

EVENING NEWS.

Published Daily, Sunday Excepted,
at SEVEN O'CLOCK.

PRINTED AND PUBLISHED BY THE
DESERET NEWS COMPANY.

CHARLES W. PENROSE, EDITOR.

Saturday, August 25, 1883.

WHO ARE THE LAW- BREAKERS?

THE discussion which took place before the canvassing board in reference to the counting of votes cast for Territorial officers, ended with the decision that no objection should be made. The matter was settled so far as the board was concerned. But the principles involved in the dispute are still subjects for public debate and ought to be generally understood.

It is well known that the offices of Commissioners to Locate University Lands, Territorial Auditor and Territorial Treasurer have through act of the Legislative Assembly been made elective by the people. The Auditor and Treasurer were for many years elected according to law, by the joint vote of the Legislature, but at the session of 1878 those offices were made elective by popular vote, as the offices of Commissioners to Locate University Lands had been since 1859.

In giving notice of the August election of this year the Commissioners appointed under the provisions of the Edmunds Act undertook to declare the laws of Utah invalid which made these offices elective, and therefore they would not announce them among the offices to be filled. The Territorial Central Committee of the People's Party took a different view from that entertained by the Commissioners, and were sustained in their opinion by the best legal talent in Utah. Considering that the people had the right to vote for these Territorial officers if they chose to do so, they asked the Commission whether they held that the placing of the names of persons to fill those offices upon the general ticket would violate the law. The Commission replied that it would; that not only would such votes be not counted for the Territorial officers nominated, but they would be rejected altogether, and thus the votes upon the same ticket for county and precinct officers would be cast out. It was therefore decided that the names of nominees for Territorial offices should be placed only on a few tickets, enough to elect them without endangering the vote for the other officers. It was the counting of the ballots containing the names of Territorial officers that was under dispute before the Canvassing Board.

We claim that the Commission took improper ground throughout the whole proceeding. In the first place that body had no right to decide upon the validity of a law of this Territory. The proof of this is the ninth section of the Edmunds law. Here it is:

Sec. 9. That all the registration and election officers of every election in the Territory of Utah are hereby declared vacant, and each and every duty relating to the registration of voters, the counting of ballots, the receiving or rejection of votes, and the canvassing and returning of the same, and the issuing of certificates or other evidence of election in said Territory, shall, until further provision be made by the legislative assembly of said Territory as hereinafter provided, be performed under the existing laws of the United States and said Territory by proper persons, who shall be appointed to execute such offices and perform such duties by a board of five persons, to be appointed by the President, by and with the advice and consent of the Senate, not more than three of whom shall be members of one political party, and a majority of whom shall be a quorum. The members of said board so appointed by the President shall each receive a salary at the rate of three thousand dollars per annum, and shall continue in office until the legislative assembly of said Territory shall make provision for filling said offices as herein authorized. The Secretary of the Territory shall be the Secretary of said board, and keep a journal of its proceedings, and attest the action of said board under this section. The canvass and return of the votes at elections in said Territory for members of the legislative assembly thereof shall also be returned to said board, which shall canvass all such returns and issue certificates of election for those persons who, being eligible for such election, shall appear to have been lawfully elected, which certificates shall be the only evidence of the right of such persons to sit in such assembly. Provided, That said board of five persons shall not exclude any person (otherwise eligible to vote for the polls) on account of any opinion such person may entertain on the subject of bigamy or polygamy, nor shall they refuse to count any such vote on account of the opinion of any person casting it on the subject of bigamy or polygamy; but each house of such assembly, after its organization, shall have power to decide upon the election and qualifications of its members. And at or after the first meeting of said legislative assembly whose members shall have been elected and returned according to the provisions of this Act, said legislative assembly may make such laws, conformable to the organic act of said Territory and not inconsistent with other laws of the United States, as it shall deem proper concerning the filling of the offices in said Territory declared vacant by this act.

Approved, March 22, 1882.

