WEEKLY CITIZEN.

SATURDAY. - - JAN. 3, 1885

THE CITIZEN greats its readers with a Happy New Year.

HENRY WARD BEECHER is trying to heal the breach that has arisen in his congregation by reason of his recent political antics, and his bold manner of handling his flock warrants the belief that he will still remain with them.

GLADSTONE the great Commoner and Premier of England, was the recipient of marked ovations upon the occasion of his seventy-fifth birthday, Monday. He is indeed the "Grand Old Man," not only of Britain, but of the world, and history will award him one of the proudest places in its pages.

LET us then swear off all bad habits for the new year, let us roll up our sleeves and go to work.—Index.

IF the party holding the Index man will please grant the above prayer and let go now, he will confer a favor upon the general public.

THE muscle of the country—the men who toil and bear the burdens—are content with the few silver dollars that fall to their portion. It is only those "who toil not, neither do they spin," who want silver demonetized, that they may profit further on the fruits of the poor man's toil.

THE Christmas number of the San Jose, Cal., Times-Mercury contains twelve large pages of matter descriptive of that locality and the general surroundings. This new production is a consolidation of the Times and Mercury, and is published by C. M. Shortridge. The Christmas number is a splendid edition and reflects great credit upon the enterprising publisher.

IT is pretty well settled that Gen. H. G. Rollins will be speaker of the Legislative Assembly. The contest is narrowed down between the General and Judge Porter, but the fact that Maricopa will ask some great favors of the next Legislature will prompt them to give Pima the speakership. General Rollins will make an able presiding officer, and his experience as a member of the Council of the Eleventh Legislative assembly will eminently fit him for that responsible position.

A BILL will be introduced in the California legislature this winter inflicting severe penalties upon the purchaser of votes during an election, and allowing the purchased party immunity therefor. The argument is that if the penalty also attaches to the purchased voter his testimony would criminate himself, and is therefore beyond reach. As the purchaser is the sole tempter and beneficiary, he is the proper party to suffer. To this proposition there might be added a fine upon the guilty party, a portion of which sum should go to the informer. The corruption of the ballot is a very grave offense, and the most stringent measures of security should be thrown around it.

THE eventful year of 1884 is ended, and at midnight its record closes. Another annual notch has been hewn by the hand of time and the interval to the grave is shortened by another year. The story of the joys of the old year, and its woes and hardships will never be fully told, and much of it will die with the ceasing heart-beats of those whom time has spared to see the new year begin. The clamor of the bells at midnight will herald the infant morn of —what? Only a new year with its unwrought problems and unwritten history. All are happy with a hope that the new will prove better than the old and that it will bring more joys, more comforts and less woe to the fireside.

THE Society of Pioneers have held their first annual banquet and they have shown themselves to still retain much of the ardor of their youthful days, especially around the banquet table. The Pioneers are doing good work for Arizona in now gathering the records of their struggles at a time when it was dangerous for a white man to step beyond his own threshold, and the data now being gathered and formulated will be placed on record as the early history of this Territory. As a fraternal society too, it possesses excellent features, and it should flourish and prosper and when its burdens fall upon the shoulders of the sons of the brave old pioneers, may the memory of the originators of the society be adorned with wreaths of affection and pearls of reverence.

IN admitting the amended complaint in the Paul-Shaw constest, Judge Fitzgerald said that "if there has been any fraud in this election, I want it brought to light; if there has not been any fraud no one is going to be injured by a full and free investigation. I am going to allow that amendment, and I am going to allow you, if it is necessary, to adjourn from day to day for a month or two months, to get at the truth of this matter. The truth has got to come out, no matter who is hurt by it." There is no fair-minded man in the Territory but will say amen to that sentiment. Let the truth come out, no matter who it hurts. A little shower of truth might have a very salutary effect just now and prove of lasting benefit hereafter.

MANY teams, loaded with supplies and men, left the city to-day for the mines in the various ranges of mountains in Pima county, to relocate claims upon which the necessary assessment work has not been done. In this way many claims are held continuously in possession of persons who never develop them, and valuable properties are thus oftentimes prevented from being developed and becoming producers. It is a great mistake for people to locate mining claims by the score when they know it is impossible to develop them. One or two good claims, with the requisite assessment work done each year, would soon show development that would make valuable property, and others, working adjacent claims, would enhance its value also. A law is needed to prevent the continuous relocation of claims and to compel a reasonable development of those located.

Mr. Edward Wendel, Fetterman, West Virginia, suffered terribly with neuralgia and doctors failed in giving relief. He was cured by St. Jacobs Oil, the marvelous pain cure, and says he would send a hundred miles to get it.

PAUL VS. SHAW.

Full Testimony in the Contest Case for the Shrievalty of Pima County—R. H. Declared Elected Sheriff.

The District Court opened this morning in special session to try the election contest of Paul vs. Shaw, involving the shrievalty of Pima county. The complaint was filed twelve days ago, and the issue was joined this morning, the defendant making a very lengthy answer. Messrs. Earll, Campbell and Stephens, Haynes and Stiles and H. R. Jeffords appeared as attorneys for plaintiff, and Messrs. J. A. Anderson and Hereford and Lovell as attorneys for defendant.

There being no objection made, Sheriff Paul was allowed to act in his official capacity during the trial. The witnesses on both sides were sworn and under the rule were excluded from the court room during the examination of each individual witness.

An order was issued for the election officers of the Tucson, San Xavier and Tanque Verde precincts to bring into court all the ballots and tally sheets in their possession used in the election of November 4th.

The complaint was read by Judge Campbell, attorney for the contestant, setting forth that all of the votes cast were 1,715, and that Paul received 854 and Shaw 861; also that the 17 Tanque Verde votes were illegal, on the ground that the board of judges were not sworn in, and that they did not count the votes until two days after being polled, and that the ballots were kept in an exposed place, and that they made out and certified to false return sheets. Also in Tucson, 10 votes were falsely counted for Shaw. Also 5 other votes were certified to which he did not receive, and at San Xavier 9 votes were illegally cast for Shaw, and 10 further votes were counted for Shaw which he did not receive; also 5 others were counted for Shaw, which the contestant alleges were cast for him, that he received more than 100 majority, and finally prays that the election of Shaw be set aside.

