

# DESERET NEWS:

WEEKLY.

TRUTH AND LIBERTY.

WEDNESDAY, - JULY 28, 1880.

## UTAH AND THE CENSUS.

FOLLOWING is the official table of the population of Utah by counties, in contrast with the census of 1870, showing an increase during the decade, of 56,904. We are indebted to Supervisor Thomas for this

### OFFICIAL TABLE.

	1880.	1870.
Beaver,	3,915	2,007
Box Elder	6,780	4,855
Cache,	12,620	8,229
Davis,	5,350	4,459
Emery,	460	*
Iron,	4,020	2,277
Juan,	3,510	2,034
Kane,	3,090	1,513
Millard,	3,740	2,753
Morgan,	1,780	1,972
Plate,	1,230	82
Rich,	1,270	1,955
Rio Virgin,	†	450
Salt Lake,	31,700	18,337
San Juan,	210	*
Sanpete,	11,700	6,786
Sevier,	4,475	19
Summit,	4,940	2,512
Tooele,	4,530	2,177
Uintah,	810	*
Utah,	18,090	12,203
Wasatch,	2,940	1,244
Washington,	4,240	3,064
Weber,	12,380	7,858
	143,690	86,786

Increase since 1870, 56,904

\* New Counties.

† Included in Washington and Kane Counties.

We believe that the census of 1880 has been fairly and faithfully conducted in Utah; that is, that the Supervisor and the Enumerators have endeavored diligently to obtain correct figures, and that they have succeeded as well as could be reasonably expected. It is not denied that in all probability some residents of this Territory have been omitted from the census. We do not see how it could well have been otherwise. There are men scattered over the hills and mountains prospecting for the "precious" metals, and there are herders and ranchers in the outer districts, whom it would have been difficult indeed to find, and some of these no doubt have escaped enumeration.

We are satisfied that the Supervisor has endeavored to obtain accurate returns, and that, generally speaking, the Enumerators have sought to carry out his instructions and the rules published for their guidance. He and they are entitled to credit for their labors.

Utah may congratulate herself upon the numerical position which she occupies before the country. Her population is larger than that of some of the States, and it can no longer be alleged that it is not sufficient to entitle her to admission into the Union. But not only in population will Utah compare favorably with other sections of our common country. Her people are chiefly of the kind that make a nation great. They are workers. The very great majority are also thrifty, prudent, sober, temperate, helpful to each other, peaceful, law-abiding, religiously inclined, progressive, parental, fraternal, friends to education, supporters of marriage, foes to vice, opposed to excesses, upholders of the Constitution, tolerant, energetic, united and lovers of the truth. Such a people are real wealth to a nation and entitled to the respect, encouragement and protection of the governing powers, and to all the rights, privileges and immunities of citizens, with a voice in national affairs and full representation in the national councils.

For Utah there is a great future. Her destiny is a noble one. She will be the sacred refuge of the Constitution, written by the fathers under the spirit of inspiration, and the rallying place of its devotees when anarchy, treason and division desolate the land. Her numbers will continue to increase, her power will continue to extend, her enemies will continue to be confounded, baffled and amazed at their repeated defeat, and she will go on to the fulness of the high and glorious destiny predicted for her by her founders.

Counting the families unavoidably omitted and the immigration of the present season, the population of Utah at the close of 1880 may be safely and consistently placed in round numbers at no less than one hundred and fifty thousand souls.

## WATER RIGHTS AND WATER THIEVES.

WE have been requested to answer some questions in relation to the new law on Water Rights and its application to water stealing. It appears that in some parts of the Territory persons have taken advantage of the views of certain Water Commissioners regarding the law, by breaking dams and using water at their pleasure in spite of the rights of others and the distribution by the Watermasters. We will endeavor to present this matter in the light in which we understand it, for the benefit of the public.

