DESERET NEWS

WEEKLY.

TRUTH AND LIBERTY.

WEDNESDAY, - AUG. 14, 1878.

ELECTION LESSONS.

THE election yesterday—the first under the new law, developed two points for consideration. One is that a great many people who are endowed with the elective franchise are very indifferent in regard to its duties. And the other is that the certainty of registration does not give certainty of eligibility to vote.

We will notice the second point first. Quite a number of qualified voters, that is, citizens of the United States, either native born, or naturalized, over twenty-one years of age, taxpayers and residents in the Territory six months, and in their respective precincts one month preceding registration, or in the case of females, being the wife, widow or daughter of a citizen, were particular in attending to the requisite formalities of the law concerning registration. They naturally thought that the officers whose duty it was to copy the names of those registered on to the registry lists, would faithfully discharge that duty, and therefore felt no dubiety about their right to vote when the proper time should come. But it appears that they reposed too much confidence in the care and exactness of some of the deputy assessors. When they went to the polls, yesterday, some who had been thoughtful about registering, learned that their names were not enrolled upon the lists, and therefore could not deposit their ballots.

We have no idea that any registered name was intentionally left off the list. The omissions were inadvertent, undoubtedly. But the effect at the polls was the same to registered voters, and the chagrin of those who had really the right to vote but were technically disqualified through official carelessness, was in some instances too deep for words.

Now they were only diligent in part, and therefore partly deserved their rebuff. A copy of the Registry List for each precinct was posted up at the polling places fifteen days before the election. Voters should have examined this list to see if their names were inscribed thereon, and if not, attention could have been called to the omission and the mistake rectified. It is true there is no special provision in the law for such a contingency, the supposition always being that the work required will be properly executed. But we think Section 5 will cover the ground and meet the emergency: "The clerk of the County Court shall deliver to the Assessor the Registry Lists whenever necessary for the revision thereof or adding names thereto, &c." This has special application to the revision and adding of names for a subsequent election, but we believe will apply to the error in question.

Our object in speaking on this matter is to induce care and diligence in the future. There was no opposition in this city yesterday, therefore the consequences of any neglect may not be serious. But another election will take place in November next, when a Delegate to Congress will be voted for, and we hope that the errors and carelessness to which we have alluded will not then be repeated.

The other point adduced involves grave considerations. Indifference is very difficult to overcome. Opposition stirs up energies on either side, and there is an opportunity in the struggle for the right to win. Apathy is deathlike and disgusting. People who are not interested in the exercise of the voting power ought not to be entrusted with it; They are unworthy the privileges and influence it bestows. Every man and woman holding the franchise is responsible to God and the community for the use thereof. And in failing to vote an elector fails in the discharge of a sacred duty. This has particular application to the "Mormon" people. Indulgence in a spirit of indifference to politics will confirm people in a habit of indolence, and an evil example is often as likely to be followed as a good one. The possible effects of apathy in these matters are pointedly illustrated by a circumstance that occurred in Illinois on the 15th of last month.

An election was then held at Framingham, Fulton County, in that State, for police magistrate. It was a small matter; no opposition was anticipated; and the good, honest people who did not want to trouble themselves about local politics, thought it was too hot to go to the polls. They were caught napping. Every respectable voter trusted to some other respectable voter, and the consequence was they all stayed away from the polls. But the bummers and rogues, who are sometimes wide awake when honest people are asleep, learned the condition of affairs, and rallying their own kind, put up a jail-bird named Thompson Fountain for police magistrate, and actually elected him. The sleepy townsfolk were amazed and indignant when the result was made certain, and are now clamoring to the Governor not to issue a commission to the new magistrate. They have learned a lesson. Cannot the old settlers of Utah learn it without being forced to activity by the things they suffer?

We hope that before the November election many who are now aliens, male and female, will have become naturalized; that all who are properly qualified will be sure to have their names on the registry lists; and that every lawful elector will be ready to go to the polls and exercise the power bestowed, whether there be any opposition or only a single candidate is entered upon the field. Vigilance, caution, exactness and union should be prominently exhibited in all that pertains to our political affairs. With these, victory is certain, without them or either of them, we cannot be positive about the issue.

THE RAILROAD LANDS QUESTION.

IN our daily issue of the 30th ult. we published an article on Railroad Lands, referring to the Dudymott case, and the decision of Secretary Schurz, that the lands granted to the Pacific Railroads can be pre-empted at $1.25 per acre, the amount to be paid to the Company holding possession of such lands. Since then we have seen a copy of the decision in full, and also a circular from the Union Pacific Superintendent in relation to this matter. From the decision it appears that all lands granted to the Kansas Pacific—and the same ruling holds good in relation to the Denver Pacific, Sioux City and Pacific, Union Pacific, Central Pacific, and Western Pacific Railroads—not sold or disposed of by said company within three years after the entire road was completed were open to settlement and pre-emption like other lands, at a price not exceeding one dollar and a quarter per acre. The money, however, instead of going into the Government Treasury is to be paid to the company, and the Secretary gives the following directions in regard to the payment.