Shaw's answer was read by J. A. Anderson, and specifically denies all the material allegations in contestant's complaint, and avers that more than 100 votes were cast for contestant by persons not entitled to votes, in Tucson, and five illegal votes were cast in Nogales for contestant, and that all such votes be deducted from votes cast for contestant.

Sheriff Paul was called and sworn, and testified as follows: I am the contestant in this case; have resided here nearly seven years; was an elector at the last election; voted then, and was a candidate for sheriff at that time; was a citizen of the United States and entitled to vote. Cross-examination declined.

On motion of Judge Campbell, Judge Osborn produced the election returns.

W. J. Osborn sworn: Have been Clerk of the Board of Supervisors for the last three years; I have the official returns of the last election in this box, as returned officially to me, of the eighteen precincts. There were twenty-three precincts established, but elections were held in only 18. I have here the tally sheets as returned to me by the different clerks, and the estimate of the votes made by the Board of Supervisors of the election. The estimates were put in evidence, giving Paul 854, Shaw 861. The votes in Tucson gave Paul 611 and Shaw 445. The vote of Tanque Verde gave Shaw 17, Paul 0; that of San Xavier, gave Shaw 29, Paul 11.

Campbell—We offer all of these election returns for whatever purpose they may be required.

Osborn—Here are the returns of the above named precincts: Tucson, containing great register, tally sheet and poll list. Here is the precinct of Tanque Verde, containing similar papers; also San Xavier containing the same papers as first enumerated. This estimate was completed on the 17th of last November. I issued a certificate of election on that estimate to Eugene O. Shaw, as required by law, and he filed his bond, and it was approved by the Chairman of the Board of Supervisors. These papers have been in my custody and my deputy Mr. McDermott, and examined only in my presence.

W. A. McDermott—Sworn:—I was one of the judges of election held in Tucson last November. The ballots were taken possession of by me by consent of the board, and I wrapped them up in this package, and placed a private seal on them, and then, at the request of Sheriff Paul, I took them to Wells, Fargo & Co. and sealed them again.

Judge Campbell—I move now to have those ballots counted.

Objected to on the ground that the ballots cannot be recounted on a mere suspicion of the illegal votes contained in them.

Court—The objection is overruled.

Judges Stiles and Lovell were appointed tellers to count the ballots.

The returns from the election officers were offered and admitted in evidence.

The court here took a recess until 2 p. m., at which time the counting of ballots will be proceeded with.

AFTERNOON SESSION.

The ballots being opened the private seal of W. A. McDermott was found to be intact, to the best of his knowledge and belief, although there was no sign of the impression of the half dollar as testified to by McDermott, though examined by a microscope. When the wrapper was removed the County Recorder's seal was found to be all right, which Mr. McDermott testified to having put on also. He said: "I got the County Recorder's seal and George Hand was present. Mr. Paul never touched the package to my knowledge. They were in the store of Douglass Snyder in an out of the way drawer behind the counter and not locked."

SATURDAY AFTERNOON.

McDermott—Mr. Snyder was one of the judges of election—Mr. Osborn melted the wax. The package was opened, and the doubtful seal kept for future reference, and the count progressed.

THE COUNT.

The undisputed vote stands 613 for Paul and 477 for Shaw. There are 15 doubtful votes and 4 that were torn up and not counted, and one vote cast for B. H. Hereford. Eleven tickets with the printed name scratched out and the name written were counted as written. One ticket with the name written and printed both—decision reserved; next one with the name of E. S. Shaw counted for Shaw.

The ballot with the name of candidate and the position he was running for was held to be a blunder of the voter merely and the vote cast for the party whom it was evident he intended to vote for. The vote then stood Paul 618, Shaw 486. Paul's majority, 132, with one vote in abeyance. The Court in commenting on the ticket with printed and written names of different candidates, said that his opinion was that the intention of the voter was to vote for the candidate whose name was written; although decision was reserved. Pending argument the Court here took a recess until 7 p. m.

EVENING SESSION.

J. M. Berger—Sworn:—I reside at San Xavier. I was inspector of election held there last November. Here are the ballots voted in my precinct last election. Phil. Drachman and Dr. Hoyt were judges, and Chas. Kresham was clerk.

The ballots have been in my possession; I had them on my table for two days and then I put them in my desk, I took the ballots as inspector. I don't remember the time it was when they got through voting; it was dark; my wife took the ballot box with the tickets and put them on my desk; I think I came to town the day after election. Nobody lives with me except a Yaqui or two who work for me; I have visitors sometimes; the ballots were in a cigar box, the box was open, when I came back from town I put them in an envelope and put them in my desk.

Objection raised to the introduction of the ballots on the ground that there was opportunity to tamper with them.

The Court—If there is any evidence that the party was a partisan in this election, I would like to hear it. The fact is, the law itself ought to be changed: every judge of election ought to have a safe in which to keep ballots. (To witness)—Did you have any visitors in your absence from home?

Witness—Not in my bed room, where the ballots were. I keep no bar-room out there; I have two rooms and a kitchen in my house. Redirect I have no reason to think that anybody had the box in their hand except my wife. I don't know whether it was the day after or two days after election, but it was after I went back from Tucson. I am Justice of the Peace over there.

Judge Anderson—We will take a ruling.

The Court—The vote will be counted.

Judge Haynes and Lovell were appointed tellers to count the vote.

The count resulted in a vote of 27 for Shaw, 13 for Paul.

The poll and tally lists were introduced and Mr. Berger proceeded to tell what he knew of fraudulent voting. He said that a man by the name of Manuel Varela, age 27, voted, whom he didn't think was a citizen. A man by the name of Jose Luce voted Varela's name; he use to work for me and I always knew him by the name of Luce, when he came to vote I challenged him but he said his name was Varela, and he voted, I had his ticket in my hand when I challenged him, and I saw that one end of it was torn, and when I counted that ticket afterwards I noticed it and I saw that it was a Shaw vote, (witness here identifies the ticket in the bunch just counted,) I think that is the ticket—I know that is the ticket that I noticed at that time, I know that is the ticket I had in my hand at the time I challenged him; the ticket was folded; never saw the ticket afterwards, I think the man voted that ticket, but I cannot swear to it; I am certain that I did not tear it myself; I don't know whether Jose Luce had two names or not, but I never knew him by any name but Jose Luce; I never told Mr. Kresham that I tore the ticket; I didn't look at that ticket; I was present at the counting; I read three or four names then I took them out and handed them to Mr. Drachman and he called them off.

