

candidate, they shall accept said returns as correct. But if the right of any person voted for, for any office, is in any way affected, then the clerk and said members of the county court shall open the ballots from said precinct and canvass the same, so far as to determine the rights of the person whose office may be affected. They may also cause to appear before them any persons whom they may deem proper, and take their testimony in relation to said election in said precinct.

Section 25 provides that, "Any omission or irregularity of any assessor or other officers, pertaining to election matters, shall not invalidate any election or authorize the rejection of any legal votes cast, except to the extent that such omission or irregularity shall have prevented a fair vote."

Section 19, points out the duties of the clerk of the county court and the members of said court, acting as a board of canvassers in cases where officers are to be elected in districts composed of more than one county, and in cases of tie.

Under this law the first duty of defendants, after the returns on papers were received by the clerk, was to determine whether they were such returns, which they might do from an inspection of the papers, and if there was any omission in them, the canvassing board should have sent for proper persons and taken their testimony on the subject, and being satisfied that the papers were the returns, they should have carefully compared the several lists of papers, and thereby ascertained whether there was any irregularity in them. And if they discovered any such irregularity, they should then have opened the ballots from such precinct and canvassed them with a view to determine the rights of the person whose office was affected; and for this purpose they might have taken testimony on the subject. The requirements of the statute that the ballot boxes should be locked and securely sealed, and that the return lists should be securely sealed, are directory, and the failure of the judges of election to comply therewith would be an irregularity, but should not invalidate the election or authorize the rejection of votes which otherwise appeared to be legal.

The statute imposing the duty to open the returns, and specifying the time, and specifying the circumstances under which it was to be done, and it being a matter of public interest as well as a benefit to the plaintiff and others who were voted for, no demand was, in my judgment, necessary.

Whilst under our statute, it is doubtless true that the canvassing board have to perform some duties which partake of a quasi-judicial nature as far as it concerns the determination of whether the papers received, and purporting to be election returns, are, in fact, such, yet beyond this preliminary question, their duties must be regarded as mainly ministerial. And even in cases where they are authorized to exercise a discretion, they can be compelled, by mandamus, to act and decide. But if they decide erroneously, the injured party must resort to some other proper remedy to have his wrongs redressed. The office of the writ of mandamus is to compel the performance of acts purely ministerial in their nature, and it may be employed to compel but not to control the exercise of judicial functions. According to the answer of the defendants, they have not performed the duties imposed upon them by the statute, but they have assumed to pass upon the validity of the statute, and having decided that the statute was void, they did not go any further. The answer, in my judgment, sets up no good reason why the peremptory writ should not issue; the demurrer to the answer must be sustained.

It is insisted, however, that the demurrer should, by relation back, go to the affidavit of plaintiff, upon which the writ is sought. Waiving the question, whether a demurrer to a subsequent pleading will relate back to a prior pleading to which a demurrer had previously been overruled, I am clearly of the opinion that the new point sought to be taken against the election law, to wit, that in its first section it requires a different qualification for male voters from that which it requires for female voters, is not well taken. Our laws have always recognized a different rule in regulating the rights and obligations of male citizens from that which regu-

lates the rights and obligations of female citizens, in many particulars, and while it is true that our obligations grow mainly out of our rights, and that when new rights are conferred, new obligations are thereby imposed, yet I know of no constitutional prohibition to conferring upon females special privileges in the exercise of the elective franchise; and to require them to be tax payers would in most instances deprive them of voting. Whether this law, in that or in any other respect, is wise or politic, is not now the question; I think the legislature had the right to make the distinction, if it saw proper to do so; and having previously held that the law in question was regularly passed, the peremptory writ of mandamus should issue.

M. SCHAEFFER, Judge.

#### Twenty Impolite Things.

1. Loud and boisterous laughing.
2. Reading when others are talking.
3. Talking when others are reading.
4. Cutting finger nails in company.
5. Joking others in company.
6. Gazing rudely at strangers.
7. Leaving a stranger without a seat.
8. Making yourself hero of your own story.
9. Reading aloud in company without being asked.
10. Spitting about the house, smoking or chewing.
11. Leaving church before worship is closed.
12. Whispering or laughing in the house of God.
13. A want of respect and reverence for seniors.
14. Correcting older persons than yourself, especially your parents.
15. Receiving a present without an expression of gratitude.
16. Not listening to what one is saying in company.
17. Commencing to eat as soon as you get to the table.
18. Answering questions that have been put to others.
19. Commencing talking before others have finished speaking.
20. Laughing at the mistakes of others.

The above items were found on an old card, reprinted on new ones, and a package of the latter presented by Brother William B. Barton, of the 18th Ward, to the ward Sabbath School last Sunday morning. They are points that all might study to advantage.

#### School for Silk Culture.

Samuel Chamberlain writes to the *Polytechnic Review*, concerning a plan of a silk school, farm and village about thirty miles from Philadelphia. He believes that the failure to introduce silk culture in 1840 was chiefly due to the want of perseverance. The three years of actual trial (for the rest was only speculation in trees) were not sufficient to carry it on to success. Business, like machinery, must be carried over the dead-points. A school, farm and village, whose continuance will be maintained for some 16 or 20 years, will secure a permanent source of knowledge, example and instruction from which the culture will extend year by year. It will not be overthrown as formerly, by causes outside of the silk business. It will keep the subject before the public through advertisements. It will at all times provide eggs, trees, books, etc. The educational advantages will be very great. We are now endeavoring to introduce the industrial schools of Europe for instruction in the mechanical arts. But they have possessed silk schools for nearly one hundred years; through them have obtained and retained till now the silk business of the world! It is more than strange that such schools, urged by M. D'Homergue, in 1835, should not have been long since established in this country. The present effort ought to have the immediate support of every intelligent and far-sighted capitalist; for through it we shall draw the silk business of the western world to ourselves.

Two lawyers, while bathing at St. Croix, the other day were chased out of the water by a shark. This is the most flagrant case of want of professional courtesy on record.

#### Lenzi's Helvetian Salve



Never fails to cure felons, corns, bunions, chilblains, broken breasts, cancers, old sores, bruises, burns, freckles, ulcers, etc.

Price 35 cts. per box.

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#### The Centaur Liniment

are of two kinds. The **White** is for the human family; the **Yellow** for horses, sheep and other animals. Testimonials of the effects produced by these remarkable Preparations are wrapped around every bottle, and may be procured of any druggist, or by mail from the office of THE CENTAUR COMPANY, 46 Dey Street, New York City. w49 ly

#### MOUNTAIN WARBLER!

HERE being several hundred copies of the above Song Book remaining unsold, they can be obtained at the Deseret News Office for 25 cents per copy. WM. WILLES. S. L. City, March 31st, 1876.

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For which I will pay the

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