

TRIAL OF W. J. ALLEN.

The case of W. J. Allen, the famous foot racer, ex-pugilist, bartender, alleged ballot box stuffer, and all-round sport of many *aliases*, was called up before Judge Anderson shortly before noon Monday, April 6th.

Assistant United States Prosecuting Attorney Varian appeared for the People and Judge Powers and Attorney Dickson for the defendant.

Allen is accused in the indictment of the crime of felony, alleged to have been committed on the 14th day of July, 1890, while acting as presiding judge at Poll No. 2, in the Fourth Election Precinct, at the Salt Lake City school election, by fraudulently, feloniously and unlawfully introducing a certain number of false and illegal votes into the ballot box.

The following jurors were sworn, examined and accepted: John Purcell, Erastus Sorenson, J. J. Daly, N. Hodgman, J. A. Heiss, A. J. Pendleton, jr., John G. Mitchell, J. C. Murphy, H. P. Johnson, Solomon S. Dickinson, Louis Martin.

Other jurors were challenged and excused for having formed an unqualified opinion as to the guilt or innocence of the defendant and for various other pretexts, which in the opinion of the counsel for either side, were sufficient grounds for disqualification.

The list of the names of the jurors present had now been exhausted, and an adjournment was taken until 2 o'clock, when the work of choosing another juror (there being only one more required) was proceeded with.

Considerable difficulty was experienced in securing a jury in the Allen case, and it was after 4 o'clock when the twelve were finally accepted. They are as follow: S. S. Dickenson, J. C. Murphy, N. Hodgman, Erastus Swenson, J. A. Heiss, A. J. Pendleton, Jr., Louis Martin, J. N. Purdell, J. J. Daly, J. C. Mitchell, H. P. Johnson and John Heil.

The defense admitted that Allen was the duly qualified and acting judge of election at the Fourth precinct on the day named, and the prosecution opened by calling Judge Hoge, who testified that he was a judge of election at poll 1, Fourth precinct, during the election in question, but did not go into the room where Allen was officiating and knew nothing about his conduct there.

Captain Greenman said he was appointed to act as presiding judge at the Fourth precinct for the school election held in July last, but sent in his resignation before the election was held.

H. S. McCallum—I was chairman of the "Liberal" county committee in July last, and recommended all the judges of election for appointment.

George E. Blair said he was acting as checker in poll 2 in the Fourth precinct at the election in question. In the morning he examined the ballots of the two parties and found that there was quite a difference between them. When the envelopes were held up to the light, continued the witness, I was able to distinguish the People's ticket from the "Liberal." In the morning I saw Mr. Puzey come to the window and offer his ballot. Mr. Griswold challenged his vote and Allen laid Puzey's ballot by some on the table. When the challenge was overruled, Allen picked up another ticket and put

it in the box. From its appearance, I think it was a "Liberal" ticket that he deposited. I saw Allen make similar substitutions in two other instances. I called Mr. Jacobs' attention to the matter, he being the challenger for the People's party. I cannot say that there were more than six challenges exercised by the Liberals at this poll while I was there.

Attorney Dickson cross-examined the witness at considerable length, and the court then adjourned.

The trial was resumed before Judge Anderson at ten o'clock April 7th, there being quite a large number of persons present. The defendant was seated near his counsel (Judge Powers and Attorney Dickson) and appeared to be much interested in what went on. He now and then indulged in a smile of satisfaction while the questioning of the witnesses by Mr. Dickson was in progress, notably while R. D. Winters was on the stand smarting under the heavy fire of cross-examination.

Mr. F. B. Stephens, representing the United States District Attorney, again conducted the case for the prosecution.

The first witness was B. F. Thornburg, who said he voted at Poll No. 2 at the last school election. His ballot was taken by Allen, the defendant, who had an envelope in his right hand like the one witness gave him. He took witness' ballot with his left hand. He could swear that defendant did not put his ballot in the box.

Cross-examined by Mr. Dickson: Allen was a stranger to him and did not know his politics, so far as he was aware. Nothing was said by witness at the poll as to the ticket he was voting. When he gave Allen his name and ballot the latter held the envelope up to the light. He did not remain behind to see whether Allen afterwards placed his ballot in the box. He could not say whether or not the envelope which defendant held in his right hand had been presented by any voter immediately preceding him. Although witness had a suspicion that the defendant was not acting honestly, he did not want to see what he did with his ballot. After walking a few steps away, however, he returned and looked in at the window, with the intention of seeing if there was anything wrong. Witness was a member of the People's party at the time of the election. He did not say anything on his return to the window, nor ask what had been done with his ballot; but the presiding judge (Allen) looked puzzled. [Laughter.]

Mr. Stephens was about to ask the witness if after leaving the poll he complained to anyone, but the question was objected to by the defense and sustained.

David L. Murdock said that at the July school election he acted as judge at Poll No. 1. It was not the custom at previous elections to have envelopes lying around the ballot-box. On the morning of the election, before Poll No. 2 was opened, Allen went there and proceeded to make arrangements. He had no conversation with the defendant. Allen adjusted the table so that the voters would pass in their ballots through the window.

Richard W. Young stated that he voted at the Twentieth Ward schoolhouse (Poll No. 2) at the

last school election. During the day he was in the room where the ballots were received, and observed a pile of envelopes by the table. He stood between the ballot box and the window, and could easily detect the difference between the People's party ballots and those of the Liberal party as they were handed in at the window. The light was strong, and this enabled him to see the ballots through the envelope the more clearly. The ballot of the one party was folded the full width of the envelope and the other only partially. The People's party ticket was folded once before being placed in the envelope and the ballot of the Liberal party twice, of those which he examined. (The witness with an envelope and ticket neatly illustrated this to the court.)

Cross-examined: He was in the room at which the polling took place twice that day—for about ten minutes on each occasion. He was a candidate at this election and consequently to some extent interested in what was going forward.

Some amusement was caused when Mr. Young, after leaving the stand, was immediately afterwards recalled by the defense and folded ballot papers within envelopes were experimented with, in order to test the witness upon his previous statements. He came out of the "ordeal" with flying colors.

Mr. Murdock was also recalled upon the folding of the ballot papers.

Mr. Stephens said he desired to offer an abstract of the votes for the purpose of showing the number of ballots cast, and signed by Allen, Henry Ball and Marcellus S. Woolley. After a conversation, however, between the Court and counsel, Mr. Stephens remarked, "It shows there was a mighty close election up there. If that is admitted we do not care to put this in." He darkly hinted that it was pretty well known beforehand how things would go.

Judge Powers and Attorney Dickson rose together and stoutly protested against such an observation by counsel for the prosecution.

Mr. Stephens became somewhat excited, but the breeze soon blew over without retraction or repetition of the statement.

With the calling of R. D. Winters, attorney, the fun really began. He said he was a voter in No. 2 precinct, and was inside the room during the day of the election in question. Defendant invariably took the ballot from the voter with his left hand while having another envelope in his right, which was "invariably" resting on the end of the ballot box. He saw him change some ballots in the afternoon.

Cross-examined—So far as Allen was concerned, he did not see him do anything wrong in the morning. In the afternoon he went to the polling station again. It had been talked about all day that Allen was exchanging the ballots, and witness on the second occasion went to watch. During the afternoon he plainly saw him exchange two ballots handed in by voters.

Mr. Dickson—Did you make any complaint as to what you had seen?

Witness answered in the negative.

Mr. Dickson—Didn't you as an honest man, being also a member of the bar of this Court, having seen what you did, conceive it to be your duty