The torn ticket offered in evidence was objected to as not satisfactorily proven.

Witness—The man that voted put the ballot in my hand, and I noticed this, and when the tickets were being counted I noticed this ticket, but I didn't mention it at the time to any of the other judges; I can't find any more tickets marked that way; the ticket was not torn as much as it is now; there were no other tickets torn at the time the votes were counted except this one; I believe that man voted this ticket because I saw this mark. I looked to see if any more were torn, and there were none; I don't know how this other ticket was torn, unless in the wrapping up; the first I told about the ticket being torn was to Charley Shibell; I don't think I told it to Mr. Paul, and I don't think I told it to Mr. Appel. I was a candidate for Justice of the Peace at that election; I didn't tell Mr. Ainsa about the ticket; I had known Luce for about two years; I never knew of Manuel Varela living around there; I don't know but what he registered as Manuel Varela. (Ticket read subject to further testimony.)

Philip Drachman counted the votes after the first two or three; he counted very quick, but I saw no intention to do wrong, and I several times told him to go slower; the tally lists were the same when they were counted up, they didn't differ, but sometimes we was behind. Charley Kresham was the quick one; I saw all of the votes, but I could not see the names; it was candle light. The other clerk was named John T. Gailter.

Examined by the Court—I think I spoke with both of the candidates the day after election and before I sealed up the votes. I think that all the conversation I had with any one was as to this man voting—I know that the man who voted out there was not a citizen; his name is not in the Great Register unless his name was Varela. I am a Republican but everything must go right.

Court then adjourned until Monday, December 29, at 10 o'clock a. m.

MONDAY'S SESSION.

Court met pursuant to adjournment at 10 a. m., Monday, December 29, 1884.

Cameron H. King, from California, was added as of counsel in the case.

Counsel for respondent offer an amended answer to be filed, which was objected to by contestant's counsel on the ground that it changes and introduces into the action an entirely new cause of action.

Court—I would like to hear the amended answer read.

The amended answer was read by Judge Anderson which set forth that Paul had bribed 50 electors to vote for him, naming one Castro, W. L. Courtney, Peter Dozell, Venuzla Testa, Peter Hense and Victor Nuisse, ranging from 2 to 5 dollars a head; and that 10 illegal votes were cast for Paul in Quijotoa, also that said Paul did offer to Chas. Driscoll a bribe to procure his (Paul's) election, and offered to appoint anybody he, Driscoll, might select as deputy sheriff in payment for his aid in electing him sheriff of Pima county.

Objected to on the ground that it is new matter and that, the constestant is entitled to 3 days' notice, which would be impossible in this case, as the statute provides that the court can only adjourn from day to day during the trial of a contested election case.

The Court took a recess untill 2 p. m.

MONDAY AFTERNOON'S SESSION.

The Court—I want to state in connection with this matter that I am going to allow the very widest latitude in probing this matter to the bottom; if there has been any fraud in this election I want it brought to light, if there has not been any fraud, no one is going to be injured by a full and free investigation. I am going to allow that amendment, and I am going to allow you, if it is necessary, to adjourn from day to day for a month or two months, to get at the truth of this matter. The truth has got to come out, no matter who is hurt by it.

Nicholas Soso, sworn—I live in Sundeta; I lived in Tanque Verde last November; I acted as a general officer of the election held there then; I was inspector; I was not justice of the peace; Wm. Oury appointed me inspector the day before election; I was not sworn in; Manuel Campas, Manuel Martinez, and Ramon Gigago were judges; Manuel Martinez was the man that was writing; none of the judges were sworn in; Emilio Carrillo was appointed afterward—two days after the voting; I acted alone as officer of that election in my business; I have the returns and ballots cast at that election with me; the voting took place at the house of Mr. Oury—at the house of a man that is working for Mr. Oury; there is only one room in that house; this is the ballot (showing a chalk box); the election was held under the ramada, in front of the door; I recollect how many persons voted, there were 17, Manuel Martinez and Manuel Campas the judges, did the writing when they were eating. The judges, Manuel Campos and Manuel Martinez, did not remain there all day; they remained there only till about half an hour before sunset; I left at the same time; I left because I did not know how long I should remain there according to law; after the voting I set the ballot box in a trunk belonging to Ramon Gallego, in his house; he lived there alone; Ramon Gallego was at the table when the voting was going on, but I don't remember the name of the appointment he had; the ballot box is now just as it was when they got through voting. (The box was tied with a brown tape.) I placed the box in the trunk after the voting; the trunk was locked; Ramon Gallego kept the key of the truck; the votes were counted [illegible] night, one for one; we did not read [illegible] because I did not know how to d[illegible] Mr. Oury said that what we could n[illegible] he could do it, and we waited tw[illegible] for Mr. Oury and the others, to [illegible] it in a roll for us; did not know [illegible] do it; Mr. Oury told us whatever w[illegible] not know what to do he would sho[illegible] what we could not do he would [illegible] his ideas; we waited two days [illegible] we commenced to read the votes; [illegible] men that were at the table were pres[illegible] at the reading of the votes: Mr. O[illegible] and Mr. Charley Shibell were pres[illegible] and another man that I don't know[illegible] Oury was trying to see if what we[illegible] done was in the roll, and he gave [illegible] how we should place in the book[illegible] there; Manuel Martinez read[illegible] and the others were waiti[illegible] not read; no one assisted Manue[illegible] or Manuel Campos to read: the[illegible] by themselves. After the votes were read I took them to my house.

I know Hilario Pacho, he came there while the voting was going on, when they called his son's name, he said he could vote for his son, and he voted for him; it was Mateo Pacho whom he voted, Mateo Pa[illegible] was not there that day.

