THE DESERET NEWS.

TRUTH AND LIBERTY.

No. 34. **Salt Lake City, Wednesday, September 23, 1874.** **Vol. XXIII.**

ESTABLISHED 1850.

THE DESERET NEWS, WEEKLY.

One copy, one year, in advance,		$4 00
" six months,	" "	2 00
" three "	" "	1 00

THE DESERET NEWS: SEMI-WEEKLY.

One copy, one year, in advance,		$4 80
" six months,	" "	2 40
" three "	" "	1 20

THE DESERET EVENING NEWS.

One copy, one year, in advance,		$10 00
" six months,	" "	5 00
" three "	" "	2 50

DAVID O. CALDER,
EDITOR AND PUBLISHER.

☞ OUR SUBSCRIBERS in the country can at any time ascertain the date on which their subscription expires by referring to the numbers attached to their name on their paper, namely, 1-6-4 means first day, sixth month, fourth year, or 1st June, 1874, 15-12-4 means 15th December, 1874, &c.

Those names having no numbers close with the end of the volume.

Subscribers understanding this will be able to renew their subscriptions prior to the time of expiration, so that their papers may continue without interruption.

LOCAL AND OTHER MATTERS.

FROM TUESDAY'S DAILY, SEPT. 15.

Fatal Ending.—We learn, from our Brigham City correspondent, that August Ibson, of that place, died Sept. 12, from the effects of the injury received from a rolling rock, in an accident mentioned in the NEWS about two weeks ago.

Improvement.—That portion of the old City wall which runs through the 20th Ward is being leveled by Supervisor Hyde's men, a piece of work which, when completed, will greatly improve the appearance of Wall St., upon which the remnants of the old wall stand.

The September 2nd Company, numbering some 550 souls, under charge of Elder John C. Graham, arrived in New York on the 14th inst., all well, on the Guion & Co. steamship *Wyoming*, and were to leave for Ogden on the 15th, as telegraphed by Elder W. C. Staines. They will probably arrive here on or about the 23d inst.

Hunting His Clothing.—Last winter H. Heyborne had a suit of clothes stolen from the White House and never got any track of them till yesterday, when he learned that they had been found in the possession of a soldier who was arrested at the time the clothing was missed. The articles remained at the City Hall for some time and were finally taken to Camp. Heyborne was hunting for them to day.

Give Them Blanks.—After the minute instructions given by Judge Boreman in his charge to the grand jury of the Second Judicial District, the work of that body of men, who are evidently taken by the Judge for noodles, should be very light. The missionary number 2 should complete his charge by getting out black indictments with blank spaces for names and dates, so that whenever report has it that a man does not nequent brothels, but has married more women than one, his name can be filed in by the jury with the date of their finding. This would save the jury still more trouble than even the "terrible charge" does.

Another Fire Alarm.—Between seven and eight o'clock last night, the fire bells of the City Hall and the Wasatch engine house rang out an alarm, the cause being that the county prison cook house, a small wooden shanty, at the rear of the Court House building, had taken fire. The Pioneer steam fire engine and the Wasatch hand engine were soon on the spot, but by the time they reached there the building had been knocked to pieces and the flames extinguished. The damage would probably amount to something under two hundred dollars. During the progress of the fire, when it was in its height, the Court House was endangered.

Silver Eels.—That indefatigable pisciculturist, Hon. A. P. Rockwood, handed in the following yesterday—

"I not ce in your issue of the 12th inst., that a silver eel had been taken in Utah Lake, near the mouth of the Provo River, the weight of which was 1 lb. 7 oz., and 2 feet long. The inquiry very naturally arises, how came it there, as this specimen of fish is not supposed to be a native of our waters? In reply I will state that in July, 1872, I put about 500 silver eels in an artificial pond on Zion's Co-operative Fish Farm, in Salt Lake county. The waters of this pond flow into a tributary of the Jordan River, which carries the waters of Utah Lake into Great Salt Lake. When these were deposited they were from three to five inches long. Eight months after a few were seen; they were then about nine inches in length. If the eel caught is one of these it has had a very good growth. I would be pleased to learn, for the benefit of piscatorial science, if any others have been imported, and if so, by whom, how many, and where deposited. Address P. O. box, No. 10, Salt Lake City."