"In making returns of the moneys arising from the sale of said lands, the local officers should be instructed to keep a separate account of the lands sold, and the moneys received therefor on account of said Company, in order that the same may be passed to its credit."

Persons desiring to obtain railroad lands at $1.25 per acre will have to run the risk of the delay, the trouble and the expense of a legal fight with a powerful corporation. But there is little doubt about the issue. The evident meaning and intent of the law is as interpreted by Secretary Schurz, and some sturdy freeman will be found who will test the matter and carry it through the courts until it is passed upon by the tribunal of last resort, when the right to pre-empt the lands at the government price will be permanently established. The Secretary gives the following directions in regard to filing upon such lands:

The local officers of each of the land districts in which lands inuring to said company by virtue of said grant, are situated, should be instructed to receive filings conditionally for said lands in tracts not exceeding one-quarter section, by qualified pre-emptors, and on receipt of such declaratory statements, to call upon the company for a statement showing whether the lands applied have been sold by it; and if not sold, then the declaratory statements should be allowed subject to the applicants showing full compliance with the pre-emption law.

If the company neglects or refuses to furnish such statement to the local officers within thirty (30) days after service of said notice, in that case they should be instructed to order a hearing, if so requested by the applicant to determine whether such tract or tracts are subject to such filing, giving notice of the time and place, when and where such hearing will be held, in some newspaper published and circulated in the county where the lands are situated, notifying said company, and any and all persons if such there be claiming title to said tracts under it, to appear at the time and place mentioned, to show cause why said declaratory statements should not be received.

At such hearing the applicant should be required to show that he is an actual settler on the land applied for, a qualified pre-emptor, and that the records of the county where deeds and conveyances are recorded do not show that said tracts had been sold at the date of the filing of his declaratory statement; and the company, or its grantee, to show whether said tracts applied for have been sold by it.

If the company, or its grantee fail or refuse to appear and offer any testimony, the filing should be allowed, under the rule that, "when the subject matter of a negative averment lies peculiarly within the knowledge of the other party, the averment is taken as true unless disproved by that party."

The Union Pacific Company announces its determination to contest each and every case in which any person files upon, occupies or attempts to interfere with its rights and interests in any lands, and litigate the matter up to the court of last resort. It also declares that it will proceed to sell the lands in the same manner as heretofore, holding that its lands, though unsold, were otherwise "disposed of" before the three years limitation elapsed, and that they are therefore not subject to pre-emption or entry. And in support of its position it quotes the decision of no less an authority than Judge Jere Black, to the effect that the lands were "disposed of" to the holders of the land grant mortgages, who were secured by these lands under the act of 1864.

The question turns upon the meaning of the word "disposed of." It appears to us that the Company rests upon a very slight support in the position that mortgaging the lands was legally "disposing" of them. On this point Secretary Schurz says:

The Company mortgaged such interest in the land as it possessed, and the mortgagees must be considered to have taken the mortgage with full knowledge of the right of the Company to make the same. Aside from these considerations, however, the provision in the mortgage which authorizes the Company to sell and dispose of the lands granted, and make conveyance thereof to the purchasers, which conveyance shall release the right of the mortgagees to the particular tract, will in the same manner protect the pre-emptor who purchases of the Government, which has authority to sell the lands and pay the proceeds arising from such sales to the Company.

The lands, it will be observed, did not revert to the Government at the end of the three years. Neither were they really and actually and actually disposed of to the mortgagees, but only conveyed to them in trust to secure them in the proceeds of the lands when sold or finally disposed of. The Secretary has clearly the best of the argument. The company's lands are legally open to pre-emption, and have been since October, 1877. But they have lands which they hold as high as $12 per acre, and it is not at all likely that they will yield the point without a desperate struggle. When instructions are issued from the Land Commissioner to the officers in the land districts, and parties file on the railroad lands declared open to pre-emption, the tug of war will commence. The question whether those lands have been "disposed of" within the meaning of the Statute will have to be adjudicated, and the pre-emptor, though armed with justice and the decision of the Secretary, will have to fight in the courts with a powerful corporation, backed by immense wealth and not influenced by any sentimental considerations.

The contest will be vastly unequal; but though it will be long, bitter and discouraging, if pursued to the end it must result eventually in victory for the plucky pre-emptor who can stand against the odds of the struggle. The wisest policy of the Railroad Companies will be to place the lands at a figure which can be reached by a large number of settlers, and make the most of the position while they are able to hold it. Most people who want land would rather secure it peacefully at a reasonable rate, than have to fight for it at low prices.

"LIBERAL" OUTRAGE AT TOOELE.

WE understand that the very "Liberal" managers of civil affairs in Tooele County, certain of defeat at the election, under a law which shuts out fraudulent voting, have attempted to hold by force that which they cannot retain in law or in justice. The County Court, we are informed, with one dissentient, has refused to canvass the returns, alleging that they were not "securely sealed," which was a fiction.