I can write i[illegible] Spanish, that is my writing (referring [illegible] poll list.) I don't know Encarnacion Castillo, there were some voting that I did not know. I know a man who keeps a saloon next to Pacheco & Tapa's store who they call Castia—I don't know whether he keeps the saloon there or not, I don't live here. That man was not out there that day. I have lived in that neighborhood four months. I know some of the people there. I knew Clemente Lopez, he voted; Gratiso Soso voted there that day. I had no trouble with Placido Soso about the way he was voting for Sheriff—that was his business. I know Guadalupe Martinez, he voted that day; Francisco Mungia voted also, Juan Martinez voted, Bruno Saina, Ignacio De la Cruz voted also. I know Juan Pedro Romero by sight. I don't know whether he voted or not.

Tomas Mungum was there and voted that day. He is not a Francisco Munguia. He is a son of Jesus Munguia. I am sure that Tomas Munguia voted; he is about 22 or 23 years old. The Poll List is in the hand-writing of Manuel Martinez, it was made the day of the voting. The ballot box was tied when the votes were placed inside—I put it there myself. It was first taken off when we came to count the votes. Emilio Carrillo was present, when we were going to fix the papers two days after the election, he was judge as we were one judge short. He was appointed when we were. I was appointed the day before election; I was not present when the rest were appointed; I know they were appointed because I saw them at the table; Mr. Oury was not there at the day of election; the first time Mr Oury came there was two days after the election; I allowed Hilario Pacho to vote for his son, because I did not know but what it was according to law; the last two names on the poll list are in the hand writing of the judge Manuel Martinez; they were written on the day of the date at the bottom; I saw him writing; I don't recollect when they were written on the poll list: Ramon Gigago had the great register at the time of the voting; I don't know whether he made the entries or not he was tending the book; the entries in the register are in his hand writing.

Great register, poll list and ballot box offered in evidence.

There were no Americans present on the day of election; I don't know whether any of the officers of election could write English or not; I did not hear them speak it.

The vote was opened and counted, resulting in 17 for Shaw and 0 for Paul.

The name of H. S. Searles appears on all of the tickets and he was not credited with any on the tally lists and J. G. Hilzinger was credited with 11 votes, and they had been erased.

Witness—I don't know what became of the original tally list—I had two, I presented all that I had here.

There were two clerks there, I don't know what became of the original tally list—I have no papers in my possession pertaining to that election; I did not retain a copy of the tally papers at that election.

I strung these ballots two days after election, one by one; I was instructed to string them one by one; I didn't know how to do it; I put them on after the judges read them; I did not wait for them all to be read, but put them on as they were read; Manuel Martinez took the ballots out of the box; Mr. Oury nor Mr. Shibell, nor any of the Americans had anything to do with handling the votes, either before or after they were taken out of the box; I was there when the Americans came.

Ramon Gallego, sworn—I lived at Tanque Verde on the day of the last election; I was one of the officers; Mr. Oury appointed me two days before the election and I acted as clerk—first when the election began; I could not write as fast as I ought to, and Manuel Martinez wrote instead of me; I don't recollect now many had voted when I stopped, for I had wrote only two votes; they were the last that voted; I wrote their names the same day they voted; I know Encarnacion Castile; I don't know whether I know the other one or not; Encarnacion was there that day; I don't know whether Leonardo Ortega was there or not; I know Mateo Patcho; he did not vote; his name is down there, because his father came and voted and said he was responsible for the boy; I know Juan Pedro Romero; he was there; Manuel Martinez wrote his name; the name Romero on the poll list is in my handwriting; I wrote it there the same day it happened; perhaps the person who commenced this writing omitted the name and I finished it; the rest of the name is the handwriting of Manuel Martinez; I did not write it on the day Mr. Oury was there; I wrote it on the day that the election was held, before the polls were closed; I wrote the name after Romero voted, after the last names I saw that the second name was not there and then I wrote it. We had two Tally Lists I don't know what become of the other one. After the election they were put in my possession and I locked them in the truck; two days after the election Mr. Oury came, and we four judges took out the papers. Mr. Oury had told us that if we had trouble as we did not know anything about law he would assist us; we took out the papers and he saw them and he saw that they were not in good condition and we counted the votes. Manuel Martinez took the votes out of the box and gave them to Charlie Kresham as interpreter, and he read them off. Seeing there was one judge wanting we declined to deliver the package; we had to have another judge; then came Emilio Carrillo and signed, we all asked him to sign. Mr. Oury told us to appoint another judge; Mr. Oury told us that we had done wrong because we did not know entirely what to do; we did our best. After the papers were taken out of the trunk, the two tally lists were together, and they were delivered to the inspector. After the voting was finished we commenced counting the votes, and marked them in the book; the marks were made in the book two days after the election; there were no marks made in the book the night of the election. I don't know what became of the other tally list. Mr. Oury, Shibell and Kresham did not bring books or papers with them; I wrote the two last names in the poll list; the clerk went to get some water and I wrote them. During the election no tally list was used, only poll lists. I know Clemente Lopez, Guadaloupe Martinez and Francisco Mungea; I saw Mungia that day, he voted; Thomas Mungia I know; I saw him there that day, there are two by that name—the one that was in Tanque Verde was the one that voted; he is the son of Jesus Mungia; I am sure he voted; I know Miguel Andrade; he was there and voted; he was at San Pedro, but before the election was over he came and voted; I don't remember what time he voted; I don't know any other man by the name of Miguel Andrade.

When Manuel Martinez handed the votes to Kresham Manuel Campos put the marks in the book; Kresham read them off, and then we wrapped them and gave them to the inspector; the inspector put them in the box, one by one; when they were all placed in the box he wrapped well the box with a ribbon; the inspector put them on a string in my presence, one by one; after the election the ballots were in my possession, and placed them in the hands of the inspector two days after the election; Manuel Martinez, Manuel Campos, the inspector and myself were there; Mr. Oury, Mr. Shibell and Mr. Kresham were there, but far from us; Mr. Oury told us we had kept the ballots right; that same day in the house of Mr. Oury I showed the votes to Mr. Oury before they were counted, about ten minutes or half an hour, and Mr. Oury said they were not in good order; Mr. Oury said that in my house; Charlie Kresham, Shibell, Manuel Martinez, Manuel Campos, Nicholas Soso and myself were present; neither Mr. Oury nor Mr. Shibell, or Mr. Kresham, had the ballots in their hand before they were counted; they did not take the books in their hands, but Mr. Oury looked at them; I was not working for Mr. Oury.