Going to California.—Dr. Munro, of this City, patentee and proprietor of the Medicated Vapor Bath, leaves to morrow morning on a visit to San Francisco, for the purpose of introducing his invention to the notice of the people in that section of country. We hope the Dr's trip will be successful, and we are sure it would be if the San Franciscans did but know the merits of his invention. It is not claimed to be a cure-all, but its inventor asserts that in skin, liver, blood and nervous diseases, if taken in time, it is a specific, and, so far as a year's experience in a family warrants us in doing so, we heartily endorse his claims. For neuralgia, and for scarlet fever in its first stages, it is positively the king of remedies, while for breaking up that terribly prevalent thing—"a bad cold" it is all but omnipotent.

Read the Doctor's circular and hear and believe what he says about his medicated bath, for from association with him we are satisfied he is a man of honor, and from experience with his bath we have great faith in its efficacy, and are convinced that every family would find it a blessing. It is as safe and agreeable as it is efficacious, and its first cost will soon be repaid by the decrease in doctor's bills.

Mrs. Munro will attend to the business of the establishment in this city, during the Doctor's absence.

The Tooele Case Again.—A short time since, Judge McKean issued a second alternate *mandamus* in the Tooele affair, returnable at chambers to-day, and requiring Judge John Rowberry and County Clerk Richard Warburton to appear and show cause why a peremptory *mandamus* should not be issued to compel them to give up to Maro J. Chamberlain, claiming to have been elected Recorder of the County, the records, accounts, papers, seal and other property of Tooele County.

Mr. Hagan appeared for the applicant and Messrs. Sutherland and Snow for the defendants.

Mr. Sutherland moved to quash on the ground of the insufficiency of the affidavit, as in no part of it occurred the words, "In the name of the people of the United States in the Territory of Utah." Also that no papers in the case were before the Judge, and he wished to know why the papers were not at hand. The Court overruled the motion.

Judge Rowberry and Recorder Warburton were then sworn, and their answer was produced and read.

The Court then made an order regarding the particular points to be tried in the court "without delay," as follows:

"1. Who at the time of the commencement of this action, and on the first day of September instant, was the Probate Judge of Tooele county in this Territory?

"2. Who at the time of the commencement of this action was, and who now is the clerk of Probate Court, clerk of the County Court, and of the county of Tooele aforesaid?

"3. Who at the time of the commencement of this action had the custody of the property in question?

"4. What, if any, damages has the plaintiff sustained herein?

"Let the trial of these questions be proceeded with at once, in the Federal Court House, in Salt Lake city and county.

"Dated September 15th, 1874."

Messrs. Sutherland and Snow, for the defendants, made able arguments in favor of having the matter tried by jury. After they had got through the Court made quite a heated display of temper, indulging in those quick, nervous actions with the right hand, which, combined with a sharp, rather loud and sandpapery sound of the voice, are an infallible indication of impatience and irritability in the Judge. We are always "sorry" for the Judge, "very sorry," when he gets n that way, because people will draw conclusions from indications, like the little boy who had been observing two men discussing some subject and afterwards made the remark, pointing to one of the controversialists, "That is the one that was in the wrong." "Why?" said another. "Because he was the one that got mad."

The court remarked that a judge in Utah had need to be a patient man, very patient, indeed. Not long since he had decided on a point which had just been advanced and dilated upon by Judge Sutherland and his colleague, and that decision had been given on the same point, on an argument made by Judge Sutherland, and was in the latter's favor.

