(Continued from Page One.)

HERE IT IS.

by the votes of more counties than one, then said members of the county court shall convene the votes, and proceed as herein directed. After the completion of the canvass and number of members and the clerk of the county court shall declare the result thereof, and the clerk of the county court shall immediately make out and transmit a certificate of election to each person elected to any precinct or county office."

It is insisted by counsel for the relator that this section does not authorize the clerk of the county court and members thereof to go behind the returns and canvass the ballots to determine the fitness of candidates for territorial offices or members for the Legislature; that as to such officers and members they can only canvass the returns; and that in such authority as exists in any other board under or by virtue of laws, I am unable to assign this view. The law says, "If there exist no any disagreement in the canvass" and evidently the word "disagreement" here means an irregularity or discrepancy which affects the right of a candidate—"then said members of the county court shall canvass the votes as herein directed." It seems clear that the word "canvass" does not simply refer to the mere footing, but was to include reading it. The word "canvass" coming next in the same sentence instead of the word "returns" also lies an important bearing in the interpretation of this section of the act.

Doubtless it was the intention of the Legislature to confer upon the board, in some contingency to some extent, the authority to canvass, in proper cases, the ballots cast in such county, for any Territorial officer or for any officer whose election is affected by votes in more county. While, however, the law thus confers the power to canvass the votes in proper cases upon such board, regardless of the fact of an office, it restricts the powers of the clerk of the county court in making out and transmitting certificates of election to county and precinct officers. The power to make out and transmit certificates of election to territorial officers, and to such officers whose election depends in whole or in part on votes in another county, is conferred upon the clerk of the county court, and not upon the county board. It is conceded that the clerk of the county court shall make out and transmit certificates of election to territorial officers, and to such officers whose election depends in whole or in part on votes in other counties, is conceded by all. It is contended, however, that the county board is also required to canvass the election returns or delegates to the Constitutional Convention, which returns must be canvassed and certificates issued by the county board, in the manner provided in section 22 of the Territorial act.

Nowhere do I find any authority, either by express provision of statute or by necessary implication, for such course, in any case whatever, to go behind the returns and open the ballot box for the purpose of canvassing the ballots to decide the result of any election of any candidate for office. This is an assumption of power not conferred by law. Not in the many provisions of law which authorized the sending of a ballot box to each county of any such district, or for any purpose. The ballot box, after the close of an election, must be kept and the ballots deposited of by a board of "proper persons," appointed by said board of commissioners, and they must be kept and the ballots deposited in the manner provided in Section 22 of the act of 1875.

The real material question to whether mandamus is the proper remedy to enforce the performance of an official duty on the part of ballots, is a case where duty relates to a performance.

Where the performance of a specific act, ministerial in its character, is required by an officer at hazard of offense, upon whose the duty of the performance is devolved, and any person will be injured because of such relinquishment, may even a writ of mandamus issue to compel its performance.

Where, as in the case at bar, an election board, whose duty it is to canvass the returns of an election, make an abstract thereof, and issue a certificate of election to the candidates for offices, refused, after the matter has received have been made, to issue such certificates, will it be merely a ministerial duty, the parties who will be injured because of such refusal may have a writ of mandamus.

Throop on Pub. Officers, sec. 315 and 316.

Mechem on Elections, sec. 375.

State of Louisiana vs. Richard, 32 U. S., 241.

In the case, no question being made as to the legality of the election, although there appears to have been some irregularity in the manner in which it was conducted, it may be said that the law may be seen, that the law was substantially complied with.

In the case at bar the relation for the writ of prohibition, the court every is between the same parties and the issues involved are identical with those in the case at bar, the consideration of the statute in the mandamus proceeding applies with equal force in this proceeding.

The only remaining question is whether under the circumstances of this case the writ of prohibition will be granted to restrain the board from canvassing the votes and rendering the result of the election as to any candidate, who may hold a certificate of election to such canvass.

It is shown by the evidence that the ballots were canvassed and the result of the election declared on said election, and that the only act remaining, which the defendants were attempting to perform, could not be accomplished by power, was the issuance of a certificate of election.

At the time of the trial the defendants expressed their willingness to issue the certificate in accordance with the canvass made. Under the circumstances there appears to be no necessity for the writ.

The objection of counsel for the relator, to the admission in evidence of the majority lists and judges' lists, is overruled.

The evidence made by the defendants in the contested case as to the evidence proper is unnecessary to rule on the points raised during the course of the trial.

The writ of mandate is granted. The writ of prohibition is denied.

COUNTY COURT.

Sheep Scab Inspector Appointed—Collector Spencer Files His Bonds.