The Water Commissioners referred to take the ground that no prosecution can lie against any person for using water that has not been duly distributed to him, until the legal rights of all claimants to the use of that water have been officially determined by the Commissioners. They draw some support for their position from Section 5 of the law on Water Rights, which says: "No person or corporation shall maintain any suit, at law or in equity, for the determination of the existence or extent of any right or rights to the use of water in this Territory, until after the decision of the proper county commissioners, or of the proper board of reference, as the case may be, etc." Taking license from this, parties have set at naught the local regulations, long existing, and the distribution by the local Water Master, and have burst out the dams and helped themselves, claiming a right to more water than was allotted to them. When complained of before the Justice of the Peace he took his opinion from the views of the Water Commissioners, and dismissed the case. This of course throws everything in the irrigation district where it occurred into terrible confusion.

For many years the distribution of water in this Territory has been entrusted to watermasters appointed by the County Courts in the respective counties and by the City Councils within the respective municipalities. The rights of settlers to the use of water have been determined by local custom and mutual understanding, or by designated rights in irrigation districts organized under the Territorial laws, which have their own special watermasters and their own special regulations. The recognized rights of water users and the authority of the watermasters have been sustained by law and the courts, and the statutes have imposed penalties for the improper appropriation of water. See Section 2,192 Compiled Laws of Utah. The Justices of the Peace have had power to punish by fine and imprisonment any person guilty of "turning the water or any part thereof from any public canal, irrigating ditch or reservoir, except when the use of the water has been duly allotted to such person." Under the Penal Code this offense is classed as a misdemeanor.

Now the question is, does the new law on Water Rights instantly upset the entire system by which the use of water was formerly regulated, abrogate the criminal law for the protection of personal and public interests, and introduce chaos where some degree of order prevailed? We think not. The new law does not set aside any existing right, nor take away any existing authority until its place is supplied. It defines what constitutes rights to the use of water, creates a Board of Commissioners for the determination of disputes as to those rights, and repeats, with enlargement, the former protection afforded them. The Water Commissioners confer no rights. They merely give certificates which are evidence thereof. The rights are acknowledged by the law to have accrued under certain specified conditions. Persons whose claims to those conditions are proven to the satisfaction of the Commissioners, are entitled to a certificate, which must be duly recorded. The law does not render void any existing and acknowledged rights in the irrigation districts or local organizations, but provides the manner in which they can be legally established and recognized.

Meanwhile the criminal law for the punishment of water thieves continues in operation. Section 13 of the new law repeals the section of the Penal Code on this point and substitutes the following:

"Any person who, in violation of any right of any other person, wilfully turns or uses the water or any part thereof, of any canal, ditch or reservoir, except at a time or times when the use of such water has been duly distributed to such person, or wilfully uses any greater quantity of such water than has been duly distributed to him, or in any way changes the flow of water, when lawfully distributed for irrigating or other useful purposes, except when duly authorized to make such change, or wilfully and maliciously breaks or injures any dam, canal, water-gate, ditch or other means of diverting or conveying water for irrigation, or other useful purposes, is guilty of a misdemeanor."

Under these provisions, if any person takes water not duly distributed to him, he can be prosecuted. A complaint should be made by the acting watermaster, if the agent of the Commissioners has not yet been appointed in that district under the provisions of the new law. Can it be supposed that while investigation for the establishment of legal proof of existing claims is pending before the Commissioners, there is no law in the district, and no remedy for violation thereof? The provision deferring suits until the dispute has been decided before the Commissioners has sole reference to actions at law or in equity, to civil, not criminal procedure. If a person takes water not distributed to him by the recognized officer, his act is a misdemeanor, no matter what may be the future decision on cases pending before the Commissioners. He has no more right since than before the passage of the new law to take what he may think or assert to be his own, by force. If he is wronged he has his legal remedy against those who withheld his rights. If he breaks the law he is liable to the penalties of the law.

The watermaster not superseded by a commissioner's agent is still in office. Suppose a highway is injured by a flood of water. Under the provisions of Section 19 of An Act pertaining to Highways, which was passed by the same Legislature that enacted the law on Water Rights—both approved the same day—the watermaster permitting the overflow is made liable to the city or county for the damage, and to a fine not exceeding \$25. If he is still in office and liable to penalties for neglect of duty, he is still in office to distribute water and make legal complaint against water thieves.