Miguel Andrade—I live at Tanque Verde. At the last election, I was not at Tanque Verde. I did not vote. I was registered; I was in San Pedro on November 4th; I was working for Jesus Munguia.

Cross examination—I was gathering corn at San Pedro, I went there on the last of October; I saw Mr. Oury the day before election in Tanque Verde; I did not see him the day after election; I went to San Pedro with a man named Manuel. I am working at Camp Seco now. I remained at San Pedro about a month; I have not seen Munguia since I left San Pedro; I saw him here but I did not speak to him. The man that went to call me was the first that spoke to me about testifying; I do not know Mr. Paul or Mr. Appel; I never told anybody before that I didn't vote at Tanque Verde, no one gave me anything to come here and make this statement; I came in from Camp Seco last night, on foot; I have not been at Tanque Verde since the election; I saw Mr. Oury just before I went to San Pedro—the last of October.

EVENING SESSION.

Manuel Martinez, sworn:—He acted as one of the judges of election at Tanque Verde; took no oath; Nicolas Soso read the names, he did not read from the votes, he only read from the list of names, Charley Kresham read the votes by my hand; I handed them to him and he read them off to Manuel Campas who put it down on the books; when Charlie Kresham read them off he handed them to me and I put them in the box, and then they were given to the Inspector; the Inspector did not touch them between the time they were read off and put in the box. After I gave them to the Inspector he took them to his house; I saw no one there with a needle and thread.

Manuel Campas testified that he was clerk of the election and wrote the tally list two days after the election; wrote the marks opposite the name of J. G. Hilzinger, but afterwards Charley Kresham told him that was a mistake and he scratched them out; wrote where Kresham pointed out; didn't put any marks opposite the name of H. S. Searles because he was not told to.

Nicholas Soso, recalled—This great register is the one I brought in to-day. The word vote opposite No. 1,161 are not in my hand writing; I used to write opposite the names as they voted the fact they voted; the book I sent to Mr. Osborn is the one I wrote in; by the advice of Mr. Oury, he told me to write opposite the name of the man that voted, he told us that the day before election; I did as well as I could; wrote in the book on the day of election, I don't know who put the mark opposite the name of Leonardo Ortega, who wrote opposite the name of Miguel Andrathe; (witness gives a specimen of his hand writing at the request of Judge Campbell;) I got the one I brought here this morning from the table, the judges give it to me; I was with Mr. Oury a few minutes during the last recess; I was with Miguel McKenna when Mr. Oury came up; I was not with Oury alone during the recess; we did not talk with him about my evidence.

Cross examined—I saw the votes counted the night of election, they all had the picture of Cleveland and Hendricks on them; Thomas Mungia testified that he was at the polls nearly all day but did not vote; was registered, but never signed certificate for registration; was 21 years old on the 21st of this month.

Sheriff Paul, recalled—I think the day that they got through counting, Charlie Connell came in to my office and said McDermott is fixing up those ballots and the string is broke and they are flying all over the office, I think he is tight. I went into the Supervisors office and said, Mac you had better seal those up; he first tried half-a-dollar then a dollar, and it did not seem to make an impression, and Mr. Connell went out and brought in one of the Recorder's seals, and he then sealed it with that. I then stated that they ought to be sealed more securely, and suggested Wells Fargo's office, and he said that he was not acquainted there, and I said I was and I would go down with him, and we went down and I got Mr. Groseclose to put on their seal. I suggested that he put them in one of the bank vaults, and McDermott went one way and I came up here, and that is all I know about it. McDermott and Snyder were opposed to me; Judge Meyer was my friend; they were judges of election. Mr. Berger was appointed as a deputy of mine at his request for the purpose of arresting drunken Papago Indians; he was my deputy at the time of the election; he has never done any work in my office, and never claimed any fees. I never touched the ballots in any way.

Court adjourned until to-morrow morning at 10 a. m.

TUESDAY'S SESSION.

Court met pursuant to adjournment Tuesday, December 30, 1884, at ten o'clock a. m.

The Court—I noticed in reading the Star this morning that I was made to say on yesterday that there was no law in this Territory against bribery. I said no such thing; that would be absurd. What I did say was this, that there was no law in this Territory against buying and selling votes. I have no objection to this evidence being published, but it must be done correctly or not at all.

Wm. J. Osborn recalled—I have been for a long time Clerk of the Board of Supervisors. Judge Meyer came into my office with the returns and I gave him a receipt for them, and immediately Mr. McDermott came in with the ballots in his hand, and went to my desk and got some wrapping paper and wrapped them up, and Mr. Connell came in with the wax; they did not make a very good job of it, and I told them to let me melt the wax, as I had some experience; the package was then sealed. Mr. Paul came in about that time and asked Mr. McDermott if he would have any objection to going down to Wells, Fargo & Co.'s and have them sealed there, as an additional security; Mr. McDermott said he had not, and Mr. Paul and McDermott went off together.

Cross-examined—I am not sure whether Mr. McDermott had the ballots in his hand, or had them wrapped up when he brought them in.

W. A. McDermott, recalled—While the clerks were completing the returns I went down town. Judge Meyer, Mr. Snyder and the clerks were there, I came back about 11 o'clock and the judges and clerks signed the tally sheet. Judge Meyer waived his right to take the ballots and told me to do it. I took the box in the office of Judge Osborn, and laid them down and got a sheet of wrapping paper to wrap them. In pulling the string to compress the ballots in the smallest possible space, the string broke, and I thought very easily too. Mr. Connell brought in a stick of green sealing wax and Judge Osborn melted it, and Connell brought in the Recorder's seal and we sealed; when I went away I told George Hand to look after the ballots.

Cross examined—I had been up pretty near all the time the court was in progress. I drank a large drink of whisky when I was out; I felt elated over the success of the ticket; I had not drank any for nearly a year before, but I thought that I could afford to take a drink as I had had my vigil; I was a partisan of Shaw; I only took one drink. There was liquor in the room when we were counting, but I took none; I never saw Mr. Snyder under the influence of liquor; I never saw Judge Meyer drunk.