At the session of the county court yesterday afternoon, Frank Raby, of North Point, was appointed sheep inspector.

M. V. Clays was appointed meat inspector for the county vice Lundstrom, resigned.

John D. Spencer, county collector-elect, filed his bonds in the total amount of $600,000, with W. S. McCornick, H. J. Grant, William H. Preston, Charles C. Barber, P. T. Farnsworth, Isaac Barton, Spencer Clawson, Simon Bamberger, John H. Watts, Joseph A. Silver, M. F. Burton and Joseph F. Smith as sureties.

The old county meat inspector filed his report of December, as follows:

Number of animals inspected at Murray: Cattle, 150; calves, 141; sheep, 100; hogs, 185. Total, 576.

Number condemned at Big Cottonwood: Cattle, 10; calves, 26; sheep, 170; hogs, 41. Total, 257.

Grand total, 833.

Total for year, 6,712.

County Attorney Watkamire filed an opinion in the matter of the loss to the inspector for Herod S. Duke, in shipping wolves from 1890 to 1894 at the rate of $1.50 to $2 per day with 20 cents mileage, calling the amount from $60.50 to $70.

The court then adjourned until Monday at 10 a.m.

ORDERED TO SHOW CAUSE.

F. H. Cliff Essays to Tear Down a Porch at the Cliff House.

Mrs. Minnie Morley issued the Cliff House, situate at the corner of East Temple and Third South streets, of F. D. Cliff, some time ago. Her lease runs until October, 1895. Yesterday Cliff began tearing down the porch of seating which extends over the sidewalk on West Temple street, and the morning, on the application of Mrs. Morley's attorney (Judge Powers), Judge Barton granted a restraining order against Cliff requiring him to show cause on February 5th why he should not be enjoined from demolishing. The bond was fixed at $500.

AN ELEMENT.

SALVIN closed in Salt Lake engagement last night to a fair audience. The applause was most hearty throughout, curtain calls being the rule, and the general verdict was little than ever confirmed that D'Aragnan is an uneven impersonation.

THE GRAND—Last night was that denominated as "family night" by the management in the new opera house, and other because of that fact of course All the Comedie of Illinois can have no amount now in the public, the house was crowded. Mattinata original burlesque, Mr. Clarke, as usual, seeming to be a leading part of the applause.

THE FEAST OF ONE THOUSAND, Prof. Dodemeir's gigantic wheel, will be seen for the first time at the Theater to morrow afternoon. The entertainment promises to be a fair one for the little tots.

A BOX OF MOMENTS, the society play in which Mrs. Barnick and several of her pupils made so pleasant a hit recently in the Social Hall, will be given again tonight in the Eighteenth Ward hall. An attractive site will also be received consisting of a reading by Mr. Wells, a piano duet by the Misses Bluemel, and a vocal solo by Arville Cunningham, while Mr. Dave Calder will exhibit the new wonder, the graphophone.

ON THE TRAIL OF THE UTES

"People of Utah Desire to Bury the Hatchet," Says the "Republican."

The Things That Citizens Venture and Utes Are Asked to Agree "Never" May's Official Seals.

"They are still on the trail of the Utes over in Utah. The Utes may be peaceful enough, but the people of San Juan and Grand counties are not."

So says the Denver Republican of yesterday in an article the capital of which is equaled in the total lack of truth and sense. Nobody believes in this made to the last allegation of aggressive Utah settlers who called upon Governor West asking for redress. Tract representation of existing conditions is verified and the statement made that "since the anniversary celebration of Indian Agent Day," the Governor ordered Captain Cabell and Gross of the Utah militia to post to the Ute territories and make an investigation and report to him.

Then the same paper continues: "The troops officer in Denver are inclined to the belief that it is Utes they and not the Indians whom the Utes people are after. The complaint agent whom stirred up Governor West so far as to depute to his assistance all the available troops assembling of the Utes, and so far more of the natives to a different tale now.

"The army officers say there are no Indians in Utah who belong to Colorado. Lieutenant Colonel Lawton was sent out here to find the truth of the affair. He found, we are reported, that 200 or 300 Utes had left the reservation of the persons mentioned in the department of Washington. Colonel Lawton said that the Indians in Colorado had left the reservation on the anniversary of Agent Day, and that all were taken back to their reservation. That is the end of the affair so far as the officers are concerned, and they look upon the continuation of the excitement simply as a clever scheme that may be of some political purpose. They are inclined to think the Denver Street Commission is trouble, and that all the noise was raised for a purpose."

LIQUOR FOR THE UTES.