That section created the Commission and defined its powers. It confers not a shadow of judicial authority, by specification or implication. Only a Court can pass upon the validity of an Act of Congress or of the Legislature. The Utah Commission is not a Court. Its powers are within plainly marked limits. The Edmunds law has vacated all the registration and election offices in the Territory and authorized the Commission to appoint proper persons to fill them. The Commissioners have no right to call elections, regulate elections, disfranchise citizens, prescribe cautions, change laws or reject their votes, any what officers are to be elected or who have been elected in fact have nothing whatever to do with the conduct of elections but to appoint the registration and election officers, except in the sole case of the election for members of the

Legislative Assembly, the returns of which to the Commissioners are to be canvassed, and they are to issue certificates of election to those who, being eligible, appear to have been lawfully elected. If they have any other legal powers than those we have named, whence have they derived them? They are certainly not named or hinted at in the ninth section of the Edmunds law, and there is nothing else in existence from which they can obtain any legal authority.

Next, they were wrong in attempting to prevent the people of this Territory from casting their votes for Territorial officers, whether the latter are really elective or not. Last year the Commissioners ruled that the presence of the name of a candidate for the unexpired term of the 47th Congress on the ticket for the election to the 48th Congress, would not invalidate the ballot, although they had decided that there was to be no election for the unexpired term. This was common sense and good law. But this year they arbitrarily decided that they would reject all ballots that contained names for any other offices than those which they had designated. This is contrary to their ruling of last year, and has no warrant in law or common usage. If a voter pleased to put on his ballot for county officers the name of Governor Ramsey for President of the United States, that would not legally invalidate his vote for county officers. The presence of the name of an officer not to be voted for, will not render void the ballot for such officers as are to be voted for.

Next, they were wrong in presuming to regulate the count by the Canvassing Board. After the registration and election officers are appointed, the Commission has no more right to interfere with any of them in the discharge of their duties than the great body of citizens have. The law says they shall proceed under the laws of Congress and of the Territory of Utah. The only difference in the situation under the Commission and that before its creation is, the officers are appointed instead of elected to perform certain duties. The duties remain the same. The officers are independent in their sphere. The Commission has no legal control over them. The officers appointed to give notice of the election merely took the place of the County Clerks for that purpose, and the Commission had no more right to say that certain offices made elective by law should not be voted for, than the County Courts or the people at large had. And on the same principle the Commission had nothing whatever to do with the Canvassing Board except to appoint it.

Coming to the duties of the Canvassing Board, we find nothing in the law which gives it any but ministerial functions. It obtained no powers from the Edmunds Act beyond those conferred by the laws of Utah. It had no right to be behind the returns. It merely occupied the position of the County Court for this special purpose. Its plain duty was to canvass the returns, and issue certificates accordingly. The right of the persons elected, to be elected or to hold the office after being elected, was a subject entirely beyond the jurisdiction of the Canvassing Board. That body had no right under the law to refer the two cases of dispute to the Commissioners. If it had, where is the law for it? Not a line can be found. The lot that is to be cast to determine who is the Justice of the Peace for Granger, ought not to be made in the presence of the Commissioners, but of the Canvassing Board. The Commissioners have nothing to do with it. (See Laws of 1878, p. 34.)

And where is their authority to judge of the right of Curtis to sit on the office of County Clerk of Platte County, a matter referred to them also by the Canvassing Board? There is no law for it, and their decision will not amount legally to a pinch of snuff. If we are wrong in this, just give us the law for it, and we will acknowledge the error at once. The Canvassing Board had no authority but to "accept the returns," unless there was any "irregularity or discrepancy" therein, and then issue the certificates. Any inquiry to settle the question of irregularity or discrepancy affecting the right of a person voted for, could only be legally made before the Canvassing Board; the Commissioners have nothing to do with it in any way whatever. By what means can they adjudicate the elected candidate guilty or not guilty of polygamy? Who gave them the right to sit on his case for any purpose? The Canvassing Board made a great mistake in referring the matter to the Commissioners, and they will make a bigger blunder than ever if they attempt to sit as a Court to adjudicate the case.