Chas. Connell, sworn—Am deputy U. S. Marshal; after the votes were counted I happened to step accidentally into the Supervisors office and saw Mr. McDermott trying to tie up the votes; I went down the hall and saw Mr. Paul and I told him to go in and see to the sealing of the ballots, I don't think that I said anything about McDermott's condition, we returned together, and I got some sealing wax and the votes were sealed up; I did not see Mr. Paul touch the package; when McDermott was tying them up I think that Mr. Osborn or myself assisted in holding down the package.

Judge Chas. H. Meyer, sworn—Was inspector of the last election held here, after the count was completed, the tally list was signed by the judges and the clerks, I handed over the tally list and poll list to the clerk of the Board of Supervisors; the ballots were turned over to Mr. McDermott; to the best of my knowledge he put them in the box.

Cross examined—We got through the count beeween 8 or 9 o'clock it took two days and nights; there was no show to tamper the box while it stood there; I completed the papers and handed them to Osborn between 9 and 10 o'clock; I only slept for about two and half hours that morning, the first sleep I had from the time the election started.

George Hand, sworn—I am the janitor of the court house. I was told about 11 o'clock to see that nobody troubled the ballot box; they had completed the count, but had not made the returns; one of the officers of election was there; I don't know who; I walked up and down where the box was; I don't think anybody touched it; if anybody had done so I would have seen them.

Cross-examined—I was watching the box about half an hour; I got my lunch about 12 o'clock; I didn't have anything to do with the election or the box; I just staid there to accommodate them; I was not within ten feet of the box at any time.

Captain Hand gave his testimony with his characteristic elegance and grace, and the most rigid cross-examination failed to swerve him one jot or tittle from the truth, the whole truth and nothing but the truth. The Captain wore a new black hat on his left fore finger, which he twirled jauntily during the entire performance.

Court then took a recess for a few moments to allow consultation on the part of counsel for respondents.

After the recess, Judge Campbell discovered that the contestant desired to introduce another witness and Hilario Patcho was accordingly called and sworn and testified as follows: I live at Tanque Verde; I am the father of Matteo Patcho; I did not vote at the last election either for myself or my son; I passed by the polls; I spoke to Menuel Martinez; I asked if I could vote for my son, and he said for me to wait and he would see; then I went away and did not return.

Contestant closed his case for good.

Respondent calls Ramon Guyago who was sworn and testified as follows; I was at Tanque Verde onthe day of election; I voted.

Judge Anderson—For whom did you vote?

Objected to on the ground that the ballot is intended to be secret, and that the ballots are the best evidence and show for themselves.

The Court—While it may be true in point of fact that the officers of an election were not sworn, yet that does not, ipso facto, where no fraud is shown, render the election null and void. Such may, however, become important where fraud is established, or where the officers have wilfully disobeyed the law or failed in the discharge of their duty, in determining whether or not the box should be thrown out and the poll rejected. If from the returns, or evidence aliunde, it appears that the voice of the electors can be ascertained with reasonable certainty, then the election will not be disturbed. If it is shown that illegal votes were cast, the court will, after purging the poll of such illegal votes, declare who has the majority of the legal votes.

Nicolas Soso, recalled—I voted at Tanque Verde on the day of election.

Juan Tomas Romero, sworn—I was at Tanque Verde at the day of election and voted.

Cross examined—I live on the river at Camp Lowell, about three leagues from Tanque Verde; I don't exactly remember the time I went to the election but I think that it was about 10 o'clock; I went alone; I voted as soon as I got there; I went away soon after I voted; went to get breakfast; where I got breakfast was about one or two hundred yards from the poles; I went home very late; I didn't go anywhere else during the day; I went home.

Bruno Lara, sworn—I voted at Tanque Verde on the day of election.

I was born in Senora; I am 28 years old; I have been naturalized here, about six years ago; I live at Tanque Verde; I keep a little ranch.

Ygnacio De La Cuse, sworn—I voted at Tanque Verde on the last election.

Santiago Moreno, sworn—I voted at the election held at Tanque Verde last election.

Gaudalupe Martinez, sworn—I voted at the election held in Tanque Verde.

Juan Martinez, sworn and testified that he voted at the last election held at Tanque Verde.

Court takes a recess until 2 p. m.

TUESDAY AFTERNOON'S SESSION.

It was stipulated that the statement of illegal votes alleged to have been cast for Paul at Quijotoa in the amended answer be stricken out.

Counsel for contestant moved to strike out sections 9 and 10 of the amended answer on the grounds that the names of the bribed voters are not mentioned and as being too general.

The Court—I think that the allegation is entirely too general. I don't think that it is necessary that the names should be specified, but I think that the allegation should be so specifically stated as to enable to contestor or contestant to defend himself. For instance, if it should state that at a certain time and place the contestant was seen to give to a certain person money, and so on, and definitely state that at that time he gave him a ticket, and that he voted this ticket, I think that would be specific enough to put the contestant on his defense.

Leave asked by counsel to make the proposed amendment.

Clemente Lopez was sworn, and testified that he voted at the election held at Tanque Verde last November.

Cross-examined—I did nothing when I voted; I had a paper; I put it in the box; I put it in the box myself I gave it to a man before it went into the box; I gave it to Emilio Carrillo at the table of the election; I did not see Mr. Oury that day, nor Mr. Shibell; Carrillo gave the ticket back to me, and I put in the box with my own hand.

Francisco Mongia sworn—I voted at the last election in Tanque Verde.

Wm. Oury sworn—I live at Tanque Verde; I was appointed inspector of election there; I didn't feel like being there and I called together a number of the people and instructed them as well as I could what to do, and I came away. I told them that after they got through with everything, if they were in any doubt about the papers to leave them until I came, and when I went out there I found that the board was not complete; they had not sworn each other in as I had instructed them to, and the papers were incomplete.

