counted in its presence, and the returns corrected, and the true vote of petitioner and said Tyler at said election ascertained and determined; or for such order as in the premises may be lawful.

DANIEL HAMER, Petitioner.

August 14, 1890.

Mr. Hiles then read an objection to counting the votes of the second precinct of Ogden, because there was one unauthorized poll. The objection was made by the Peope's candidates on the Weber County ticket, and it was urged that but one poll, that authorized by law, could be counted.

Col. Ferguson interrupted Mr. Hiles here, and asked that the board give a decision upon the issue between Messrs. Toronto and Gallagher, about an error of six votes in a tally sheet, by which a tie was made between the two. He understood that Judge Judd had made up his mind, and the decision was practically made.

Judge Judd—I beg your pardon, but I have done no such thing. I have made no such expression.

Col. Ferguson—Not officially, but privately.

Judge Judd—No, not in any way. My mind is not made up on the questions.

Judge Powers—We want to take steps to preserve Mr. Gallagher's rights.

Judge Judd—This board will not adjourn so as to deprive any one of his rights.

Mr. Hiles resumed his remarks and urged that Mr. Hamer's application should be grauted, as it was in the interest of a fair count.

Ransford Smith appeared in regard to the second objection filed by Mr. Hiles, and suggested that the board could not consider it. As no argument had been made in support of it, he would not take up the time of the board by making an argument against it.

A. R. Haywood took up the other proposition. He said the ticket was made up to deceive, by placing the name of one People's Party candidate on a "Liberal" ticket. The ballots were of different size, however, and the judges could not be deceived by them. He therefore thought that the board could not take up the subject.

L. R. Rogers asked the board if a decision would be arrived at in the Weber County cases before the day's session of the board closed, and was answered in the negative.

Weber County having got through, Arthur Brown resumed his argument. He urged that it was not the abstract of votes, but the tally sheets that the law designated as lists. This was shown by the provision that two lists should be kept, and be compared before being certified to. The judges of election should certify the poll lists, with a record of the votes thereon, not an abstract of votes. Then all the lists, the poll list, the clerks' list or tally sheets, and all others must be forwarded to the Commission. Thus the whole became the authenticated returns. The abstract should be on the poll book according to the law. These returns had not complied with the law, but the votes should not be cast out because of dereliction on the part of some one. The statute had not provided for an abstract of the votes, yet the attorneys for the opposition here had urged that it be accepted in place of the legal return. Who is responsible for the returns being made in this unlawful way is not the question? The blanks were sent out by the Commission, and returned by the judges. The poll lists were in the ballot boxes, and had not yet been presented to the board, so that all the returns were not in. The board, however, had the tally sheets, or clerks' lists, as authorized by law, and the abstract of votes, unauthorized, before them. He asked them to take the list provided by law; the other side asked that the unauthorized abstract be taken. What should the board do? If they can be made to go together it should be done. If one must be rejected, it must be the abstract There was another instance, in Bluff Dale precinct, where it was shown that one ballot was counted for no one. It was apparent that if it was counted, it would give Mr. Toronto one majority on the count as it now stood.

As to No. 3 poll, Bingham precinct, Mr. Brown asked that the return there be thrown out, because the proceedings there were so tarnished by fraud as to make the election returns from that poll utterly unreliable. He submitted the following written objection:

SALT LAKE CITY, Aug. 14, 1890.

To the Hon. Utah Commission, and to the Board of Canvassers for the county election of 1890.

Gentlemen—In behalf of John H. Rumel and other candidates upon the People's ticket and upon the Independent Workingmen's ticket, I challenge the vote of the third Poll of Bingham precinct, Salt Lake County, and ask that the same may be excluded entirely from the count, for the reason that the judges of election who presided there fraudulently and intentionally stuffed the ballot with votes which they knew had no right to be cast at that precinct. That in a total vote of forty-one there were thirteen votes and over of persons who were not residents of Bingham precinct, and who were not there. That the said thirteen voters were known to the said judges of election, and that, by their connivance and fraud, votes were put in for the said persons who were absent from the precinct, and the entire poll was tarnished by fraud, neglect and improper conduct on the part of the judges and officers of election. That there was no judge there representing the minority party at all, and no opportunity to make any challenge or objection to those fraudulent votes being added, which was done by the judges themselves or by their connivance; and I ask leave to produce sworn witnesses to the truth of these allegations.

ARTHUR BROWN,

Attorney for John H. Rumel, and others.

As to the South Cottonwood precinct, where the names of sixteen voters had been unlawfully stricken from the registration list, and where the voters had offered, and been refused the right, to cast their ballots, Mr. Brown urged that those votes should be counted. The voters had performed all that they could, and were unlawfully excluded. Their votes should be included in some way, but whether by this board or by a court he would not express any opinion.

Reverting to the Rumel case, he said that if such a rule was to be followed as that claimed by Col. Page's attorneys, it would open the door to unlimited fraud on the part of the judges of election.

The arguments being closed, the board of canvassers went into secret session, which continued till adjourning time. The board then adjourned till Saturday, August 23rd, at 10 a.m.

Ten o'clock August 23rd, was the hour to which the Territorial board of canvassers adjourned, and at that time they held a private session. At its close the doors were thrown open, and attorneys, candidates and spectators were admitted.

Chairman Sells said Judge Judd had prepared a paper which he desired to read, after which he (Col. Sells) would render the decision of the board of canvassers on the other points raised.

Judge Judd then read the following:

BEFORE THE BOARD OF CANVASSERS OF UTAH TERRITORY.

In the matter of the canvass of the vote of Salt Lake, Weber and Box Elder Counties.

Opinion of J. W. Judd.

The 9th section of the Act of Congress, approved March 22, 1882, commonly called the Edmunds Law, provides:

"That all the registration and election officers of every description in the Territory of Utah are hereby declared vacant, and each and every duty relating to the registration of voters, the conduct of elections, the receiving or rejection of votes, and the canvassing and returning of the same, and the issuing of certificates or other evidence of election in said Territory, shall.....be performed under the existing laws of the United States and of the said Territory, by proper persons who shall be appointed to execute such offices and perform such duties by a board of five persons to be appointed by the President."

The five persons mentioned, to be appointed by the President compose what is known as the Utah Commission.

The Act passed by the Legislature of the Territory of Utah, February 22, 1878, is the law regulating the holding of elections in this Territory; and under that act, the duties which were by its terms devolved upon the officers therein named, are devolved upon the persons to be appointed under the Act of Congress by the Utah Commission; so that it will be seen that the only effect of the Act of Congress was to alter the mode of appointments of the persons who were to perform the duties under the