But apart from the excess of authority which the Commissioners have assumed through a mistaken notion of the extent of their powers, they acted greatly in ruling that the laws of Utah, in reference to the election of the Territorial officers named in the Edmunds Act, which provides that certain Territorial officers, not named, shall be nominated by the Governor and appointed by and with the advice and consent of the Legislative Council, renders void the Act of the Legislature which provides for the election of Commissioners to locate University Lands and of Territorial Auditor and Treasurer. Let us see. Congress passed a law on the 21st of February, 1855, providing for the appointment of a Surveyor-General for Utah, the setting apart of certain sections for school purposes and including the following:

Sec. 3. And be it further enacted, That when the lands in said Territory shall be surveyed as aforesaid, a quantity of land equal to two townships shall be, and the same is hereby reserved for the establishment of a university in said Territory, and in the State hereafter to be created out of the same, to be set apart under the direction of Congress, in legal subdivisions of not less than one-half section, and to be disposed of as said Legislature may direct.

Mark the words which we have

italicized. Well, in accordance with this Act of Congress, the Legislature, on the 21st of January, 1855, passed the Act providing for the election of Commissioners to locate University Lands. The Commissioners appointed under the Edmunds Act have simply run against the Act of our Legislature and the Act of Congress, even if they had the ghost of a vestige of right to decide on the question at all. They have taken a course to make void the law, whereas the Act which created their office, says that all proceedings in relation to elections shall be performed under the existing laws of the United States and of said Territory.

We have on a previous occasion, shown under what circumstances the offices of Auditor and Treasurer were made elective, and that the Supreme Court of the United States had decided in another case with similar principles involved, that the laws of this Territory being subject to the approval or disapproval of Congress become equal to the Acts of Congress if not disapproved by that body. The law under which the Auditor and Treasurer are made elective was passed Feb. 22, 1878, has never been disapproved, is later than any other law bearing on this matter and is therefore in force.

Let it be borne in mind that the "Mormon" people who are charged with lawlessness have bowed without resistance to the provisions of the Edmunds act and also to the dicta of the Commissioners, while those who are sent to execute the law have not only exceeded its provisions, but opposed and prevented the action of the laws by their arbitrary rulings. Now then, who are the lawbreakers?

BY TELEGRAPH.

FOR THE WEEK END COMMENCEMENT LINE.

LATEST BY LIGHTNING.

BOHNSA MACKAY'S NEW LIGHTNING LINE.

Twenty Cent Messages Across the Coast.

CHICAGO, 25.—A New York special says: "I had a talk with Bonanza Mackay about the new concern a day or two ago. The company has transferred twelve million of its stock to the public, which gives him a million over the controlling interest of the company. Mackay tells me that it will be run on the principle adopted by the English Government. By this telegraph system uniform charges are to be made whether messages are sent only across the street or from New York to San Francisco. These charges will be 25 cents for twenty words, and one cent for every additional word. A good feature of the scheme is the issuing of stamps for various amounts with which to prepay messages. Mackay says: 'Fair, his former partner, may go into the affair, and he believes it will prove an immensely money making scheme, because the public will have confidence in its permanency by reason of a clause in the charter forbidding the company from consolidating with any other company for a period of at least twenty years. Connection is to be established with the new cable company, fostered by Mr. Alderman Healy of London, who was over here a little while ago. The work of pushing this company forward will go ahead very rapidly now. Branches are being established from Albany to New York to the old region. A large force is also at work joining Chicago and St. Louis. Almost immediately steps are to be taken toward San Francisco, and inside eight months the great line will be in complete working order. A beautiful story—A Large Number of Cowboys and Rodeos Held—Grand Armies to the Teeth set Out to Capture President Arthur."

HAILEY, Idaho, 24.—Considerable excitement exists in this city over a report which appeared in the evening's Wood River Times that a party of cowboys had started for the Yellowstone Park to kidnap President Arthur, and Sheriff Turley has detailed two trustworthy deputies to look the matter up, with instructions to summon a strong posse and arrest the kidnapers, if the facts are as stated. The Times says that during the past two weeks numbers of strangers all well provided with good riding animals and firearms and resembling a party of regulators or Texas cowboys have been camped on Willow Creek, and considerable curiosity has been expressed as to their intentions some accounting for their outfit as a party organized to go up in the Indian country or a prospecting trip, while others believe them to be a band of Arizona rustlers. During several days past some of the party have ridden through town in a defiant manner and mysteriously disappeared. From a man who came in to-day it is learned that the party who induced him to join them and made him take certain pledges of secrecy were organized to proceed to the Yellowstone Park. They left last night going on the Sage road and he escaped during the night. The object of the expedition is to corner and capture President Arthur and party and to spirit them away into the mountain fastness.

