failed to appear before Mr. Winters on the 3rd inst. to answer to the "objection" of that arch-ensnarer, Mr. Webb, whose gauzy net-work of groundless accusations has been torn and punctured so often of late. All there is to it is this. I was unavoidably absent from town during the most of the past week—duty calling me elsewhere—and consequently was unable to respond to the summons, left at my house while I was away from home, to appear before Registrar Winters' court of inqury. Through my failure to so appear, I suppose my case went by default, though my first intimation to that effect was in reading, this morning, the decision referred to.

Well, it seems I am "caught in the web," for the time being, and like others of my fellow-citizens, as unjustly treated, will not be able to go to the polls on election day. I should like to have voted on Monday next, if for no other reason than to be able to tell my children and my children's children, in after years, that on the 10th of February, 1890, in casting my ballot for the People's candidates, I struck a blow for liberty and honest government, against what it needs no prescience to perceive would be a grinding tyranny as much to be dreaded as any that the annals of the darkest ages of despotism can show.

However, I'll yet vote, many years, and live to see the pure principles of freedom and equality, that tyrants and traitors are now trampling in the mire, triumphant, and the flag of my country waving proudly over a peaceful and happy land, where man has ceased his "inhumanity to man," and when rogues and hypocrites, masking as patriots and reformers, are mouldering in dishonorable and forgotten graves.

O. F. WHITNEY.

SALT LAKE CITY, Feb. 8, 1890.

## ISLAM.

### PROGRESS OF ISLAM.

It has already been incidentally mentioned that Islam spread rapidly. The whole of Arabia was converted in ten years. After the death of Mohammed the prophetical office went over to Abu Bekr, who again was followed by Omar. Both of these carried out the work of developing and securing the success of the new religion, and they did it with all the zest that religious enthusiasm could inspire. Othman, the third caliph (successor), was considered a weak leader, and at his