Our opinion is that on a complaint made by a recognized watermaster or distributor of water for irrigation, sustained by proof that a defendant has taken water not distributed to him, or has broken or injured any dam or watergate, or other means of diverting water for irrigation, a Justice of the Peace is perfectly safe in imposing the lawful penalty for a misdemeanor, that is, a fine in any sum less than \$300, imprisonment for not exceeding six months, or both, and that the rights of water users, and the public welfare demand the punishment of those who steal water or damage the means by which it is controlled. And should there be any doubt about this, we think the benefit of the doubt should accrue to the public and not to the lawless, defiant, and reckless persons who will take what they want by force, regardless of the claims of others and the wholesome regulations of law and local custom. Punish the water thieves.

## THE DUTIES OF THE HOUR.

CITIZENSHIP has duties as well as rights and privileges. Each individual citizen is a member of the body politic, in close civil relationship to every other member. His political acts affect others as well as himself. The powers with which he is endowed are given for use not mere ornament. Every person holding the franchise is required to exercise it. Those who have the lawful power to vote and allow it to remain inactive, are like the man in the sacred parable with one talent who, instead of putting it where it would do the most good, wrapped it up and hid it in a napkin. They are slothful and unprofitable citizens. They injure their neighbors by not

exercising the power they hold for the general good. A man or woman who will not use the franchise ought not to be permitted to retain it.

The power to vote should be used intelligently and prudently. Latter-day Saints are exhorted in their sacred writings to uphold "good men and wise men." They ought to wield the franchise for the best good of those with whom they are intimately associated, religiously and civilly. Their influence is needed in the right direction. Each one who misuses his vote jeopardizes the cause of his associates. And those who do not use the franchise at all, by depriving that cause of the support to which it is entitled, also place it in jeopardy.

It is the duty as well as the privilege of every Latter-day Saint, male and female, holding the right of voting, to go to the polls at every election. And this is not all. Each one should take an active part in all the proceedings that relate to an election. The ticket to be voted for is decided upon at a convention of delegates. The delegates are supposed to represent the people. Therefore the people should congregate at the appointed time and choose their representatives. The meetings at which delegates to the convention are selected are called caucuses, or primaries. The presence of voters is required at these primaries, or how can the delegates be chosen who will really be the representatives of the voters?

The time has come when apathy, carelessness, indifference to local politics and the non-exercise of the voting power by members of the People's Party, is nothing less than crime. It is a crime against the People's cause. It is withholding help that is needed and called for, and that can be freely bestowed without injury. Our position requires not only union but action. We want united doing as well as believing. Unity of sentiment is all very well, but it must be expressed in deeds to be of avail.

On Thursday the 22d inst., primaries are to be held in this city. Delegates will be selected to represent the People at the Convention on the 27th inst. All voters of the People's Party should attend. Their presence is required. Their vote and influence are wanted in the choice of proper delegates—persons who will truly represent the People in the People's Convention. It should be understood that these primaries are not called for any one but members of the People's Party. As Republicans are not entitled to a voice in a Democratic caucus, nor Democrats in a Republican caucus, so those whose vote, interest and voice are hostile to the People's Party have no right to recognition in a People's primary.

The name of our political party is sometimes used by persons who vote and speak against it, as a license to their participation in its deliberations. Being called the People's Party they insinuate that all the people, irrespective of political belief and act, are entitled to take part in its proceedings. This is impudence allied to sophistry. Our party is called the People's because nearly all the people of Utah are attached to it. But those who vote any ticket but the People's, whether they call themselves "Liberals," "Conservatives," or by any other title, or by no title at all, have no right to participate in the primaries or conventions of the People's Party nor to recognition by the chairman of a People's assembly, unless by the consent of the body of the meeting.

