THE DESERET NEWS.

TRUTH AND LIBERTY.

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—TERMS—IN ADVANCE.—

LOCAL AND OTHER MATTERS.

FROM TUESDAY'S DAILY SEPT. 28.

The Townsend Case.—*The Towns end-Hooper case, over the* property now known as the Continental Hotel, which was decided in favor of the defendants Hooper, Jennings et al., *in the District Court* some time ago, and which was appealed from there to the Supreme Court, has been disposed of by the upper court. Judge Boreman has rendered a decision affirming the judgment of the court below. The counsel for the appellant has given notice of an appeal to the United States Supreme Court.

Returned Missionary. — Elder Carl C. Asmussen, who returned last Saturday from a mission to Scandinavia, called at our office this morning. He left this city about a year and a half ago, and since that time has been laboring in Denmark and the islands adjacent to that country. He presided over the Copenhagen Conference and traveled around considerably among the various branches. He reports them as in a promising condition, meetings well attended, sometimes crowded, not only by the Saints but by strangers, anxious to investigate the principles of "Mormonism." The Evarts Circular, more than any other thing, had awakened in the people a spirit of inquiry, and caused them to examine and seek for the things which they had before ignored entirely. The elders met some persecution, but it was mostly in strange places where they or their doctrines were unknown and had been previously misrepresented. It was against the law to sell tracts, and while the acts of other denominations were winked at in this respect the law was strictly enforced against the "Mormons." Still the government was generally very liberal, as well as the people. The *Skandinaviske Stjerne*, (Scandinavian *Star*), a semi-monthly publication by the Latter-day Saints, was widely read and appreciated, and a great many tracts were disposed of also. These were very valuable mediums for the dissemination of the gospel principles, and many persons had been led to attend the meetings of the Saints and afterward join the church, through perusing these publications. Even some of the legal authorities of the nation and the English consul read the *Star* regularly with much apparent interest. The last conference in Copenhagen was attended by the English consul, accompanied by one of the German consuls. Brother Asmussen says he much enjoyed his mission and returns in good health.

FROM WEDNESDAY'S DAILY, SEPT. 29.

House Burned.—On the 24*th inst.*, the house of a brother named Peterson, of Benson, Cache County, was burned to ashes, while he and family were attending the recent fair in Logan. But few articles of furniture were saved. Cause not stated by correspondent.

Woman's Disfranchisement.—The movement to deprive the women of Utah of the right of suffrage, which they have enjoyed for over 10 years, is already awakening a deep interest in the minds of the women of the nation, who naturally look upon the step as the placing of a bar in the way of the universal progress of woman suffrage. The following telegram was received here last evening:

WASHINGTON, D. C.,
Sept. 28th, 1880.

Emmeline B. Wells:

Stand by your guns. Allow no encroachment upon your liberties. No mandamus here.

BELVA A. LOCKWOOD.

Mrs. Lockwood is well known as the brilliant and able lady lawyer of Washington, and the Vice-President for the District of Columbia, of of the National Woman's Suffrage Association.

Reduction of Postage.—The folfowing has been handed in for publication. It is a copy of a circular letter sent to the various postoffices throughout the United States:

"POST OFFICE DEPARTMENT,
Office of Foreign Mails,
Washington, D. C.
September 21st, 1880.

Sir—*On and after the* 1st prox., the postage on newspapers to the Postal Union will be one cent per two ounces, or fraction thereof. See *the Postmaster General's Order*, page 34, Guide of the present month.

JOSEPH H. BLACKFAN,
Supt. Foreign Mails."

Some of the principal foreign nations included in the Universal Postal Union above mentioned, are Great Britain, France, Canada, Germany, China, Japan, Russia, Spain, Denmark, Sweden, Norway, Switzerland, Holland, etc. This change will be appreciated by the public generally, but especially by newspaper offices and other institutions that send large quantities of printed matter through the mails to foreign countries.

FROM THURSDAY'S DAILY, SEPT. 30.

Information Wanted. — Mrs. Moore wishes to hear of her brother Alexander Stewart, who has been in Utah for some 20 years. If he will send a line, address Cherry Hill, Cecil County, Maryland.

Terrible Outrage.—The following special was received this afternoon at 3.30:

NEPHI, Sept. 30.

Editor Deseret News:

About 11 o'clock at night on the 29th inst., it was reported to Sheriff Samuel Cazier of this place, that a man by the name of Parker, who has been peddling some kind of powders that he claims will prevent the explosion of oil in lamps, had committed a rape on a little girl of this place, ten years of age. The sheriff immediately made search for Parker, and not being able to find him in this place, went to Juab, where he found and captured him and brought him back here. He was taken before Justice Borrowman, but waived an examination and was committed to jail, and will be taken to Provo to-day. Last night quite a number of men went to the jail and demanded the delivery of Parker, but our sheriff stood them off by threatening to hurt some of them if they did not leave the jail at once. The evidence against Parker is substantial and no doubt he will be convicted.

