

and opened and held an election according to law in said precinct; and there has been forwarded to the Commission, and placed before this Board, two sets of returns from Box Elder Precinct, both of which, so far as they appear upon their face, are perfectly regular.

Of course, this Board, sitting as a board of canvassers, are necessarily compelled, in each and every instance, as a primal question, to settle what are the returns that they are called upon to canvass. In the very nature of things, the power to decide upon the validity and legality of the returns, so far as to decide who were the judges of election who were authorized by law to hold said election, devolved upon this board; and this decision in every instance must be made before any canvass can commence. This board, sitting here under authority of law, is bound to take notice of the powers of the Utah Commission to appoint the officers of election, for it is one specially conferred by act of Congress. They are likewise bound to take notice of the officers so appointed by the Commission. It can hardly be disputed that the power to appoint, where nothing to the contrary is said in the law conferring the power, must necessarily carry with it the power to remove, or re-appoint or to appoint others and different persons. In this case, the Utah Commission have seen proper to exercise the power vested in them to revoke their appointment, and to make another appointment. The other, and last appointment, made by them, of election officers for Box Elder Precinct, were Lucius A. Snow, Brigham Wright, and Alfonso H. Snow. These officers have certified to the Utah Commission a return of their conduct in holding the election as Judges of Box Elder Precinct, and the return has been placed before this canvassing board; and upon its face it may be said it is fair and legal, without any discrepancy or irregularity. And in my opinion there is nothing left for this Board to do but to canvass that as a legal return from such precinct, and to count the vote accordingly.

Whether the Utah Commission have correctly performed their duty, or whether the election in said precinct was irregularly held, or whether persons voted who had no right to vote, are all questions with which this board has naught to do; and it only remains for us, as in other cases, to accept the result certified here by the proper officers, and to count it accordingly.

It is argued that both of these returns are illegal, and ought to be thrown out.

In the first place, to accept such a result as that would be, in my opinion, under the authorities which I have consulted to entirely avoid the election in that County, and leave the people without having accomplished any result by their election in August, and the result of this would be to put the county government in a state of demoralization, if not anarchy—a result which, by all means, in every instance, must be avoided, if it can be done by any legal intendment.

So far as the contest from Weber county is concerned, it is, in substance, that votes cast for one candidate were counted for another. There is no complaint here that the returns upon their face are irregular, or that there is any discrepancy therein; but it is alleged that the ballot box will show that votes were cast for Mr. Hamer for county recorder which were, as a matter of fact, counted for Mr. Tyler for the same office.

It may be a subject for regret that, if the facts be as alleged, this board have not the power conferred upon it by law to send for the ballot box and re-count such votes; but I have conclusively shown that in no event can they send for the ballot box, unless there appear upon the face of the returns such discrepancies or irregularities as will prevent the intelligible canvass of the returns. And since it is not alleged that any irregularity or discrepancy appears upon the face of the returns, the board simply does its duty by canvassing the returns as made.

If the contention of Mr. Hamer be true, a great wrong has been done to him, and the judges of election are little less than criminals; and, fortunately for good order and the well-being of society, our laws provide means whereby Mr. Hamer cannot only have his wrong righted, but guilty parties punished.

Chairman Sells then announced the following as the decision of the board of canvassers, upon the questions at issue:

- 1.—The return includes tally sheet and abstract.
- 2.—J. H. Rumel, Jr., is not J. H. Rumel; and that H. Page and Henry Page is the same person; that where there are discrepancies, it is the duty of the canvassing board to examine the ballot box.
- 3.—That in the case of Gallagher and Toronto, the discrepancy justifies an examination of the ballot box.
- 4.—The case from Weber County, from Bingham precinct and South Cottonwood, the returns will govern.
- 5.—In the Box Elder case the returns from the judges last appointed by the Utah Commission are held to be the legal returns.
- 6.—That no further arguments will be heard upon questions that have been discussed.

The vote on conclusions 1, 2 and 3 was three to two, Judge Judd, Mr. Riter and Judge Smith voting in the affirmative, and Col. Sells and Mr. Anderson in the negative. On the remaining three conclusions the vote was unanimous.

About an hour later, Judge Loofborough made a formal demand upon the board to count the returns, as they are shown on the face, in the first poll, First precinct, for J. H. Rumel and J. H. Rumel Jr.

Chairman Sells—The board have decided not to do that.

Judge Loofborough retired to continue in the labors of the "Liberal" attorneys to get an order of court to compel the board to accede to their request.

On motion of Judge Smith, the board then took up the returns from Box Elder precinct (Brigham City), and canvassed it according to the decision. This made the result as follows in

BOX ELDER COUNTY.

Collector—Jonah Mathias 624; H. Standing 466.
Selectman—R. H. Beatty 628; Ed. E. Spencer 454; scattering 7.
Selectman—John D. Peters 625; L. M. Hopson 465; scattering 1.
Assessor—David P. Burt 626; W. H. Booth, Jr., 456; scattering 3.
Prosecuting Attorney—Nels Jensen 626; J. M. Coombs 461; scattering 2.
Coroner—C. H. Davidson 622; H. S. Angell 467; scattering 1.
Recorder—John Burrows 623; A. W. Davis 468; scattering 1.
Sheriff—C. C. Loveland 685; W. L. Murphy 402; scattering 3.
Surveyor—N. P. Anderson 621; James Murphy 469.
Treasurer—O. G. Snow 625; L. W. Pavey 464; scattering 2.
This vote elects the entire People's ticket. The other counties canvassed by the board are as follows:

PIUTE COUNTY.

Selectman—O. M. Maxwell 165; John H. Fulmer 123; scattering 3.
County Clerk—C. P. Barentson 167; John Morrell 126.
Assessor and Collector—R. A. Allen 189; M. W. Mansfield 103.
Prosecuting Attorney—M. W. Mansfield 174; O. M. Maxwell 101; scattering 7.
Coroner—C. A. Brown 183.
Recorder—W. A. Black 293; scattering 1.
Sheriff—S. Johnson 188; Charles Morrell 102.
Surveyor—T. E. King 292.
Treasurer—John Morrill 175; David W. Stoker 112; scattering 2.

RICH COUNTY.

Selectman—Ira Nebeker 140; Ephraim McMilln 47; scattering 1.
County Clerk—John M. Baxter 144; George B. Galbraith 42; scattering 2.
Assessor and Collector—Alfred W. Nebeker 125; Wm. Moffatt 58; scattering 1.
Prosecuting Attorney—Aquila Nebeker 136; James Brown 47; scattering 1.
Coroner—Joseph H. Neville 108; scattering 1.
Recorder—John Snowball 144; John W. Binsley 44.
Surveyor—Jas. W. Fackrell 147; Jared Lutz 40.
Sheriff—Wm. Simpson 136; John Johnston 37; scattering 1.
Treasurer—Robt. McKinnon 141; Thomas Wilson 44; scattering 1.

SAN JUAN COUNTY.

Selectman—J. B. Decker 13; C. E. Walton 11.
County Clerk—Peter Allen 21.
Assessor and Collector—G. A. Adams 13; F. B. Hammond 11.
Prosecuting Attorney—A. P. Sorenson 24.
Recorder—A. P. Sorenson 24.
Sheriff—Wm. E. Hyde 24.
Surveyor—Peter Allen 24.
Treasurer—J. B. Decker 12; A. P. Sorenson 9; J. Barton 3.

SANPETE COUNTY.

Commissioner to Locate University Lands—F. A. Mitchell 504; I. M. Waddell 50; R. A. Ballantyne 504.
Collector—Nathan Frank 1060;