It is evident that the officials whose terms have expired, are determined to play a desperate game for the retention of power in the county. We hope that the PEOPLE will not allow their rights to be trampled upon by a few unprincipled persons, but that they will stand up in their might, and never rest until justice is established and their chosen officers obtain possession of the places to which they have been lawfully elected. If they back down and crouch under the impudent attempt now made to fasten the "Liberal" chains upon them they will deserve the fate that threatens them. But let all their battling be done under the law, in calmness and wisdom, but with undying determination. The act of the County Court is no less a crime than felony. And if we are rightly informed, some of the judges are equally liable to prosecution as the members of the County Court, having allowed unregistered persons to vote, thus violating their oath and committing perjury.

Tooele will have lively times for a while. We hope and believe that out of the tumult will come order, peace and the triumph of right and justice. So may it be.

THE TOOELE CONSPIRACY.

FOUR years ago the "Liberals" of Tooele County, by wholesale frauds at the polls, and aided by divisions among the People's Party, succeeded in obtaining official control of the County. As was indisputably proven by the Committee on Elections of the Legislative Assembly, several hundreds of illegal "Liberal" votes were cast in the mining camps, and the "Liberal" Representative was, in consequence, refused a seat in the Assembly. The County, however, submitted to the fraud, and affairs have been so manipulated by the "regenerators" that county scrip which, four years ago, was worth in the market 95 cents on the dollar, has since ranged from 30 to 50 cents, and a few days ago was refused even at 30 cents on the dollar. One of their officials has been convicted, in the Third District Court, of obtaining money under false pretenses, and their whole regime has been an imposition on the body of the people.

When the new election law was passed, under pressure of the non-"Mormons of" this Territory, who wished to have the marked ballot abolished, the registration system was made one of its main features, because there would be no real guaranty of the purity of elections without it, in the absence of the marked ballot. At the time the crusade was opened against the old electoral system, the agitators contended that registration would meet every objection which might be offered against the secret ballot. But just as soon as the secret ballot protected by registration was adopted by our legislators, a howl was raised and the cry went forth "we do not want registration."

But the bill became a law. And the Register Lists, which have to be posted up fifteen days before the election, showed that in Tooele County the "Mormon" voters greatly outnumbered the "Liberal" voters, a matter of fact well understood by both parties independent of this proof. This showing was evident, in spite of the improper registration of many "Liberal" names. A conspiracy was therefore entered into for the purpose of depriving the majority of the citizens of the county of their lawful rights. Illegal voting was permitted in several "Liberal" precincts and women voters were excluded, but a People's majority being evident, notwithstanding every fraudulent practice of their opponents, the majority of the County Court refused to open the returns, thinking that by this stroke of policy the election would be nullified and the "Liberal" ruiners of the County would hold over and remain in office.

The point raised was that the returns from a number of the precincts where the People's Party predominated were not sealed up according to law. The statute provides that after the Judges of election have counted the ballots they shall be returned to the ballot box, "and the ballot box shall be locked and securely sealed." Also that after the number of votes for each person voted for has been determined and the result placed on the lists and certified to, the lists, "securely sealed," shall be forwarded with the ballot box to the Clerk of the County Court. It appears that although the ballot boxes were securely sealed by means of bands attached with mucilage, and the returns by envelopes similarly fastened, the objecting members of the County Court claimed that they should have been sealed with sealing wax. One of the boxes and returns happened to be fastened with sealing wax, and then they declared the sealing wax ought to have been placed over the keyhole of the box.

Reference to the statute will show that these objections are invalid, and outside of the province of the County Court to make, and the dictionary will show, if common sense is not a sufficient guide, that sealing wax is not essential to securely sealing any document or other article, public or private. The intent of the law is, very plainly, to protect the ballot box and returns from being tampered with. The materials to be used in effecting this object are not specified, and it was the sworn duty of the Clerk of the County Court in the presence of such members of the Court as might be on hand to examine the returns, and if no irregularity or discrepancy appeared therein, to accept them as correct. But this would have been contrary to the scheme concocted and the fraud determined upon. The conspirators imagined that the People, disheartened at the difficulties presented in the case, would yield to the pressure, and allow the misrule of the past four years to be perpetuated. We think they reckoned without their host. The People's Party have so large a majority in the County, independent of the female vote, that the "Liberals" have not the ghost of a chance at a fair election. It is not to be supposed that so large a majority will submit to the deprivation of their rights in the manner attempted. The aid of the Courts will be invoked, and nothing that ought to be done will be left undone to vindicate the right and punish the wrong. An alternative writ of mandamus has been, or will be immediately, applied for in the Third District Court, with the object of compelling the County Court to examine the returns. Hon. F. M. Lyman is in this city to push the matter for the People, and Messrs. Sheeks and Rawlins are engaged as their counsel.

In their contest for their rights under the law and their efforts to free themselves from the galling yoke that has been forced upon their necks, the people of Tooele