THE ELECTION CASES

Mandamus and Prohibition Proceedings Today.

SANPETE COUNTY'S INNINGS.

Members of the Utah Commission Under Examination On the Witness-stand.

After sundry delays and postponements the hearing on the mandamus and prohibition proceedings instituted against the members of the Utah Commission, arising out of the late election, began this morning in the Third district court, before Judge Bartch. There was a large attendance of spectators, many of whom hailed from Sanpete county, and some of whom had been brought as witnesses.

The petitioners were represented by Judge Bennett, Zane & Zane and Hiles & Morse; the defendants' case was conducted by Judges Henderson and Powers and Attorney Farley L. Williams.

Judge Henderson was unable to be present, being engaged in an important case in Judge Merritt's court, and Judge Bennett therefore took no active part in the day's proceedings after the hearing had been fairly launched, though he was in attendance a portion of the time.

All the commissioners were present with the exception of Commissioner Thatcher.

When the case was called Attorney Ogden Hiles said that in the case of J. D. Page of Sanpete county vs J. E. Letcher and others he desired to present an amended affidavit, a copy of which had been served upon counsel on the other side. By stipulation it was agreed that the and the answer in the Page case should be the same in all the other cases.

Attorney John M. Zane, on behalf of the petitioners, then called Commissioner E. W. Tallson to the stand and wanted the witness to produce the original tally sheets of the election in Sanpete county, but he said he had not all of them. He understood they were in the possession of Chairman Letcher. So a hall was called, as Mr. Letcher was not then present. After a lapse of about five minutes Judge Bartch asked whether counsel could not proceed without that gentleman, but Mr. Zane replied that they could not. It was further explained that Chairman Letcher had been telephoned for and was now on his way down with the necessary papers. It was 10:35 when Mr. Letcher arrived with the original tally sheets. They were handed to the witness, who enumerated from them the following precincts in Sanpete county: Chester, Fairview, Manti, Mayfield, Ephraim, Fountain Green, Gunnison, Mount Pleasant, Moroni, Spring City, Ionkanoh (or Trinity), Fayette, Wales, Starkey and Siloam.

Mr. Zane then asked Mr. Letcher on these tally sheets there was any discrepancy shown as to the number of votes cast for J. D. Page?

Witness, after examining the lists carefully, replied "There is not."

"Is there any discrepancy as to C. P. Larsen or J. L. Jolley?" next queried Mr. Zane.

Commissioner Tallson requested time to again go through the lists, and Judge Bartch said the witness might safely himself on the matter.

Having made another minute inspection Mr. Tallson answered: "None as to C. P. Larsen."

"Are there any as to J. L. Jolley?" next questioned Mr. Zane.

Another search through the tally sheets was made by Commissioner Tallson, who eventually replied: "And none as to J. L. Jolley."

"Now have you a memorandum showing the number of votes cast for each candidate in each precinct in Sanpete county on the Constitutional ticket?"

"Yes, and it has been furnished to counsel for the plaintiffs." The order of the majority was also pointed out by the witness.

Mr. Zane then asked that the original tally sheets be put in evidence.

Mr. Williams objected to this unless counsel proposed to put in additional papers constituting the returns. A part of the returns, he said, were not what was before the Commission of that was required to be before that body. They were not guided in their action by those alone.

"Are there any other abstracts showing the votes cast for each candidate except these tally sheets furnished to the Commission?" queried Mr. Zane.

"In my judgment," answered the witness, "there is none."

Asked to be positive as to this the witness said, "There is not."

After some discussion the Court overruled Mr. Williams's objection.

The witness was next requested to read off the totals in each precinct for each candidate and the totals for the county from the tally sheets. He complied, placing the sheets in his hands; and this he did.

In cross-examination by Mr. Williams, witness said he did not know that any other papers were received in connection with these tally sheets.

"How do you know that?" asked Mr. Williams.

"Because I have the knowledge, I suppose," was the answer.

Witness said he assisted in the canvass of the returns from Sanpete county for the election of delegates to the Constitutional Convention.

Mr. Williams next asked whether the tally sheets now produced were were all the papers used in making the canvass of the returns.

Objected to by the other side and objection sustained.

Witness answered the question with "Yes."

"Didn't you examine other papers in making that canvass?" further inquired Mr. Williams.

Objected to again as irrelevant, immaterial and not cross-examination.

Judge Bartch—He may answer.

"No," replied the witness.

"Did the Commission examine any other papers?" continued Mr. Williams.

But the question was objected to on the same grounds and overruled, and an exception noted.

