has only 600 out of 1650 votes; but he has a plurality because he leads in the race and the amount of his plurality is 50. This makes it plain enough. There can be no election of President by a plurality because, as shown, the Constitution absolutely requires a majority.

IMPORTANT RULING BY CHIEF JUSTICE ZANE.

Judge Zane this morning set the judicial ball rolling by rendering his decision in the suit of Adam Duncan vs. W. H. H. Spafford and Elmer Spafford, the hearing of which occupied the entire day yesterday.

The action was brought to recover a strip of land two and a half feet in width between lots 1 and 2, block 16, plat B, together with damages in the sum of $1000. The property is situated in the First ward. Its actual value is not considerable, but the main object in view was to obtain a ruling as to the correctness of the land survey, which affects a large extent of property, apart from the land now in litigation. Plaintiff alleged ownership by virtue of deeds to the property and upon dividing lines as made by surveyors in 1873 and 1883. The defendant claimed the two and a half feet upon a survey recently made.

Following is the full text of his Honor's decision:

In this action—an action of ejectment—the plaintiff claims that the line is where an old fence was built, where an old water ditch existed, and where stakes were placed—long existing upon the ground—indicating the corner and line, as he insists, between the two lots. The defendant relies upon a recent survey by Mr. Doremus, and the question arises, first, where ought this line to be, in the light of the evidence?

It seems from the testimony of the plaintiff that he took possession, in the name of his father, in 1862 or 1863, of lot 2. At that time he states that the possession was taken up to the lines that he now insists on, and that in 1872 the title was acquired under the townsite law from the mayor of the city in accordance with those lines. A ditch had existed for years upon the line here in dispute, a fence was erected and a stake put down; and in 1882 Mr. Charles W. Hardy made a survey and placed his stake on the line where the plaintiff claims it is. His starting points were certain monuments he mentions in his testimony, but which may not have been very reliable. The fence was put up at the time and posts are still standing, although it was a very poor fence at the date of the bringing of this action. After the defendant took possession, it appears, some two years ago, he also erected a fence on the same line. After Mr. Doremus became city engineer, that gentleman discovered that the original survey of the city was very inaccurate. The fences were not in line; the importance of a re-survey was suggested, and he was authorized to make one. In making that re-survey he aimed to ascertain the corners as they were originally put down. But finally, it seems, he made a survey across the city, and took the old fences and some of the stakes. He found stakes in some cases, but not, as he thinks, the original ones. The original stakes were put down probably some forty years ago, according to the testimony. They were not of a very durable quality, and had all disappeared before the new survey was made about two years ago; but there were some stakes found along these streets, and he also came across old fences, always, however, in a line. He also inquired of old settlers, and in that way aimed to make his corners correspond as nearly as he could with the original survey. He also aimed to do as little harm as possible, as he said, to persons who had had possession for a long time, and whose fences indicated their lots. In some blocks where it was well established that the corner was not in line he would effect the old corners. So that Mr. Doremus' survey, of course, as indicating the original corners, is not reliable at all; he doesn't regard it so, but deemed it necessary to have a system and to establish these corners. The probabilities are that these will result in causing a great many losses; because it is no doubt the law, well settled, that monuments control courses and distances; and wherever the weight of evidence sustains the original corner as such, and it happens to be out of the line of Mr. Doremus' survey, the original survey must govern in all cases.

Now it seems that this new survey, which was last made, unsettles most of the fences and their lines. It would cut one brick house, according to the evidence in this case, that has been built for some length of time, and remove this line that has been there recognized by the plaintiff at least for about thirty years, and by the parties occupying both lots for twenty years. They have occupied with respect to this line; they have cultivated their lands and made their improvements with respect to this line; and of course it would not do to adopt any such system as would result in interminable litigation, wrong and injustice. The city has no right to settle private disputes between parties. Whenever property owners see fit to recognize his survey it is all right; but where they do not and they can establish by sufficient evidence that the line is not according to his survey, why, that line must stand.

The testimony in this case shows that in 1881 the parties put up a fence. Both Mr. Allen (Spafford's predecessor in interest) and Mr. Duncan had a fence built which they agreed upon. There was a stake put up; that was understood; and it is not sufficient now to say that it was a mere mistake of theirs. They occupied according to it, and agreed, substantially, that it should be the line.

The defendant also insists upon an estoppel. He testified that last spring, I believe it was, when he erected his house, the plaintiff was living on the adjoining lot, and made no objection to it. There is a conflict. Plaintiff states that he was away at Deep Creek, that the building was not commenced when he went away, and that he knew nothing of it until he returned, when the men were shingling the building. As to that there is a decided conflict in the evidence; but there seems to be no substantial conflict as to Mr. Spafford knowing of these old lines. He knew that he had put up a fence on the old line himself; and, as he states, the indications were that the parties on the respective lots had occupied with respect to that line, and they conveyed to him. With that knowledge he chose to take down this man's fence and put his building some two feet and a half on the plaintiff's lot; he then moved his fence about a foot or thirteen inches farther west, taking in all, I infer, fully two and a half feet. He did that with his eyes open. He must have understood that the other man had been claiming that property, and it was according to his claim as he made it when he put up the fence.

The case, I think, is clearly with the plaintiff, and judgment will be entered accordingly.

PROFESSOR ALLEN'S POSITION.

Professor C. E. Allen, clerk of our county court and the nominee for Delegate to Congress of the Liberal party, seems just now to be the idol of at least some Democrats styling themselves Tuscaroras, and not least does he seem to be the idol also of some few Liberal Republicans, while a northern professor—Paul, I think, by name—has been on the part of some the subject of much unfavorable criticism, in such circles being far from the idol of any one.

The first professor above named I believe claims to be a Republican. The second, as I understand, claims to be a Democrat; and I judge by some of his speeches—though as a Republican I believe his judgment is at fault and some statements he has made he would find very hard to prove—that he is in entire sympathy with the great national Democratic party. Now, sir, I wish to ask why is it that Professor Allen, being a Republican, is not found advocating the policies and principles of the great national Republican party? In all of the speeches he for four or five years past, here in Utah, has delivered, not one word, so far as I have learned, has escaped his lips in favor of the McKinley bill, reciprocity or any other great doctrine of the national Republican party. One would think as a "professor" and "first-class" Republican that he would at the very least have some little desire in his heart—more especially as he seems to believe the commoners of the Territory are not educated up sufficiently in American politics to be yet trusted with the government of the Territory—to present to the people of Utah his views concerning the government of which he is so proud to be a member, and especially the superiority of the doctrines of his loved Republican party above the principles, etc., of the Democratic party. It may be, however, that he honestly believes in the slogan of his "glorified Liberal" party—"Country before party." Of course "office before country" never once entered his honest heart!

The thought, however, occurs to the writer that it is both possible and probable that Professor C. E. Allen is human, and like two or three gospel preachers whose names could here be given, who, tempted by the "filthy lucre" of this wicked world when offered more hard cash, gave up the conversion of souls to Jesus and engaged