Cross examined—I instructed them a couple of days before election; I instructed them particularly about appointing judges, if the board was incomplete; I think it was Sozo Gigago and Campa; I recommended Sozo as inspector and Emilso Carrillo as judge; the other judge, Martinez, was appointed by the Board of Supervisors. I recommended Campas and Gigago for clerks; I recommended no one to fill the vacancy when they told me that the board was not complete; I saw some of the papers in other people's hands; I don't know as I saw the tally list; I saw the poll list; I cannot tell what condition the tally list was in, as I don't know as I saw it; I did not ask them if their papers were ready to send; I enquired of them what they had done, and they told me that they had counted the votes; I was told that the papers were not made out properly; Charley Shibell was there; Kresham had gone out there; I did not enquire on what busines Shibell and Kresham had there; I was busy looking after some calves; I did promise them that I would see their papers were all right; I told them that if they did not know what papers to send forward and what to keep I would tell them; I asked them how many votes there were and they told me there were 17; I did not ask them who they were for; I don't recollect what day of the week I went out; it was the day that the count was finished; I had not heard from all of the precincts in which elections were held; I don't think I was present when the vote was counted; I saw Campas writing; Kresham was standing up; I went into the house for some calomel; I am a warm partisan of Mr. Shaw, and am yet; I was satisfied what ballots were cast, were cast against Mr. Paul and that is why I paid no attention to it, I never touched the ballots; I never stated that Mr. Paul would get two of the votes there; on the contrary I said I was satisfied that what votes were cast there would be cast against Mr. Paul, as I had talked with all my neighbors and they told me that they would vote against Mr. Paul; I came back with Kresham; it was after dark when we started; my family lives in Tanque Verde; I don't know what business Shibell and Kresham had out there; I wanted to go out and they took me out; I don't know whether Shibell Kresham took any part in the counting or not; they stopped at my house, where I live; it is not the house that the election was held in.

Dr. Hart, sworn:—I live at San Xavier; I was there on the day of last election; I was an officer of the election; I was one of the judges; I was present at the counting of the votes; I did not read the votes, nor count them; I was looking at the clerks to see that they tallied correctly; they did so, I am satisfied that they kept it correct; I kept a tally of the number of voters; I signed the returns; am satisfied that they were correct.

Cross examined—Phillip Drachman read the names on the ballots; Charles Kresham was one of the clerks, the other one I never met before; Chas. Shibell was there in the morning and he was there during the day; he took no part in the counting; I saw him putting down marks opposite names, I should judge for his own use; I remember that Berger said let us go slow, that we make no mistake, even if it takes us longer; there were 40 votes polled at San Xavier; I only know of Mr. Berger and myself that live there that can read and write in the English language; I don't remember of any corrections made by any of the clerks.

Redirect—There was a gentleman who came to vote and there was a question raised as to his voting; he was a Mexican; the question was as to his being a citizen and as to that being his name; he claimed that was his name and we decided to let him vote and if that was not his name that was a matter to look into in the future. Mr. Berger made the objection; I don't know the man's name.

Phillip Drachman, sworn—I was one of the election judges at San Xavier; I was present during the counting of the votes; I called them out; I read most of them off; I read them correctly, just as they were put on the tickets.

Cross-examination—I came into the court room first on Saturday morning; I live here now; I lived at San Xavier a little while last summer; I have had no conversation with Shaw or either one of his counsel about being a witness in this case. The first I knew about being a witness was when Mr. Berger gave his testimony; I offered myself as a witness I knew Saturday that I would be a witness; I read off the votes and I am positively sure that I did not make any mistake, we had a kerosene lamp; I have been in court all day yesterday and today tending this trial; I am a friend of Mr. Shaw, as I was not subpoened; I did not consider that I was to be excluded from the court room.

B. Hefti, sworn—I know Mr. Berger; he took a man with him out to his residence the day after election; he took Sam Kelly out there.

Cross-examined—Sam Kelly is a carpenter building a school house out at San Xavier; I did not go out with them; I know he went out with Mr. Berger, for they went out together; I don't know whether Sam Kelly ever saw Berger's house or not.

A. P. Bumbaugh, sworn—I am a painter; I live in Tucson; I was in San Xavier on the day of election, and kept a list on my sleeve of Hilzinger and Shaw; I saw all of the votes but three or four.

Judge Anderson—How many votes did Shaw get according to your list?

Objected to, as witness is not qualified to know.

The Court—Go on and state.

Witness—There were 24 for Mr. Shaw and there were over 20 for Mr. Hilzinger.

Cross-examined—I remember hearing them talking about throwing out San Xavier precinct a day or two after the election, and that is why I remembered about Shaw so well. I lived at San Xavier at the time, and voted there. I am willing to swear that I saw Shaw's name on every ticket that Drachman read his name from.

Examined by the Court—I am a painter and have lived here several years. I had a house out at San Xavier on a piece of land, and I resided there at the time of the election.

Robert Potthoff, sworn—I have been out at San Xavier frequently. I know Berger's house; there are three rooms and a porch; I have been there pretty frequently; every time I went there I have seen company; I used to go all through his rooms, in his kitchen and his bedroom; I don't know about other company.

Court here took a recess until 7 p. m.

EVENING SESSION.

Charles Kresham, sworn—I reside in Tucson; I was in San Xavier on election day; I was clerk; I kept one of the tally lists; (witness identifies tally list;) I took down the names as they were called; I kept the tally list correctly; there was no controversy raised as to its correctness; there was one vote challenged—Manuel Varela; Mr. Berger objected and said that was not the name he knew him by; he said he knew him by the name of Luce; the man stepped back and showed Berger his ticket, and Berger said that is all right, I saw the ticket; it was a Republican ticket; Silas Waters came down to vote and Mr. Berger took his ballot and opened it and waters jumped and caught him by the hand and cursed him; Mr. Berger told me that he received a certain amount of money to vote a certain way and he was very anxious to see whether he did or not.

Cross examined—I live in Tucson; I was in Drachman's store, and I expressed a desire to get out of town and I was informed that I could be appointed to San Xavier; Shibell went out with me; I voted out there; I lived in Santa Fe, N. M., before I came here; I don't know any man by the name of Manuel Varela; Dr. Hart and Mr. Drachman were present; I called no one's attention to it at that time; I first spoke of it when I heard that San Xavier was to be contested; I don't know whether Silas Waters has been subpoened or not; I have not seen Varela since the election; I don't know whose name was on that ticket for sheriff, that Varela exhibited to Berger; at the time that Berger opened Waters' ticket, all the judges saw it; it created quite a little stir at the time.