"We met" said Mr. Zane thereupon, and Judge Powers was upon his feet a moment later. "At this stage of the case," said he, "we desire to move that the peremptory writ be denied and the action dismissed, for the reason that the petitioner has not made out any case whatever. It does not appear from the testimony introduced here that the returns from Sanpete county with tallies in the case have been canvassed. It must appear from what is before the court that the Commission was simply proceeding to canvass. They have not got any farther than the examination of the tally sheets and the compilation of the figures shown by the tally sheets."

Attorney Hiles said he understood it was admitted by the pleadings that the relator made demand upon the Commission to canvass the vote of Sanpete county, as required by the statute, and that they had refused. Section 5 of the Edmunds act provided that the Utah Commission should canvass the returns from the various counties in respect of legislative and Territorial offices. Counsel claimed, under the existing legislation, that these precinct returns thus certified to were the equivalent of the district of the general result provided for in the election act of this Territory, 1888, that upon that district they should issue their certificates to the persons elected. The territorial election laws, counsel insisted, were applicable here. Sections 21 and 22 of the act of 1888 were also quoted by Mr. Hiles. It was to evaluate facts, he said, that this was the only element of the return of the election in Sanpete county that had ever been intended to the Commission, and these papers, he repeated, were the equivalent of that paper which was required to be sent by the county clerks before the passage of the Edmunds law.

Mr. Williams—I do not think we care to argue the proposition any further.

Judge Bartch overruled Judge Powers's motion and the latter took an exception.

Chairman Jerrit H. Letcher was then called to the witness-stand by Attorney F. L. Williams, in answer to which he said the duplicate tally sheets in question were delivered to the Commission through the secretary of the Territory.

"To whom were they delivered?"

Witness said to the Commission as a whole, while they were in session.

"Were any other papers held back at the same time in connection with these duplicate tally sheets?" pressed Mr. Williams.

Mr. Zane rose to object to the question, but before he could get in his objection the witness had answered—"There were."

Mr. Zane argued out the grounds of his objection, nevertheless, and contended that the poll list and the poll book constituted no part of the return.

Attorney Ogden Hiles followed Mr. Zane and Mr. Williams said that he himself would have something to say later as to what constituted the returns.

The question put to witness was eventually admitted subject to objection. Chairman Letcher replied: "There were," and, asked what they were, he answered the poll books and poll lists—the entire fifteen from Sanpete county. The Commission "also received what we denominated the list of persons who voted in the precincts in the order in which they cast their ballots."

"In the examination of the returns did the commission also examine those poll books and lists of voters?"

"We did. We examined them all."

Mr. Williams next asked the witness to look at the poll books handed to him and point out any discrepancies which might exist as between the poll books, the voting lists and the duplicate lists introduced by plaintiff's counsel.

Mr. Letcher said that there were certain discrepancies and offered the minutes of the Commission to show wherein they arose. These he read from in detail and added: "The aggregate discrepancies from all the precincts in Sanpete county numbered 18."

Mr. Zane asked the witness—Did you take into consideration the tally lists and the poll books in adding up the total votes?

"No, sir."

"You made the discrepancies by precincts?"

"Yes."

"And you made them as large as you could?" (Laughter.)

"No, sir; I didn't say that."

Mr. Zane took up some time in an examination of the witness as to the system adopted by the Commission in finding out discrepancies and when he had exhausted his stock of questions, court, at 12:20, took an adjournment till 2 p.m.

When court reassembled this afternoon Chairman Letcher was again called to the stand by Attorney F. L. Williams, who asked the witness to which he had the Commission, in summing up the results of the various papers, arrived at the figures contained in the column headed "tally sheet?"

Witness replied that the total number of votes credited to each candidate was added up and divided by the number of candidates.

"Who worked those figures out?"

"Two of the Commission computed the books and two of us went over the lists and two went over the tally sheets."

"Is any case could the tally sheets exceed the number of ballots cast?"

"They should not."

Here the defendants' counsel rested their case and Mr. Zane informed the court that his was all the proof that would be offered in these mandamus cases from Sanpete county. Now came the three writs of prohibition.

Mr. Williams objected to taking these latter up until the mandamus proceedings had been disposed of. These cases, he said, had better be tried separately. If the peremptory writ should be awarded, then that would determine the instance. If it should be denied, he took it that the other cases would fall with it.

Counsel on the other side urged that by the terms of the stipulation the prohibition cases should be taken up now, and it was further pointed out that a number of witnesses from Sanpete were in attendance.

Reference was made to the stipulation in question, which appeared to be somewhat at sea in the interpretation to be placed upon it.

Judge Powers said the defendants' counsel were ready to proceed with their argument, and strongly protested against the prohibition cases being taken up until the mandamus proceedings had been finally disposed of. He objected to any "patchwork."

Judge Bartch said the whole matter, it seemed to him, should be dealt with as in one case.

Eventually the court directed that the argument now present on the three mandamus cases from Sanpete and intimated that the prohibition cases must be taken up on their submission.