We do not meet for contention in our political gatherings, but for a free expression of opinion on the business at hand. Our primaries and conventions should be conducted with as much order, good feeling, decorum and regard for each other's rights as any other assembly, social or religious. We have no need to pattern after the bear-garden methods and lunatic-like proceedings of parties claiming a "higher civilization" than ours. Intensity of feeling and firmness of conviction ought not to destroy courtesy and gentlemanly deportment, nor drive people crazy or fill them with animosity and bitterness. Difference of opinion should not make people enemies, but every one should pay proper regard to the views of another when honestly entertained and respectfully expressed.

We trust that the People will be alive and awake to the duties of the hour. Many important offices have to be filled at the August election. The ticket should be carefully made up. Delegates are therefore required who will act in the People's interest with judgment and discretion.

Let the People assemble and choose them. Then when election day comes let all go to the polls and show to the world that the alleged unity of the "Mormons" is some thing more than a name, and that we are as active in our political as in our religious, social and industrial affairs. By taking a course like this we shall have the approval of the heavens, and the blessing of the Almighty, and who need care for the rest?

## LOCAL AND OTHER MATTERS.

FROM FRIDAY'S DAILY, JULY 23.

**Plymouth Rock.**—A genuine fragment of Plymouth rock will be exhibited in front of the pedestal which supports the figure of Purity in the Pilgrim car in to-morrow's procession. It is the property of Mrs Tufts, of this city.

**Laborers and Tradesmen Wanted.**—Bishop Price of Paris, Bear Lake, writes to Apostle C. C. Rich, that there are good openings in that region for laborers, tailors and carpenters. Good chances for families to obtain good homes.

**Prior Engagement.**—The party who went to Ogden yesterday afternoon, to meet Secretary Thompson, had the pleasure of interviewing the gentleman and his friends, but ascertained that, on account of a prior engagement, it would be impossible for them to visit Salt Lake just now. They promised, however, to make this city a visit on their return from the Coast.

**Coal, Fire Clay and Water.**—Mr. Heilbrunner, the lessee of Lind-say's Gardens, having an impression that coal might be found on those premises, began making excavations last week in the gulch just east of his house. His labors were crowned with partial success. He had not gone down many feet before he struck a chunk of black rock containing small veins of coal, which evidenced the proximity of larger quantities in the neighborhood. He continued digging and soon came to a body of fine fire clay. He still persevered, thinking he would soon come upon a coal vein, and had sunk his shaft about 18 feet, when he observed that the ground beneath sounded hollow. He struck his pick into the earth once more, when to his surprise up spirted a stream of water. It continued springing so fast and abundantly that he was soon driven out of the shaft to avoid being drowned. The water continued to rise until it reached the surface, and overflowed. It is of an excellent quality, cool and clear, and Mr. Heilbrunner is almost as well satisfied with it, as he would have been had he struck what he was after. He intends forming a lake on his grounds, and using the water for irrigating his garden. He thinks a larger stream could be brought from his well as the present quantity has as its fountain simply the pick hole made at first. He allows the neighbors of the Dry Bench to come and help themselves to the water, which is a great accommodation to the poor people who live above the water line in that vicinity. It is to be hoped that other wells may be constructed in that neighborhood, that the land may receive the benefits of irrigation, and the name of "Dry Bench" soon become a thing of the past. We congratulate Mr. Heilbrunner on his discovery, especially as he seems disposed to allow others to share in his good fortune.

**The Primaries.**—Following are the results of the primary meetings held in the five voting precincts of this city last evening. We have only room for the names of the delegates elected to attend the Convention on the 27th, and those they were instructed to nominate for offices as the choice of the primary meetings:

### FIRST PRECINCT.

**Delegates.**—A. M. Musser, Stephen Tucker, George Stringfellow, John Cartwright, C. W. Penrose, Wm. Fuller, Rebecca Riter.

**Alternates.**—Alex. Steele, Jacob Heusser, John Y. Smith, Annie Cross, Thomas Girard, James C. Woods, Mrs. Stephen Hunter.

They were instructed to nominate for justice of the peace, Adam Speirs; for constable, James E. Malen.

### SECOND PRECINCT.

**Delegates.**—Frank Stanley, R. Brimley, James Anderson, H. Din-