

who are willing to investigate our principles, and we are in hopes that the good seeds that are being sown will take root and bring forth much fruit. We have seven members and we expect to see a branch organized here in the near future.

Ever praying for the welfare of Zion,  
we remain, yours,

JOSHUA H. COOK,  
HENRY L. McMULLIN.

### THE COMMISSION ON FRAUD.

There was considerable of a sensation in the Third district court Wednesday afternoon, upon a statement there presented by Judge O. W. Powers, as counsel for the Utah Commission, in which it is practically admitted that they are convinced that there has been fraud committed in connection with the Sanpete county ballot box cases. The statement by Judge Powers as follows:

#### *May it Please the Court:*

Notwithstanding any evidence that has been introduced in this case, notwithstanding any insinuations or charges made by counsel in the heat of argument, colored by partisan bias, it is a fact supported by the testimony that our clients, the members of the Utah Commission, have acted honestly and in perfect good faith.

They have desired in this investigation not only that the truth be developed, but also that the statute under which they act be construed by the court and their powers defined. From the very inception of the canvass for delegates to the Constitutional Convention, they have acted with caution and circumspection and with a keen appreciation of their oaths of office and the trust which they have been called upon to execute. They called before them lawyers, both Republicans and Democrats, and took their advice before they took any steps to refer to the votes in the ballot boxes for the purpose of determining the results of the election in Sanpete county, or elsewhere. It was the unanimous opinion of their legal advisers, without regard to politics, that under our statute the election returns consist of the registry list with the word "voted" marked opposite the voter's name; the poll list kept on the day of election and the tally sheets in duplicate as made up when the votes are counted. They were also advised that when there were discrepancies between these books and lists which might affect the result of the election, that it became the duty of the Commission to resort to the ballot boxes and determine the true result from this ultimate authority.

They had confidence in the men who advised them, and when the returns of Sanpete county were reached there were found discrepancies, which seemed to render it imperative that they open the ballot boxes. They did not act hastily. They took no snap judgment. Had they desired to do so, they could have issued the election certificates before any action could have been taken in court. But they proceeded with the deliberation which benefits so grave a duty.

It is in evidence here, and it is the fact and I am authorized by my clients to so state, that they had no evidence

and no suspicion even that there was probability or even a possibility that the returns from Sanpete county were tainted in any degree. They have listened attentively to the testimony here given and they state upon honor, that if such testimony had been before them, or that they had any suspicion that the returns had been tampered with, they would never have gone beyond the tally sheets but would have cast up and certified the result as there appears.

The Commission had agreed with Judge Jacob Johnson, of Sanpete county, the chairman of the Republican committee for that county, that the board would visit that county and hear testimony prior to declaring the result of the election in that county. These proceedings in court prevented such a course.

They are confident that no member of the Commission or clerk or employee of that body is in any way responsible for any changes made upon the returns. Whatever was done was done before the returns reached the Utah Commission, as the board has every reason to believe. They are unable to furnish to your honor the name or names of any person or persons who may have tampered with the returns, else they would willingly do so at this time.

In view of the fact that it appears in evidence that the registry lists and poll lists from Sanpete county have been tainted by evidence of fraud, of the further fact that the ballot boxes were loosely and carelessly kept after the election, sufficient to cast suspicion upon the result therein contained, when taken in connection with the testimony regarding the returns, they authorize their counsel to say that they have determined to and will issue certificates to the candidates for the Constitutional Convention from Sanpete county who have the majority of votes as appear upon the tally sheets.

In this determination their counsel concur.

In doing this they do not waive any legal position which they have taken here and of necessity, as the cases from Weber county and Box Elder county are to be governed by the law as laid down by the court in this case now before the court, there will remain the duty of the court to construe the statute in controversy, and grant or deny the relief asked for.

Speaking now as a partizan, I may properly say, that it is manifest that no political party can afford to be the beneficiary of any fraud, and I would prefer that my party remain out of power forever than that any suspicion should attach to the methods by which it gains power, and this is the view of my associate, Mr. Williams, and of the members of the Utah Commission whom we represent.

When Judge Barch took his seat on the bench of the Third district court Thursday a dissentient note was immediately struck by Judge C. W. Bennett, of counsel for the petitioners in the Sanpete election cases. It was in reference to the statement on the part of "the Utah Commission" made in court by Judge Powers Wednesday afternoon.

Judge C. W. Bennett arose and said—"May it please the court. In the mat-

ter of the Sanpete cases, and representing specially, for this purpose, Commissioners Tatlock and Sherman, I desire to offer and have placed on the record the paper which I now hold in my hand." Counsel then read the following:

#### *May it please your honor:*

Concerning the statement made by Judge Powers Wednesday, the minority of the Commission desire to state:

First, if the statement is to be taken only as a portion of the argument of Judge Powers, then make no special objection to it, except wherein the judge assumes to speak for the entire Commission. He had not been employed, and no proposition looking to his employment has ever been made before the Commission.

Second, If the statement is to be taken as an admission, or a confession, or a contract authorized by the Commission, the minority desires to state that they had no notice of any such action, that although the Commission was in session twice yesterday—once before and once after the confession was made—no reference was made to it in any manner, and the minority had no knowledge of it until after the adjournment of the court.

Messrs. Tatlock and Sherman also desire to state that while they are very glad the majority of the Commission have at last determined to certify the returns of Sanpete county from the tally sheets—a thing that should have been done over a month ago—they cannot follow the majority in arriving at all the conclusions set forth in the confession, many of which are untenable. They especially denounce and repudiate all intimation or insinuations charging, or attempting to charge, the confessed and admitted frauds to the negligence or intention of the Sanpete county judges. They do, however, concur in the final portion of the confession which is given as the personal opinion of Judge Powers, and express the belief that the sentiments therein contained were the controlling ones that induced the whole confession.

E. W. TATLOCK,  
HOYT SHERMAN JR.

Judge Barch would hear no more upon the matter and shut off any further dialogue by saying—"In regard to the case (Third precinct) which was to come up this morning, I have not yet made an examination of the cases which have been already submitted to me, and I have concluded, therefore, not to take it up until tomorrow morning at 10 o'clock. The witnesses may appear at that time if it is so desired by counsel."

As soon as Judge Barch had concluded the rendering of his exhaustive opinion in the election cases from Sanpete county there was some discussion, after which the case from the Third precinct, Salt Lake City, involving similar questions there, was postponed until Monday, February 4th, on which date, at 10 a. m., all witnesses were requested to report themselves in court.

Telegraphic information received from Grand county last night was to the effect that Lou Morton, the miner who had the misfortune to lose his hand and eyes in the explosion at the Gold Queen mine, had died of his injuries. McCallard, it was stated, will recover.