Here followed a whispered dialogue between plaintiffs' attorney, at the close of which Judge Zane proceeded to make the opening argument for the plaintiffs. He said the main question presented by the evidence and to be determined here was—had the Utah Commission, under the law, the right to open the ballot boxes and count the ballots in each of those three cases? If not, then the defendants ought to be commanded to issue certificates to those three plaintiffs upon a canvass of the votes on the tally sheets. Under the territorial statute, he insisted, the Commission had no such right as that referred to. A canvass by the returning board was a different canvass from that by the judges of election. The Commission has the right to canvass the votes as shown by the returns, but there was no authority given to that body to open the ballot boxes and count the votes. The judge went extensively into the law upon the subject.

The Utah Commission had just summarizing as the law gave them, and now they were simply engaged in canvass the returns.

Judge Zane concluded with considerable emphasis that to this great tribunal every citizen had the right to cast an honest vote and to have an honest count. He was still speaking when the News report closed.

Hooper Sunday School.

Sunday School annual examination was the order of the day in Hooper, Weber county, on Monday, Dec. 31st. Every class did well, both as a whole and in section. The teachers had been very thorough, or responses could not have been so ready and correct as they were. The superintendent, Brother Manning, and Bishop Childs felt as proud as did the teachers and pupils. After the exercises, which were interspersed with music, the plea of candy and nuts already cooked, vanished readily. The children cannot to the afternoon, and the young men and maidens at night, but the great surprise was the well filled meeting-house and the hearty expressed evidence of training in an isolated settlement—one noticed by but very few.

AMUSEMENTS.

SALVINI'S coming production of Victor Hugo's masterpiece of Mary Rise is sure to be of curious interest to the playgoer, for no other dramatic work has presented such a stumbling block to actors of even acknowledged ability. The fame of Charles Fechter rested largely on his portrayal of this massively conception. Edwin Booth and Davenport also drew tears of sympathy from their audiences, for the acted reality of the poor outcast lackey. In view of the many comments made Mr. Salvini's work in this difficult role, his performance may be anticipated as one of the treats of the present season. The sale of seats begins tomorrow morning.

The Silver Lining.

Tomorrow evening the Sixteenth Ward Alliance dramatic association will present the interesting and attractive three act comedy entitled The Silver Lining, in the Sixteenth Ward new assembly hall, commencing at 8 o'clock.

A. C. YOUNG, M. D.

Dr. A. C. Young has returned from the East, where he has completed his medical studies. He has been in Vermont and New Hampshire, and the latter portion of his time in New York. Having secured his degree as a fully qualified M. D., he has come home with her intention of practicing medicine and surgery. He expects to open an office in Salt Lake in the near future.

Land Office.

The following filings were made in the local land office under date of Jan. 3, 1896:

Brigham L. Wilson, of Grantsville, Tooele county, homestead entry of the east half of the northwest quarter and the west half of the northeast quarter of section 26, township 2 south, range 5 west.

Joseph De Mustle, of Frisco, Beaver county, final proof of homestead entry of the northeast quarter of the northwest quarter of section 11, and the north half of the northwest quarter and southwest quarter of the northwest quarter of section 12, township 27 south, range 15 west.

Sheets Silver Mining company, mineral entry of the St. Louis claim, in Uintah mining district, Summit county; also, the Danville claim, in the same district.

PROVO.

PROVO, UTAH, JAN. 3, 1896.

First District Court.

The following business was transacted in the First district court yesterday afternoon and this morning:

James Goodman vs Samuel Lindland et al; motion of defendants asking for bill of particulars, argued and stricken from the docket in the case and defendants given till January 9th to answer.

In the case of the W. F. Noble Mercantile Co. and Arthur Parsons, intervenor, vs Peter Madsen, receiver, et al, bond on appeal to the Supreme court fixed at $1,000. This case grows out of the settlement of Mount Pleasant Equitable Co-op.

The hearing on return of temporary restraining order in the case of Ursula Russell, administratrix, et al vs Overson et al was by consent continued without date.

Court adjourned till Monday the 7th, Judge H. W. Smith will then hold court for about a week, for the purpose of hearing cases in which Judge King was interested as attorney before his appointment as judge.

Malmon S. Hughes, of Spanish Fork, have appealed a case from the justice's court at Spanish Fork involving $27.50.

The Lehi Sugar Works.

It is reported that the Sugar Works at Lehi will close about the 15th of the month, as the beets on hand will be used up by that time. The output of the factory for the season will be nearly 5,000,000 pounds of sugar, 80,000 lbs. of beets have been used, and there have been the following yields:

[illegible]	[illegible] tons
[illegible]	[illegible] "
[illegible]	[illegible] "
[illegible]	[illegible] "