"Dick Charley," the "Cell Boat," and His Negro Interpreter.

The case of the Federal grand jury was quietly taken up Wednesday, in the District Republican, in the matter of and the examination of witnesses in the case of Sandford Cupid. Cupid is a Mormon who is charged with selling liquor to the Utes and one of the interesting features of the case was the presence of Dick Charley, a full blooded Ute, whose testimony was given through the medium of John Taylor, a colored man. The latter evidently hailed from Paris, Ky., for he spoke many remarks among the Utes which he always seemed interpreted.

Dick Charley's testimony was in the Ute and positive refused to talk in the English. "Ugh, no ride," he said with a decided shake of the head, "walk quite long way good."

City Marshal J. M. Nichols and others from Durango and vicinity were present and testified.

Mr. Barrington's Statement.

Editor Deseret News:

Concerning the falling of Dewey Hanover's dog from the Constitution building, it is proper for me to say, inasmuch as I am made to figure rather disfavorably in the incident, and as it has been given circumstances in your columns, that at the moment the dog came to the dangerous position I was busy at my desk in my office, and the remark of Mr. Horace Hayward, who was then in my office, drew my attention to the fact that the dog was certainly hanging in one of the two projections, near the middle part of the building. Mr. Hayward being nearer the north window, I urged him to move it, with or without holding that the dog could jump himself. The invitation, however, is natural, and the dog being lazily asleep jumped his party into the window sill, being then by a second by his paws and fell half-downward to the sidewalk below. The sidewalk slight, have was prevented and we, of course, can see, gone around into the hall from where the dog came and tried to have pulled him back from the projection, but he appeared to be in such excited condition that, on the spot it seemed to me, he might be safer if allowed the remainder of his window ledge to do. As it was, owing to the short size of the dog, the life was conditioned by his jumping down to the sill. If he had been lifted from the window he would have gone back, and probably have suffered from the fall. Regarding the statement that "the dog was being taken from the window sill to be killed by Mr. Barrington," I can only say that while I a minute earlier in the room I am in the habit of spending a little time with my friends in passing, especially when there happened to be visitors, the dog was not in the room.

Very respectfully,

DANIEL HARRINGTON.

PROVO.

PROVO, UTAH, JAN. 11, 1895.

First District Court.

The following motions has been determined in the First District Court:

Anna E. Lawson vs. J. E. Brown et al. Judgment by consent in the sum with costs from Jan. 8, 1895. Kirkham attorney's fees and costs.

George H. Hyde vs. Jos. J. Watson. Action dismissed at plaintiff's costs, and witness fees all well. The case involved title to some real estate situate in Salem county.

The suit of Goshen Irrigation Co. vs. C. Jo Nielson et al is now being heard by Judge Boreman. The suit is brought to make a dispute as to the rights of the parties to water in the Moses creek and tributaries.

NEW CASE FILED.

Anna May Hurley has brought action for divorce against Andrew Hurley. The petition alleges that marriage took place on the 16th of January, 1892. Plaintiff further states to prevent, the use of "Dr. Miles' Anti-Pain Pills" enough couples with out of pocket thickness, as glamour for divorce, and year to be avoided the misery of one minor child, action now stands limited to Spring Ville and $25 a month alimony.

Upon motion of Warren A. Knight, attorney for Caroline Dazey, a writ of prohibition was issued to the First District court this morning, to restrain R. B. Colvin, judge of the peace at Pleasant Grove, from passing judgment upon and trying to a case wherein Pleasant Grove city is plaintiff and Hester Sabedow, Justice Colvin is also restrained upon the court to show cause why he should not be absolutely restrained from further proceedings in the case. The case grew out of the fact that Justice Colvin in trying Hester Sabedow, charged with a misdemeanor, considered it left to the town where Justice Wardle should be fined a justice without a jury.

Chas. E. Bierstedt in Heber City has commenced divorce proceedings against Wm. Bierstedt. Desertion and failure to support are the grounds alleged for divorce.

Jno. G. Sayers, administrator of the estate of Joseph Harper, deceased, has commenced an action against Thomas Sharpe, Thomas Osborne and James Osborne to recover $750 with interest on a promissory note secured by a mortgage on Provo real estate.

LETTER LIST.

Remaining unclaimed in the Post office at Provo City, Utah, for the week ending January 10, 1895. Persons calling for these letters will please say they are advertised, giving the date of this list, and pay one cent for each letter called for.

LADIES' LIST.

[illegible]

GENTLEMEN'S LIST.

[illegible]

COMMERCIAL.

SALT LAKE CLEARING HOUSE.

