NOW WE'LL KNOW.

Arguments In the Sanpete County Election Cases In Progress Today.

TWO HOURS A SIDE ALLOWED.

The Opinion of the Supreme Court Will Be Awaited With Great Interest By All.

Today having been specially set apart by the Territorial Supreme Court for the hearing of legal arguments on appeal in the Sanpete county election cases, there was an unusually large number of persons in attendance when all the judges took their seats on the bench shortly after 10 o'clock.

Clerk Burbe read the minutes of Thursday's session, and when these had been approved and signed Judge Hatch—he having tried the cases in the lower court—retired, leaving Chief Justice Merritt and Associate Justices Smith and King to sit and adjudicate.

The court stipulated that the arguments of counsel should be limited to two hours on each side.

The title of the cause was that of J. D. Page, plaintiff and respondent, vs. J. H. Letcher et al. (as members of the Utah Commission), defendants and appellants.

The Sanpete contingent was represented, as upon the hearing in the court below, by Baer & Zane, Judge Bennett and Hiles and Messrs. the Commissioners by Attorney Paley L. Williams and Judge Henderson. Judge Powers, also of counsel for the appellants, was not present on this occasion, he being now engaged in an important trial in Idaho.

When the matter was called up this morning, Chief Justice Merritt inquired whether counsel proposed to argue the mandamus and prohibition cases together. An affirmative answer was given, and Attorney P. L. Williams then took the floor and made the opening argument.

The same course by on the judges was followed alone. The findings showed, inter alia, that Page received a majority of the votes cast, as duly ascertained by a canvass, and that the returns showed no discrepancy; that certain forgeries had been perpetrated on the returns after the Utah Commission received them, the same having been made for the purpose of creating discrepancies; that the Commission agreed in good faith to issue certificates to Messrs. Page, Jolly and Lawrence; that the ballot boxes since the election had been "stuffed;" also that the Commission, "having canvassed the returns and abstract, and ascertained Page's election, had nevertheless refused him his certificate of demand, and, in spite of his protest, had counted the ballots in the 'stuffed' ballot boxes, and were about to issue a certificate to his opponent and refuse one to Page." The judgment prohibited the Commission from issuing certificates otherwise than from the face of the returns.

The circumstances of the case are by this time familiar to readers of the local newspapers.

The respondent Page was a candidate for the position of delegate to the coming Constitutional Convention from Sanpete county at the last November election, and according to the returns, as certified by the judges of the several precincts of Sanpete, it appeared that he was one of the several candidates who received a majority of the votes cast. Upon the trial of the cause in the court below, Page introduced in evidence the tally sheet returns certified by the respective judges, with a summary of the results as each candidate voted for, compiled therefrom by the defendants, and also put in the demand by the applicant upon the defendants, that they issue to him a certificate of his election as delegate, further showing that defendants then refused to issue such certificate. Thereupon the defendants, to maintain the issue on their part, offered in evidence the registry lists and judges' lists of the several precincts of Sanpete county, to which offer the plaintiff objected, on the ground that the last mentioned lists were incompetent, immaterial and irrelevant, and did not tend to prove any material fact or issue. The court made a pro forma ruling, overruling the objection and admitting the last mentioned documents, subject to such objection.

The general question presented by the record is whether, under the statutes of the United States and of Utah Territory governing the election of legislative and territorial officers in the Territory, the Utah Commission has any power to correct irregularities or discrepancies in the election returns of any precinct or of any county in this Territory.

It is contended on the part of the appellants (and it is the position of the Commission) that they have the power to perform the same duties and have the same respect to the examination and correction of the precinct returns as the county commissioners and boards of canvass of 1876, before the passage of the Edmunds law; but, say the respondents, if this be true, then it follows either that sections 21 and 22 of the act of 1878 are repealed, or else the governor and secretary still had the power and function of canvassing the returns provided for in the same sections, or it involves the seemingly absurd interpretation that the Utah Commission has devolved upon it all the functions of sections 18, 19, 20, 21, and 22 of the act of 1878, which is tantamount to saying that they have to perform the duties and functions of a double canvass. That is to say, they are to canvass the precinct returns, correct the irregularities and discrepancies therein, and then again canvass the returns under the provisions of sections 21 and 22 same mentioned. Such, it is contended, was not the intention of the Legislature.

Objections are made that a writ of prohibition cannot issue to a ministerial body. The appellants contend, however—with singular contrariety of argument, say the respondents' counsel—that the Utah Commission is a judicial body, exercising judicial functions. If that be so, they (said, then) in their own argument there was no doubt as to the respondents' right to a writ of prohibition to prevent an exercise of usurped, unlawful authority by the judicial body. On the other hand, the respondents' counsel contends that the Commission, as to everything except declaring upon the genuineness of the returns, exercises ministerial functions. The subject of prohibition and mandamus, that mandamus is a right to compel a ministerial officer to perform an act, and that the law controls.

It is argued that Page's only remedy against excessive jurisdiction on the part of the Commission was a writ of prohibition; that, on the other hand, mandamus would not obtain the respondent's certificate. That could only be reached by mandamus, which commences an action in behalf. That it was apparent that there is no conflict between the two remedies, and that they do not achieve the same result. In mandamus the point of inquiry should be the issuance of a certificate, which determines only the prima facie right to the office, and here decides the question of election was a contest.

Judge Zane followed Mr. Williams, and for a few minutes at about 3:45 Then came Attorney Orlando Hiles, in the same line, and Judge Henderson will make the concluding address on behalf of the appellants.

Raising the Beet.

Editor Deseret News:

Have waited a few days to see if any one would reply to your correspondent of January 30th in regard to this question, which is a serious one to both the farmer and the factory, particularly at this juncture.