Railroad Fatality.—A frightful accident occurred at the depot yard, last evening, in which a young man named James Pitt, aged about 25, a son of the late Wm. Pitt, of the 17th Ward, lost his life. The way in which it happened was as follows: The young man was night yard master at the station, a position he has held for some time, and was making up the Utah Southern freight train for the morning. He was between two cars, one of which was being moved toward the other for coupling. He held the coupling pin in his hand and was slowly walking backward with the moving car following him, when his heel caught in a frog of the track and stuck fast. In order to extricate himself he would have had to kick forward with the foot thus fastened, an action which was rendered impossible by the moving car which the next moment encountered his body and threw him prostrate upon the track. The wheels passed over him, crushing dreadfully the left leg, left arm and back. When he was picked up it was found his watch had been broken by the accident, leaving the hands standing at 27 minutes past 7 o'clock. The unfortunate boy was taken to the residence of his brother-in-law, Mr. S. C. Smith, in the 17th Ward, where he died shortly before 10 p. m. The Drs. Benedict, who were summoned to attend him, could do no more than alleviate his pain, as the injuries received were mortal. The affair was purely an accident. Neither the young man himself nor any of his assistants were at all to blame. He was much esteemed at the yard as a careful, steady and efficient employe, and was not by any means reckless in his disposition. His loss is deplored by not only his family relatives, but by all his fellow workmen at the station.

WOMAN SUFFRAGE.

THE MANDAMUS CASE—ARGUMENTS OF COUNSEL.

The Federal Court House was well filled last evening to hear the subject of woman suffrage discussed before the Supreme Court of the Territory. By 7 o'clock, the auditorium was mostly filled. Within the bar were Register Burton, General Maxwell, a large number of ladies and gentlemen, beside the opposing counsel, other members of the bar and various attaches of the court. In all there were perhaps forty or fifty ladies present. The Judges (Hunter, Emerson and Boreman,) did not enter the hall until 7:30, when being seated, the crier opened the court and Chief Justice Hunter, after stating that Judge Emerson had to leave by the morning train, and that the case would therefore have to be disposed of, so far as the pleadings were concerned, that night, gave the counsel for each side an hour in which to present their arguments. The proceedings commenced by the reading of a demurrer to the mandamus and to the petition upon which it was issued to Register Burton, requiring him to strike from the registration lists the names of all women entered thereon. The demurrer was as follows:

IN THE SUPREME COURT OF THE TERRITORY OF UTAH.

George R. Maxwell, plaintiff, vs. R. T. Burton, defendant.

In re of mandamus comes now R. T. Burton and demurs to the writ and petition for the writ herein, and assigns as cause:

First—This court has no jurisdiction of the subject of this action.

Second—Neither the petition nor writ herein state facts sufficient to constitute a cause of action.

ZERUBBABEL SNOW,
RICHARDS & WILLIAMS,
A. MINER,
J. L. RAWLINS,
BENNETT & HARKNESS,
ZERA SNOW,
Attorneys for Defendant.

MR. J. L. RAWLINS

Very ably opened the argument for the defense. He first submitted, in accordance with the first clause of the demurrer, that the Supreme Court had no original jurisdiction except in cases of *habeas corpus*, and could issue writs of mandamus only in aid of its appellate jurisdiction. He then proceeded to show that the issuing of a writ of mandamus in this case was an exercise of original jurisdiction, a point which was conceded by the opposing counsel. Mr. Rawlins then referred to the writ of *certiorari*, issued by the Supreme Court in the case of George Q. Cannon *et al.*, in June, 1879, wherein the court claimed the right to issue said writ on the ground that it was a writ of review, concerning a matter in an inferior court over which the supreme court had general supervision, and because said writ of *certiorari* did not originate a proceeding but simply reviewed one. Conceding that the Supreme Court had authority to exercise original jurisdiction in some cases, the question arose, had it that authority in the case now under consideration. This query was met by a multitude of objections. In this case, the Registrar had been commanded to do that which he had no right to do. It was his duty to register persons who took a certain oath, and if he did not do so he was liable to prosecution. He had no discretion in the matter, his duties being purely ministerial. Neither had he any right to erase a name from the lists whereon it had been registered, unless at the request of the person so registered. The process of expunging from the lists the names of illegal voters, was the duty of the county clerk or a justice of the peace, and not of the Registrar. An illegal voter could also be challenged before the judges of election. These things had nothing to do with the duties of the Registrar, who, if he assumed them, could be prosecuted for so doing. The issuing of a writ of mandamus, therefore, to compel an officer to violate his duties and commit an offense for which he could be harassed by a civil prosecution, as in this case, was certainly not the proper process to be employed.

