

canvass the returns and issue the certificate.

Chairman Sells—We ought to wait until we get a certified copy of the decision.

An animated and informal discussion of Judge Zane's decision ensued among the members of the board while they waited for a certified copy of it.

At 2:50 the decision arrived and Judge Judd read the document to the board.

Judge Loofborough.—I would like to say a word by way of suggestion and request. The writ of mandamus is denied, and this board is in the same situation as if no mandamus proceeding had been brought. Then this board was about to examine the ballots of three precincts. In behalf of Mr. Page I request that the ballots of all the precincts be counted. A long contest may thereby be avoided.

Mr. Brown—This request is an invitation for this board to disregard the opinion of Judge Zane.

Mr. Brown made an argument in opposition to the request.

Mr. Riter—Judge Zane says all the Rumels voted for are one and the same person. This being so, no discrepancy exists to justify us in going to the ballot boxes.

Mr. Anderson—I offer a resolution that all the ballots cast in all the precincts of the county be counted.

There was no second.

Judge Judd then offered the following, which was adopted:

I do not believe that the judgment of the District Court to the effect that it is the duty of this board to count the votes as shown upon the face of the returns for John H. Rumel or J. H. Rumel, for Jno. H. Rumel or J. H. Rumel Jr., is a correct declaration of the law, but my great respect for the judge who rendered the opinion compels me to defer my judgment to his and I am the more ready to do this since he relieves me of responsibility.

J. W. JUDD.

Chairman Sells then filled out the certificate of election, writing the name "J. H. Rumel, Jr." At the suggestion of Mr. Riter the "J." was changed to "John."

Mr. Riter then offered the following, which was adopted.

Resolved, By the board, that we express our appreciation of the patience and courtesy exhibited by the honorable chairman towards the members of the board during our labors.

Mr. Riter then moved that the board adjourn *sine die*. Carried.

THE ALLEN CASE.

At 2 o'clock Wednesday, Aug. 27, the examination of W. J. Allen, charged with perpetrating fraud in the fourth Precinct at the school election, was resumed. A large number of witnesses from the Eighteenth, Twentieth and Twenty-first wards were in attendance, and the commissioner concluded to hold the inquiry in the Third District Court room. J. H. Moyle, assisted by Mr. Easton, conducted the prosecution, as before, and Colonel Ferguson, assisted by the defendant's brother, defended.

F. S. Richards was the first witness called and testified: I am a registered voter in the Fourth mu-

nicipal ward and voted at the school election held there on July 14 last. I voted for Richard W. Young and George D. Pyper.

James Sabine—I voted at the school election held in the Fourth municipal ward on July 14 last. I voted for Richard W. Young and George D. Pyper.

Colonel Ferguson—How is it that you came here to testify? Do you come here voluntarily or have you been influenced?

Mr. Sabine—I came here because I was summoned and I testify voluntarily.

Colonel Ferguson—Has any one told you what to testify to?

Mr. Sabine—No, sir.

Colonel Ferguson—Have you been instructed at any meeting?

Mr. Sabine—Oh no, nothing of that sort.

G. M. Ottinger testified—I voted at the school election in the Fourth Municipal Ward. I went there in the afternoon and handed Allen my ballot. He put it partly in the box and I watched him, because I wanted to see my vote go in. Just then a man named Williams, whose vote had been challenged, rushed up and pushed me away. I got back as quickly as possible and Allen then had his hand away from the box, with a ballot in his hand. I thought it was mine and went away with the impression that my vote did not go in. Allen did not know me.

Col. Ferguson—Didn't the fact that he didn't know you irritate you?

Mr. Ottinger—Oh, no! I didn't know him, either. (Laughter.)

W. G. Phillips—I voted at the school election on July 14th. I voted for Richard W. Young and G. D. Pyper. I gave Allen my ballot and he put it part way in the box. Then he turned around and got in front of me, so that I could not see whether my vote was in the box or in his pocket.

R. G. Savage—I voted in the school election in question for R. W. Young and G. D. Pyper. I did not observe what became of my ballot.

George Openshaw—I don't know whether I voted at the school election in question or not, but I know that I tried to vote. I went to the poll and offered my vote but was challenged. I took the oath, and then my ballot was thrown back to me. Then I went to the other window, thinking I had been at the wrong place. The judges at the second poll sent me back to the first poll, and when I got there they told me it was all right, I had voted.

Colonel Ferguson—Did you keep sight of the ballot all the time?

Mr. Openshaw—I did.

James Sabine, Jr.—I voted for R. W. Young and G. D. Pyper at the school election in question. When I handed my ballot to Mr. Allen, who squeezed it, to ascertain, I suppose, what ticket it was, I don't know whether it went into the box or not.

Elijah Sells—The Utah Commission issued an order some time ago requesting the judges of election to return the registry lists to them.

Mr. Moyle—I ask you now for the registry list of Poll 2 of the Second precinct, used at this election.

Colonel Sells—I haven't got it and can't find it. It has not been returned to the commission. I looked in the ballot box, but it was not there. The last we knew of it, it was in the possession of the judges.

Mr. Moyle said the prosecution had done what they could to find out where this registry list was, and he now asked for an order requiring the defendant to produce it.

Col. Ferguson—Well, we haven't got it, don't know where it is or anything about it.

George Romney, Jr., testified—I voted for R. W. Young and G. D. Pyper at the election in question. The defendant received my ballot. He held another ballot in his hand. I didn't watch him closely and don't know whether my vote went in or not.

Jesse J. Murphy—I voted for R. W. Young and G. D. Pyper at the election in question.

Orson T. Rogers—I voted at the school election for Young and Pyper. The defendant took my ballot and, after searching toward the box, got around so that I could not see his hand for a moment, and I saw a ballot drop into the box.

To Col. Ferguson—The defendant wore a drab colored coat.

Hyrum Smith—I voted for Young and Pyper at the election in question. Allen took my ballot and then got in front of me, so that I could not see what became of my ballot.

Jas. M. Pyper—I voted for Young and Pyper at the election in question. I don't know what became of my ballot, because I could not see. The window was a little catch-penny affair and was not large enough for a voter to see what was being done inside.

James Shore—I voted for Williams and Lippman at the election in question.

John Muir—I voted for Young and Pyper at the school election. The defendant took my ballot and he held it for half a minute after the judges said it was "all right." He had the ballot in his hand waiting for me to go, apparently, but I stayed, and he dropped the ballot.

Thomas W. Muir, Sr.—I voted at the election for Young and Pyper. I gave Allen my vote and then he commenced asking me a lot of questions. He slipped off and put a ballot in the box and came back and said I had voted.

To Colonel Ferguson—I came here from Scotland and was naturalized before Judge Titus in this city.

D. L. Murdock—I believe I was the first person on the ground on the day of election. I was a judge at one of the polls. When Mr. Allen came up he acted in a very strange manner. He insisted in changing the old way of voting. The old way made everything free and fair. At his poll he voted the voters through a little window and put the ballot box up so that it would be difficult for the voter to see what became of the ballot. I do not