

to call the attention of the other judges and officers to this crime? Didn't it occur to you that you ought to put the prosecution in possession of this valuable information.

Witness—Well, it did occur to me.

Mr. Dickson—Then why didn't you act upon it?

Witness—I don't know.

Mr. Dickson—Were you afraid of anything?

Witness—No; I have since thought, and still think, that it was my duty to report what I had seen. I think I was derelict in that. But I thought it might create a disturbance and possibly do more harm than good.

Mr. Dickson—What harm did you fear?

Witness—I thought that if I made any such charge then some would be on one side and some on the other, and there would have been a row.

The cross-examination was proceeding when Mr. Winters suddenly disclosed the fact that Allen told him, subsequent to the election, that he changed 75 ballots received by him on the day of polling. To this admission he (Winters) replied that he did not believe it.

Mr. Dickson—You thought he was simply "joshing?"

Witness—Well, yes.

Q.—Did you have any lot or part in the changing of the ballots?

A.—No.

Q.—Then your skirts were clean?

A.—Well, no they were not.

Q.—What had soiled them?

A.—I think my action in seeing and hearing these things and not reporting them was not the correct thing.

Q.—Do you not know whether or not you were culpable in any other way?

A.—Outside of what I have stated I do not think I was.

Q.—You were silent when you should have spoken?

A.—Yes. I had the intimation ten days before the election what was going to happen. [Laughter.]

Q.—You had not been guilty of any misconduct, apart from this, as far as you are aware?

A.—I think not. I was not "implicated" in any other way in the matter at all.

Q.—Knowing of this affair, having heard beforehand of what was about to be perpetrated—why didn't you communicate your knowledge to those whose duty it was to investigate it?

A.—My impression was that the ballots on the other side had been "dictated," and I thought this was just a case of "turning the tables." [Laughter.]

Q.—So you were encouraging this thing?

A.—In that way yes; but I was perfectly indifferent about the matter.

In answer to other questions the witness said he was a "Liberal" candidate for the office of county attorney at the last county convention, and was defeated, but he did not go upon the street afterwards declaring that he would "get even" with the "Liberal" party. He did not become hostile to that party owing to his defeat.

Mr. Dickson asserted that it was not until the witness had been defeated in his candidature that he gave any testimony or laid any evidence before any

one connected with this prosecution. That was the whole secret of this cock and bull story.

Turning to Mr. Winter counsel asked—Didn't you feel disgruntled over your defeat?

Witness—No, I have too much of the man in me for that.

Mr. Dickson (sarcastically)—I am glad to hear it.

Mr. Stephens objected to the defense taking up the time with this line of cross-examination.

Judge Anderson said without going into full details counsel might have asked the witness if he had not had "a fall out" with the "Liberal" party.

Mr. Dickson—You cannot explain how it was that Allen came to you, as a stranger, and admitted that he had been changing the ballots, and thereby committing a crime?

A.—No, I know nothing about his motive in coming to me.

At this point another little surprise was sprung upon the spectators in Court, upon the witness making the extraordinary statement that when he met Mr. McCallum in the street on the afternoon of election day that functionary informed him that in order to make the election "sure" he had instructed Allen to change fifteen more ballots.

Q.—Didn't you on the evening after the convention, when you were defeated, go down to the place where Allen, the defendant, was working, and say to him—while having a glass of whisky and a cigar with him—bringing your first down on the table, "By G—, I will get even with those fellows?"

A.—I did not.

Q.—Didn't you say, "Well they've defeated me. The delegates have gone back on me?"

A.—No, I did not.

Q.—And that you would get even with "the crowd?"

A.—No.

Q.—Didn't you tell a Mr. Kriegbaum that you had done the last thing you meant to do "for the d— party?"

A.—I do not think I made that remark.

Q.—Then why did you turn over your book books in the middle of the campaign if you were not disgruntled?

A.—Well, I thought I had been working for them long enough. [Laughter.]

Court took a recess until two o'clock.

This afternoon, Mr. Winters, answering further questions, said he went back to the polls in the afternoon merely for the purpose of satisfying his own curiosity and not to watch Allen. He did not believe that he changed as many votes as stated, but that he changed some. In conversation with Allen, witness asked him how he was able to distinguish a People's ballot from a "Liberal" ballot. He stated that there was a "difference in the weight" in the respective tickets. He also informed him that he believed "the d—d 'Mormons'" were so ignorant that "he could steal the entire ballot box." Witness admitted that he felt disgusted at the actions of the "Liberal" party and said as much to Mr. Hines. He meant it then, as he did now.

Mr. M. S. Woolley testified that he

was one of the judges at the election in question, and represented the People's party. He remembered seeing a number of ballots between the ballot box and the window; they were placed there in the morning by Mr. Ball and Mr. Allen. This action aroused his curiosity, inasmuch as it was unusual. He was not in a position to watch Mr. Allen during the day.

Cross-examined—He made no objection, for the simple reason that he concluded it would do no good. This conclusion was based on the fact that he and representatives of the party to which he belonged had often made weighty objections which were ignored.

Attorney F. B. Stephens, for the prosecution, called Judge Hoge to prove that Mr. Winters made statements to him on the day of election similar to those made by him on the witness stand. This was ruled out, and the prosecution rested.

Judge Powers then made the opening statement for the defense. He commenced by attacking Mr. Winters, saying that the defense would show that it was not the alleged substitution of ballots which so shocked his white soul, but rumors that the tickets of other wards were being given out instead of those of the Fourth precinct. They would show that all the statements made by him in relation to Allen's conduct had no foundation in fact.

H. S. McCallum was called and said—In July last I had the honor of being chairman of the "Liberal" county committee. On the afternoon of the school election in question I went up to the Fourth precinct and saw Mr. Winters. I never stated to him that I had told Allen to change fifteen ballots. During the day I came to the conclusion that we could not win in the Third precinct, so I concentrated our forces in the Fourth precinct, and that is why I went up there. Mr. Winters told me that everything was going on all right. I concentrated some thirty-three vehicles in the precinct and offered the drivers extra inducements to get voters out. I never heard Mr. Winters say anything about fraud in that precinct until after the county election, when he told me that if he was called before the grand jury he would tell them some things that they wouldn't want to hear. I first met Allen in Leadville in 1879. The only complaint I received during the day from the Fourth precinct was that some tickets from other precincts had been brought up there and were being peddled out.

H. T. Ball—I was a judge of election with Mr. Allen in July last. During the day of the election I saw Allen all the time. I did not see him change any votes or do anything irregular. After the polls closed the People's party judges congratulated us upon our fairness.

Mr. Critchlow—On the day when it was stated that Mr. Allen had forfeited his bonds, didn't you meet R. W. Young and state to him that while you didn't see Allen do anything wrong, still you were suspicious?

Witness—I did, but I qualified it.

Mr. Critchlow—Never mind that.

Judge Powers—Now you can state the qualification.

Witness—Well, I said that if Allen