In this case, the Registrar was required to strike the names of a certain class of persons from his lists, not because they were not citizens or had not taken the requisite oath, but because they were females. The main question, therefore, was: Are women in the Territory, under any circumstances, entitled to vote? The speaker read from the Organic Act, wherein it was prescribed that at the first election in the Territory only males should be allowed to vote. This, he argued, only referred to the *first* election, and that for subsequent elections the Territorial Legislature had power to prescribe qualifications for voters, subject to certain regulations, none of which had any bearing upon the question of woman suffrage. The Constitution did not confer upon any one the right to vote. The law made women as well as men, citizens, and the local Legislature had just as much power to give women the right to vote as it had to withhold from her that right. The Legislature of this Territory had conferred upon women the right to vote, but it was claimed by the opposite side that the act conferring that right was void because it prescribed different qualifications for women voters to those of men voters. The speaker then quoted from the decision of Judge Emerson in the Tooele mandamus case, wherein his honor held that the law of 1870 could not as an entirety, be declared void, but only that clause of the act of 1859 which required males to be taxpayers, since said clause was the only point of difference between the former law prescribing qualifications for male voters, and the later law giving females the right to vote, which law repealed all former laws or parts of laws inconsistent with its operations. The complainant (Maxwell) had come into court and asked that the names of certain citizens be stricken from the Registery List, because he (the petitioner) was about to suffer some wrong at an election that had not yet taken place. The proper time to seek redress was after the injury had been done, not beforer. The plaintiff therefore had no right to ask the court to issue the writ of mandamus.

The speaker's time having expired, he sat down and was replied to, for the plaintiff, by

JUDGE SUTHERLAND.

He would not dwell upon the first point of the demurrer. The Supreme Court in a prior case had held that it possessed original jurisdiction, and as in legislative enactments the last was the law, so it should be in the opinions expressed by this court. With regard to the second point of the demurrer, the speaker claimed that the act conferring suffrage upon women, and the registration act, so far as it related to women, were void, and if persons, names were put upon the registration lists without authority of law, it was just as much the duty of the Registrar to strike them off as it was to refrain from putting them on in the first place. If there was no law authorizing the Registrar to put certain names upon his lists, he had no right to do it, and a writ of mandamus was the proper instrument to compel him to erase them. The plaintiff denied the validity of the law giving women the right to vote. The laws regulating the elective franchise must be reasonable, impartial and uniform. The law of 1859 only provided for males and taxpayers to be voters. All others were hereby excluded from the right to vote. The law of 1870 gave females the right to vote and did not require them to pay taxes. The qualifications for voters in the two laws were different. These acts, therefore, could not co-exist and operate together, because they were not resonable, impartial and uniform. Which one must give way? The act requiring male voters to be taxpayers was still in force. It was the act of 1859. The other act, of 1870, related entirely to women. It was therefore special legislation. There could be no repeal even by implication of the act of 1859 by that of 1870. They did not have any relation to each other. The speaker further combatted the idea of an intended repeal by the Legislature, and cited the registration act and the oath required of women, to prove his argument. Women were not subject to challenge for not being taxpayers, while men were so subject. The act of 1870 was special legislation. The speaker was followed also for the plaintiff, by

JUDGE MCBRIDE.

He said the question under discussion was, who has the right to vote? The registration act made it the duty of the Registrar to list the names of all who had that right and erase the names of all who had not that right. The Legislature had the undoubted right to pass the law of 1859, it was a general law. The act of 1870 was a special law. It did not require a woman to be a resident in any county or precinct, it did not make it necessary for her to be a citizen of the United States, it did not require her to be 21 years of age, but only that she be the wife, widow or daughter of a citizen. The whole section was in the very teeth of the Organic Act. The speaker claimed that there was everything to prove that the Legislature, in passing the law of 1870, had no intention of repealing the tax qualification of men, or of causing it to apply to women. It was class legislation, therefore, and would have to fall to the ground.

All the time was now gone excepting 15 minutes, which was occupied by.

MR. ZERA SNOW,

counsel for the defendant. In reply to the assertion of the previous speaker that the registration act required the Registrar to erase all names from his lists that were not those of lawful voters, he stated that the only provision in the act capable of such a construction was that which related to revisions and erasures in cases of disqualification by reason of death, removal to other precincts, etc. All other cases of illegal registration were matters to be remedied by the county clerk and justices of the peace. Again, there was as yet no offense committed, and therefore no redress could be consistently asked for by the petitioner. It did not follow that all persons registered would vote, and until the women had voted, the alleged injury claimed by the plaintiff had not been inflicted. The right of woman to vote was attacked by the opposite side on three grounds: First, that there was a discrimination as to residence; second, that the act conferring the franchise gave it to women who were not citizens; third, discrimination as to the tax-paying qualification. The first and second grounds were false. As to the third, it had already been decided by Judge Emerson, in the Tooele mandamus case, that the law enfranchising women repealed the taxpaying qualification of the law of 1859. This law was no more general than the other. In the case of Lyman vs. Martin, it had been held that women have a right to register. Upon this decision, the defendant would rely. The petitioner (Maxwell) could have resort to legal remedies in this matter, if he felt himself injured, but the court had no right on his petition, to issue a writ of mandamus which was intended to disfranchise 10,000 voters without giving them a chance to be heard, as in this case.

Here the arguments ended. The matter was taken under advisement by the court, with the announcement that a decision would be rendered at 2 p.m. to-day.