At this point Judge Sutherland quietly arose to his feet and asked leave of the court to make a correction. "Oh, yes, yes," said the court, "I am used to that kind of thing." Mr. Sutherland then informed the Court that the latter was mistaken, that the point referred to had not been decided. At this juncture the proceedings were illuminated by broad smiles on the faces of many of the lawyers and others present, one in particular, that we could name, placed his face on the other side of his coat sleeve. Were it not that they are bosom friends of the Judge, members of the "ring," who thus dared to show their appreciation of the ludicrous, and of the awkward fix of the Court, we might name some of the most prominent, but we do not wish to get them into trouble with the Judge, for he is very sensitive about some things.

But the Judge has made many mistakes by the side of which the one referred to is infinitessimal, and being accustomed to them he knows exactly how to get out of them. This time he merely insists that it was the counsel that was mistaken, not he, and the aforementioned smiles showed how eagerly his explanation was swallowed, even by his most arduous friends

The Court said, in substance, that nowwhere but in Utah could a mandamus case be tried by jury, but it was not necessary to have it so here, the statutes provided that it could be tried by jury, or given to referees, according to the discretion of the Court. The Court therefore had discretion in the matter, and in the exercise of it he would decide that the proceedings should be tried by the Court.

Judge Sutherland took an exception to the ruling.

When the Judge imagines he has the shadow of discretion on his part he uses it with a vengeance, but how different it is when he has any thing to say about discretionary power held by some other people For instance, Treasurer Atkin whom the law requires shall be satisfied with the bonds presented to him for filing and acceptance by County officials, but whom Judge McKean compelled, by per-emptory *mandamus*, to lay aside his discretion and accept and file a bond that he did not, in his judgment and discretion, consider "worth the ashes of a rye straw."

Mr. Warburton, County Clerk of Tooele, was sworn and placed on the stand as a witness for the applicant. During his examination he was required to produce an inventory of the property of the county.

At half past one o'clock the court took a recess till two.

FROM WEDNESDAY'S DAILY, SEPT. 17.

The Rainy Year.—This will be known as the rainy year, for we have had showers every month, not even excluding this month of September.

Right.—Conjugal Cannon was amicably admitted to Congress. Pious and proscriptive Poland and malevolent Max. have been exasperatingly excluded. The door has been sharply slammed in their factious faces.

Stormy.—That was a stiff storm just before daybreak this morning; the rain poured, the wind made things rattle, the thunder rolled and reverberated, and the lightning flashed, but the storm was of short duration.

Utah Western Railroad.—We learn that it is confidently expected that the cars will be running on this line between this City and Clinton's by the 1st of November.

A force of men will begin repairing and fixing up the grade next Monday, and as soon as the iron arrives tracklaying will be commenced. It is reported that several cars of iron are on this side of Omaha, and if this be true the material will reach here next week, but this is not quite certain.

Is it an Executive Document?—The ex-Governor of Oregon's mania for "orating" and "notating" not only manifests itself in messages, Fourth of July orations, Sunday school exhortations, banquet speeches, and political harangues, and lectures on art, science, and religion, but crops out semi-occasionally in fulminations through the press.

What is extensively believed to be his latest production is in the shape of an "open letter," a sort of incendiary diatribe on an exciting subject.

It is a wise provision of nature that the human mind is so constituted that it can throw off, at stated intervals, the accumulation of its filthy excretions, otherwise early disease and death would be inevitable.

The author of the production in question may be congratulated on the felicity with which he has treated his subject, and recommended to publish it in pamphlet form for gratuitous distribution under the auspices of the Young Men's Christian Association, or the American Tract Publishing Society, for such literature is just entitled to a niche high up in the temple of modern classics. Perhaps the ex-Governor will try again. A little more smoke, good sir. Life is a vapor, but let us have our share of it.

The Tooele Case.—The case wherein Judge Rowberry and Richard Warburton, of Tooele, were required to show cause why a peremptory mandamus should not issue to compel them to give up the records, seal and other county property to M. J. Chamberlain, claiming to be county clerk, appointed by L. A. Brown, who claims to be Probate Judge of Tooele, was resumed this morning.