The statement made is in regard to the results of planting and caring for two acres of beets as per contract, the farmer received therefor being $121.12. Loss for planting and seed $6.34, thus having $112.80 upon which expenses are charged and deducted as $45, and for estimated taxes, etc., $20.35. This was for last year's product, and the inference is that this $32 was paid out to a second party, and that neither your correspondent nor his family did any of the labor.

The fundamental idea of the sugar factory was to encourage diversified industry, to manufacture an article that every one needs and use and to utilize, wherever possible, the profitless corners of the farmer's own family and make them wealth producers.

If the owner of the two acres did his own cultivating, thinning, watering, digging and hoeing," was he not furnished with labor at home and paid for it, and was not this his profit, just as was intended?

From this, of course, should be deducted taxes, interest on value of land, we find rent of tools and implements, but put these at liberal figures, and it will be seen that there was at least $60 net per acre left and the land was not proved for another or other crop, at least one-fourth the amount deducted.

That raising beets is new to our farmers, that it requires more thought and care than they are usually given to crops is true enough, but this business is profitable yet, and experience makes it easier and better each year, and if there is a family who can be trained to the work, the good there is felt at home, and better profits and satisfactory returns can result from thus adopting the reduced reduction of 20 per cent if that should be desired for the salvation of the industry.

The ventilation of this topic is desirable now, but the writer cannot expect to "have his name and result" for the same time, and the factory—as a mere of basis—is surely at a disadvantage with the individual, for it must pay out its cash for labor, its beets coming in (if any) from the operation of its machinery.

CORRESPOND.

Three Poor Sugar Beets.

It is a fact quite generally known that, for various reasons, but principally on account of the very unusual and heavy rains of last August and September, a number of the sugar beets in the lower end of Utah county took a second growth and did not come up to the standard of 11 per cent sucrose with 80 per cent purity as required by the contract, and for that reason were not accepted by the factory at Lehi.

It is also generally known that some of the growers who owned these poor beets were further dissatisfied with the results of the analysis of their beets as reported from the factory, claiming that fair samples had not been taken, mistakes had probably been made, favoritism had been shown, etc., etc.

To prove the foregoing and at the same time secure evidence of the reliability of the Utah Sugar company's work, a number of samples were selected by the farmers themselves from several of the rejected lots of beets and sent to government experts for analysis.

There seemed to be no question in the minds of many that what the results would surely show a quality more than required by contract, and various and numerous were the rumors floating about as to what was going to be done to compel the sugar company to accept the rejected beets.

The returns came in the time but were far from being what was expected or desired. The analyses reported by government chemists showed from 10 to 15 per cent sucrose with purities of from 55 to 70 only, all one going up to the requirements of the contract, thus vindicating the work done at the factory.

The sugar per cent was undoubtedly taken to show high in these samples because of their drying out some, it necessarily taking several days between the pulling of the beets and the time they could reach their destination and be analyzed, while the factory samples are usually there within twenty-four hours after being pulled.

In connection with this it may be well to state that any suspicions as to the veracity or impartiality of the work done by the chemistry of the sugar Co. are entirely unfelt for and without foundation.

With the very best and most approved appliances for every detail of its work, and skilled men who make the business a specialty and a pride, the work must be a satisfactory one.

An institution of the magnitude and importance of the Utah Sugar Factory cannot be run by "guess work," nor by doubtful or suspicious methods; and when any results or statements are given out officially by the company they may be accepted upon as being correct.—*Lehi Banner.*

FORESTRY ASSOCIATION.

Subjects Discussed at the Meeting Last Night—Consolidation Subjected.

The Forestry association held a meeting at 7:30 in its city and county building last night, President J. H. Park in the chair.

After an informal discussion upon the Cascade bill, it was decided to take steps to twit its commissioner.

The University Quarterly, a magazine that is to appear on March 1st, was adopted as the official organ of the association.

The committee on trees reported that negotiations were pending with the City Council to plant trees from Liberty park to be planted on East Temple and State streets.

The committee appointed to confer with the Horticultural association recommended a consolidation of the two associations. A minority report was made by Mr. Heather, a member of the committee, opposing the recommendation.

Upon the motion of Professor Talmage, the recommendation to consolidate the two associations was rejected.

Selectman Cutlifflesen read a paper on "Trees as Windbreaks," showing the essentiality of the use of the expansion of growing vegetation as well as one formerly at the ground.

Dr. Faust conveyed a lecture on the necessity of making a start, which is given in full in today's issue.

Discussion followed, Secretary Whitley, Augustus Norrell and W. S. Rylance taking part, after which the following program was given out for the next session: "Forestry in Europe," by Augustus Norrell; "Protection of Forests from Fire and Other Destructive Elements," by W. S. Rylance.

Commission Money.

Bartholomew Hallman has brought suit against Andrew Burbidge and John R. Middleton in the Third district court to collect $250 claimed to be due as balance of commission for the sale of certain mining property in Calaveras.

In the Tenth Ward.

"The Happy Family of Father Time" is the title of a pleasing operetta to be given in the Tenth ward on Wednesday evening next, by the ward Primary association. The performance will commence at 8:15 o'clock. The children have been well drilled, and an excellent entertainment is assured. Among the features of the performance will be a children's chorus of fifty voices.

Priesthood Meeting.

The semi-annual meeting of the Priesthood of Salt Lake Stake was held in the Assembly hall today, commencing at 11 a.m. Elder Angus M. Cannon, President of the Stake, presided.

The roll call showed the following representation:

One High Councilor, four Patriarchs, 35 Seventies, 1 Bishop, 1 Counselor, 1 Priest, 1 Teacher, 1 Deacon, 1 Elder, 1 Seventy, 1 High Priest, 1 Patriarch