The Temple—Brother James D. Stirling, an employee on the Temple Block, hands in the following:

The second Illuminary rock, symbolical of the All-Seeing Eye, was set yesterday morning on the east tower of the Temple by Brother Thomas Jones. It is a beautiful white sandstone, and was brought from Sanpete County. It is the same material as that which is put in the Men's Temple. I think it is even more handsome than the one which was set four or five weeks ago. It is the same dimensions, viz: 7 feet 6 inches across, a foot 6 inches from top to bottom, and 12 inches thick. The emblem and engravings are executed in the highest style of the art. It is an excellent piece of workmanship in sculpturing, and was executed by Brothers James Fowler and Samuel Friday. Brother Fowler is a native in the sculpturing profession. Great credit is due the architect, Brother T. C. Anderson, and his assistant, Brother Z. Derrick, for their indefatigable labors on this magnificent building, which is progressing finely under Brother Truman's judicious care.

JUST RECEIVED.

Another Large Shipment of that just celebrated "SCHOONER, BASKIN" and "CUR AND GLASS" The New Crop. Nothing like it for purity and flavor in the market.

P. MARGENTHA, Sole Agt., Utah.

DIED.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

On the 21st inst. at 11:30 a.m. of typhoid fever, Albert Jones, son of Joseph P. and E. A. Jones, aged two years. Buried in the cemetery.

SALT LAKE THEATRE.

GRAND HISTORIC EVENT!

THE EMINENT ACTRESS,

MRS. F. M. BATES

AND

MISS SALLIE HINCKLEY,

Supported by the popular

HOME DRAMATIC CLUB.

FRIDAY & SATURDAY EVENINGS

SATURDAY MATINEE,

Aug. 31st and Sept. 1st.

For the first time in this city, the Grand National and Spectacular Drama,

edited

The Red Pocket Book

Box Office open Thursday Morning.

CHARLES LORD, BUSINESS AGENT.

H. G. WHITNEY, STAGE MANAGER.

J. H. PARRY & CO.

WILL OPEN

ON

MONDAY, AUG. 27,

AT THEIR

NEW STORE

24 MAIN ST.,

Opposite Co-Op., with

BOOKS,

STATIONERY,

Church Publications

AND

SCHOOL SUPPLIES!

NOTICE TO BUILDERS!

OFFICE OF POST QUARTERMASTER,

Fort Douglas, Utah, August 26, 1883.

PROPOSALS FOR THE ERECTION

of Four Frame Barracks at

this Post, will be received until

Wednesday Noon, August 29th.

For further information apply to

the undersigned at his office.

J. O. CARLAND,

1st Lieut. Regt. 6th Inf.,

Post Quartermaster.

WANTED.

TWO FIRST-CLASS GIRL WAITERS.

None but experienced hands need apply. Good wages paid. Apply at Valley Hotel.

20th SCHOOL DISTRICT

THE TWENTIETH DISTRICT GRADED

School will open on the 1st of Sept., 9 a.m.

T. B. LEWIS,

Principal.

JAMES SHARP,

Superintendent.

W. H. MOORE,

Trustee.

TWELFTH DISTRICT SCHOOL.

THE PATRONS OF THIS POPULAR

INSTITUTION are respectfully infor-

med that the First Term, for the ensuing year,

will commence at 9 a.m. on MONDAY, AUGUST

27th, 1883, with Mr. W. Van Cott as

principal and Miss Cecelia Sharp as assistant.

TERMS PER QUARTER (IN ADVANCE)

Primary Department, \$2.00

Intermediate " " 2.50

Higher " " 3.00