The prosecution having concluded their case yesterday, so far as the evidence was concerned, the defendants attempted to introduce evidence on their side, but were prevented from bringing forward anything materially bearing on the case by the rulings of the Court, who decided that nothing should be introduced to show that they are officers *de facto*.

Mr. Sutherland, counsel for the defense, delivered an excellent argument, showing that Rowberry and Warburton held the offices of Probate Judge and Clerk under color of right, and were therefore entitled to the custody of the property at issue, until the right of title to office between them and their contestants was settled, which settlement or decision could only be reached by *quo warranto* proceedings, not *mandamus*. In support of his position the gentleman cited a large number of legal authorities.

He was followed by Mr. Snow, who spoke mainly on the anomalous condition of affairs that would ensue at Tooele, should the peremptory *mandamus* asked for be granted. Should it be decided in future proceedings that Brown had not been legally elected to the office of Probate Judge, and the *mandamus* should issue, it would show that he had been installed not by the voice of the people, but by the voice of corruption. After Mr. Snow had continued at some length the Court stopped him, and asked him what he would do under such and such circumstances? Mr. Snow made some remark which caused the Court to ask, "Well, now Judge, supposing you were counsel for a party in such and such a case, what would you advise as a lawyer?"

Judge Snow made some kind of a humorous remark, which our reporter did not catch, and which made several present laugh, when the Court said, in his peculiarly sharp, gritty way—"Judge Snow, if you make me such an answer again, I shall make you take your seat, sir."

"I did not mean any disrespect to the Court."

"If ever you make such an answer again, Judge Snow, I shall fine you for contempt, and suspend you till you apologize."

"I have already said I did not mean any disrespect to the Court."

"From the young men of this bar I have been generally treated with respect, but the conduct of some of the elder ones has been somewhat different.

Judge Snow again protested against any intention of disrespect to the Court, but the explanation did not appear to act as a mollification upon the irate Judge.

After Mr. Snow had concluded, Mr. Hagan delivered himself of an abusive tirade, and, during his remarks, endeavored to show that there was not a particle of evidence on the side of the defence to indicate that Rowberry and Warburton were officers *de facto*.

Mr. Sutherland objected to remarks from Mr. Hagan on the matter of evidence on that question, as the Court had ruled that the defense should not introduce evidence on that point, and the gentleman should therefore confine himself to the legal proposition, which was, that *providing* the defendants were officers *de facto*, they could only be deposed by judgment of ouster under proceedings of *quo warranto*.

The Court said the objection was "too *refined*."

Mr. Sutherland intimated he cauldn't see where the refinement came in.

The Court overruled the objection.

Further on in the remarks of Mr. Hagan, Mr. Snow raised an objection to some of his remarks.

The Court said, addressing Judge Snow—"You consider the gentleman has not the right to say so and so."

"I concede that he has the right."

"Stop, that's enough, you concese he has the right."

To Mr. Hagan, "Go on."

"I did not finish my sentence," said the persecuted Judge Snow.

The Court said, in unmistakably crusty and not very low tones—"You conceded he had the right, that's enough. Take your seat."

Then to Mr. Hagan—"Go on."

Mr. Sutherland made a motion to quash an order recently made by the Court, directing the U. S. Marshal to seize the office room of the Probate Judge and Recorder of Tooele, also the books, seals, papers, &c.

The whole proceedings were "as good as a theatre," as the saying goes, but lack of time and space do not admit of our going into detail, in all their raciness.

Court adjourned till to-morrow at ten a.m., and as a kind of suitable wind-up to the affair, the "crying" was done by a novice at the business, who hesitated about commencing to say whether it was the District, the Court, 10 a.m., or to-morrow that was adjourned.

DIED.

In the 12th Ward, Salt Lake City, Sept. 21, EDGAR B., only child of Edgar B. and Susie Marden, aged 7 weeks and 3 days. Funeral services at 11 a.m. to-morrow.

In the 11th Ward of this city, Sept. 21st, of asthma, JAMES LIVINGSTON, aged 45 years.

Deceased was a native of Fifeshire, Scotland, and came to Utah in 1855.