Recorder Drake sworn, and produced the registration of W. F. Scott.

W. F. Scott, sworn—I reside in Tucson; I am Justice of the Peace; I acted as registering officer last summer and fall; I am Justice of the Peace now; am also guard at the jail.

Judge Anderson—Did you at any time last summer give out any blank affidavits for registration?

Court—What is the object of the testimony?

Judge Anderson—We propose to show that this officer, at the request of certain parties, sent a batch of blank affidavits, and they were filled out and returned to Mr. Scott, and were placed on the great register and voted.

Objected to on the grounds that an official record cannot be attacked or disputed by parole testimony.

After argument the Court expressed grave doubts in regard to the matter and desired further light on that subject, but allowed the affidavits to be inquired into on the ground that they were claimed to have been forged—all of the names on some ten or fifteen of them were written in the same handwriting.

Court—I want authorities from counsel in support of their position. There is one question I would like to have cleared up to-night, if possible, and that is this question of handwriting, whether they are all written by the same person or not.

C. M. Strauss, sworn:—As an expert on the subject of hand-writing.—I have been keeping books, handling books under my charge, and banking business; I have had a great deal of experience in the banking business; for four years, I was cashier in a bank in Boston; we had no teller, I acted as teller; I regard myself as an expert in hand-writing; certificates 1770, 1729, 1727, 1726 are all signed by some person in a disguised hand; 1726 and 1727, I believe both signatures were made by the same man; the signature in 1765 was evidently made by the same man that wrote the body of 1727; the signature to 1754 I think was made by the same party that made the signature to 1726; I won't be so positive in regard to that one; 1771, 1755 and 1762 I should think were signed at a different time and place from that in which the body of the blank was filled out. In speaking of the signatures I mean the signatures of the affiant; 1767 is also a disguised hand; 1773, 1761 and 1757, the signatures were made at a different time and place from the body of the affidavit; 1721 is written with an indelible pencil, but the same man that signed Wm. F. Scott, Justice of the Peace, signed the name, the name is George P. Howe.

Cross examined—1754 is the one that I am not positive of. The reason I think 1726 and 1727 is signed by the same party is because the "Mc" of the heading of one is the same as in the other; sometimes I sign my name C. M. Strauss and sometimes Chas. M. Strauss. There is a peculiarity attached to every man's writing, that shows itself all through his writing.

W. W. Booth, called by contestant, sworn—I am clerk in the office of the superintendent of the railroad at Tucson; Mr. Booth testified that all of the signatures on the certificates of registration were written by the parties whose names appear thereon, except two, whose signatures he is not acquainted with.

Cross examined—My jurisdiction extends from Yuma to El Paso; I have known James McVey about a year, I think; I have some papers signed by James McVey at the office; I know Francis Griffith; I have seen him write; I think he is here now; I think I have a paper with his signature on it; I have not seen Claybourn W. Barker's more than three times; we have no signature of his in the office to my knowledge; the reason we haven't his and have the rest is because I think he was a clerk in the office.

The writing in the body of 1728 and 1729 is in my hand writing. I will swear that the signature in 1726 is that of James McVey; the writing in the body of the instrument is in my hand writing; I saw Mr. McVey sign his name to the certificate; I think he is town now.

Witness was requested to bring the signatures of the parties whose names are signed to the certificates.

The court took a recess for fifteen minutes, and upon learning that counsel thought the case could not be brought to a close before midnight on Wednesday, ordered that the session last throughout the entire night in order to expedite matters.

NIGHT SESSION.

Fred Hamill, sworn—I have been living in Tucson four years next January; I was here on the day of election; I know Angelo Testa, Peter Dazell, Jeanne Tausad and Peter Hense; I saw them here on the day of election, on the corner of court street; I saw them in the court house at the second door, on the left hand door, coming in at the west door; I saw some in the door and some on the outside; I tried to get into the court house but a man stopped me; he was about 35 or 40 years old, he had a mustache; the men stayed there about 15 or 20 minutes, and they came out and said they were going to vote, they went over to the polls; there were five I think came out; that was about half past three o'clock; they did not show me any money at the time they came out.

Examined by the Court—It was the outer door that I tried to go in at; the door was open; I told the guard that I wanted to see one of the men in there and he told me I had to wait.

Senor Manuel Vasavilbaso, sworn—I was here on the day of election; I know Arcadio Castro by sight; I saw him on the day of election; I saw Horace Appel give him two dollars; I did hear anything; I don't know what was done.

W. W. Booth recalled—I could not find any of those papers; I have not got any signatures of any of any of these parties; I am certain the signatures were at the office; I don't know where they have been sent. They were in Mr. Muir's charge; I am his clerk and private secretary; these papers properly belong in the blank case; I have access to that case and they are not there; the railroad keeps the signatures of all its employees there; I have not got access to Mr. Muir's desk; we keep a specimen signature of all of the employees on the road; I don't know where they are; I did not look in Mr. Muir's office; the blank case is in my office; I could get into his office by his permission; I have seen Mr. Muir, and he says there are none there; the reports have been sent in, but if the court desired it he would telegraph and have them sent; that he would telegraph to have each man send in his signature. I did not ask Mr. Muir for the list of signatures. I showed him the list, and he said tell the Court that he would telegraph for the signatures; I did not make any search for the signatures.

In answer to the Court—I last saw those specimen signatures within six days; I think I saw them on Thursday or Friday in the case in the office occupied by me; I don't know how they came to be taken from that case; I first discovered that they were gone when I looked to-night; any one could have access to my office; the inside door is unlocked; the outside door is locked; the case is not locked.

Cross-examined—The dispatcher's office is unlocked, and any one can go from the dispatcher's office any hour at night; there is a door going from my office into the hall.

Redirect—It has been the custom for three or four years to keep those specimen signatures, and they have always been there, but to-night they are missing.

Re-cross-examined—They are the private records of the men for the use of the company; I do not think it would be right to bring those records without speaking to Mr. Muir.

Jerome Poset, sworn:—I reside on