Today's clearing house exchanges amounted to $[illegible]. Same day last year, $[illegible].

TODAY'S QUOTATIONS.

New York.—Silver, bar, 64c. Silver, $[illegible]. London.—Silver, [illegible].

ORE AND BULLION.

T. R. Jones & Co., received today Base bullion, $[illegible].

REAL ESTATE.

Transfers recorded in the county recorder's office, Salt Lake City, Utah, for the 24 hours ending January 10, 1895, at 5 p. m.

[illegible]

STOCKS AND MONEYS.

NEW YORK STOCKS.

New York, Jan. 11, 1895.

Adams Express	150	Pacific Mail	31
Alton & T. H.	70	Pullman Palace	171
Alton & T. H. pf.	150	Reading	15
Am. Express	110	Rock Island	81
Am. Tobacco	87	Rio Grande W.	17
Ches. & Ohio	17	St. Paul	65
Chicago & A.	70	St. Paul pf.	120
C., B. & Q.	75	Southern Pacific	19
C., C., C. & I.	45	Southern Railway	11
C., C., C. & I. pf.	75	Tenn. Coal & Iron	27
Del. & Hud.	120	Texas Pacific	5
D., L. & W.	140	Union Pacific	14
Denver & R. G.	6	Wabash	5
Denver & R. G. pf.	30	Wabash pf.	11
E. T.	5	Western Union	85
Erie pf.	26	Wells-Fargo	110
Flint & P. M.	5	Wheeling & L. E.	5
Flint & P. M. pf.	30	Wheeling & L. E. pf.	15
Illinois Central	101	Cotton Oil Cert.	25
Lake Shore	150	Cotton Oil Cert. pf.	65
Lake Erie & W.	18	Chicago Gas	73
Lake Erie & W. pf.	80	Distillers & C. F.	21
Lake S.	150	Sugar	91
L. & N.	70	Sugar pf.	101
Manhattan	105	Leather	5
Mich. Central	90	Leather pf.	70
Minn. & St. L.	5	National Lead	35
Minn. & St. L. pf.	15	National Lead pf.	105
Missouri Pacific	35	U. S. Rubber	35
N. Y. Central	97	U. S. Rubber pf.	70
N. Y., C. & St. L.	5	U. S. Leather	5
N. Y., C. & St. L. pf.	15	U. S. Leather pf.	75
N. Y., L. E. & W.	15	U. S. Cordage	5
N. Y., L. E. & W. pf.	70	U. S. Cordage pf.	25
N. Y., N. H. & H.	175		
Northern Pacific	5		
Northern Pacific pf.	15		
Norfolk & W. pf.	15		
Ontario	15		
Ontario & W.	11		
Oregon Nav.	75		
Oregon S. L.	5		
Oregon S. L. pf.	25		
Pacific Coast	15		
Pacific Coast 1st pf.	75		
Pacific Coast 2d pf.	35		

BOSTON.

[illegible]

CHICAGO.

[illegible]

DEATHS.

[illegible]

[illegible]

Contracts for wear [illegible] will not be received by the board of supervisors after Saturday, January 12, 1895.

E. J. LEONE,
Clerk.

Children Liniment always cures Colic. Cleanses & Gives Tone Dying Stock.

Dr. Price's Cream Baking Powder Wonderful Raising Qualities and Delicious.

I [illegible] Your Money Back if Not Satisfied.

What is More Attractive Than a pretty face with a bottle bright Complexion? Use Dr. Bull's Sarsaparilla.

R. K. THOMAS,
26, 28, 30, 32, East First South Street,
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THE PLACE WHERE YOU WILL RECEIVE

Full Value FOR Your Money.

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SHOES

Ladies' Elegant Dongola Flexible Sole Shoes, worth $2.25,
For $1.75

Ladies' Fine Dongola Shoes, worth $2.00,
For $1.50

Men's Fine Ooze Calf lined $5.00 Shoe,
For $4.50

Men's Fine Cork Sole Shoes,
$3.50, $3.75, $4.25

Men's Satin Calf Shoes, Lace or Congress,
For $1.75

Our Dromedary Calf Shoes for Boys,
For $2.00

Boys' Horse Hide Shoes for $1.50

A Splendid Line of Child's Genuine Dongola Patent Tip Shoes, 75c and $1.00, also

LADIES' MUSLIN UNDERWEAR.

DRESS GOODS, WOOL HOSIERY, WOOL UNDERWEAR.

In Fact, all the Departments in the House will Receive the Attention of the Bargain Maker, and Goods placed at Prices to Move Them.

Please Call and See Us

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