

ny. The judges of election could be called and asked whether they had not made an error by omitting the full names of the candidates, and also by omitting "Jr." from Mr. Ruml's name. If this was not a case where witnesses could be called to explain an evident irregularity, no such case could arise, and the statute would be valueless.

At this point, by request, Mr. Brown gave way to the Weber County lawyers, to discuss the contest of Mr. Hamer against Mr. Tyler, for county clerk of Weber.

Ogden Hiles appeared for Mr. Hamer, and read the following:

In the matter of the application of Daniel Hamer, for a recount of the votes cast for the office of county recorder of Weber County, Utah Territory, at the general election therein, held August 4th, A. D. 1890, in the first, second, third and fourth polling Precincts of Ogden Precinct, said Weber County.

To Hon. Elijah Sells, chairman, and John W. Judd, Hugh Anderson, W. W. Riter and Elias A. Smith, members of the board of canvassers appointed to canvass the returns of said election, and to John G. Tyler, candidate for county recorder of said Weber County at said election:

The petition of Daniel Hamer, of Weber County, Utah Territory, respectfully shows to said board of canvassers, and the said John G. Tyler is hereby respectfully notified, that the petitioner hereby disputes the correctness of the returns of said election from said county, wherein the same purport to show, and do upon their face show, that at the general election held for county officers in the county of Weber on the 4th day of August, A. D. 1890, the said John G. Tyler received in said county, for the office of county recorder thereof, 1705 votes, and that this petitioner received thereat but 1615 votes; and for ground for disputing and contesting said returns, and for a recount of the votes in the precincts hereinafter named, this petitioner alleges and shows:

1st. That heretofore, on said 4th day of August, A. D. 1890, your petitioner was a candidate for election to the office of county recorder in said county of Weber, at the election aforesaid, on the People's party ticket, so called, and that the said John G. Tyler was likewise a candidate for said office at the said election on the Liberal party ticket, so called; both said Tyler and your petitioner being, in all respects, eligible to be elected to said office.

2nd. That the number of votes cast for your petitioner, for said office, as appears by said returns, in said county, and the truth of which your petitioner disputes, is as follows: For the said John G. Tyler 1705 votes; for your petitioner 1615 votes—leaving a majority for said Tyler, according to the face of the returns, of 90 votes, and thereby electing him to said office.

3rd. That the number of votes cast for your petitioner at said election, for said office, in said county, outside of Ogden precinct No. 1, Ogden precinct No. 3, Ogden precinct No.

3, and Ogden precinct No. 4, was 815 votes, and the number in like manner cast for Mr. Tyler was 209 votes, according to said returns.

4th. Your petitioner further shows that at said election there were numerous and divers persons and voters in the First, Second, Third and Fourth polling precincts, in Ogden City aforesaid, who were members of said Liberal party, but, being friends of your petitioner and well disposed towards his success at said election, such persons, in aid of your petitioner's election thereat, caused certain ballots or tickets to be printed, called "Liberal Tickets," whereon were printed all the names of county and precinct officers then and there being voted for as Liberal candidates, so called, or candidates of the Liberal party, except that the name of your petitioner was printed thereon instead of the name of said John G. Tyler—a substantially true copy of which ticket or ballot is hereunto attached and made a part of this petition, marked "Exhibit A."

5th. That at said election there were polled or voted in the said four precincts, for your petitioner, as your petitioner is informed and believes, one hundred and seventy-five of said ballots.

6th. Your petitioner further says upon his information and belief, and upon such information and belief so charges the fact to be, that through the neglect, carelessness, inadvertence and mistake of the judges of election in the said four precincts, more than one hundred of the said ballots so cast for your petitioner in the said four precincts were by said judges canvassed and counted and entered upon said returns as having been cast for Mr. Tyler, whereas in truth and in fact the same were and had been cast for your petitioner; that such mistake occurred in this wise: In making such canvass and count of the votes, the judges of election, instead of reading each ballot as the same was taken from the box for such count and canvass, undertook to separate the so-called "Straight Liberal Ticket" and so-called "Straight People's Ticket," the same being such ballots as had been voted without "scratching," or substitution of names of persons other than the names of the persons thereon printed as the regular candidates upon the said respective tickets, and thereupon and thereby more than one hundred ballots, as petitioner is informed and believes, of said ballots of which "Exhibit A" is a copy, were by said judges inadvertently, carelessly and negligently canvassed and counted as having been cast for Mr. Tyler, when as aforesaid the same should have been canvassed and counted for your petitioner.

7th. Your petitioner further shows that if the said ballots so as aforesaid counted for Mr. Tyler were counted for your petitioner, as they of right ought to be, the returns would show that your petitioner is elected, and thereby your petitioner would be elected and entitled to a proper certificate of his election to said office.

8th. Your petitioner further shows: That as appears upon the face of the said returns, and as the fact is, on the said canvass of the votes cast at said election in the said Second Precinct of said Ogden City, the Judges thereof undertook to and did throw out, and refuse to count or canvass, or enter upon the said return of said election, nine of said ballots, as designated by "Exhibit A," which were cast at said election by persons who were entitled to vote at said election, the same being votes for your petitioner, and thereby your petitioner was and is unlawfully deprived of nine votes for said office, upon the face of said returns; and your petitioner hereby respectfully submits whether this honorable board should not correct said returns in respect of the said nine votes cast out as aforesaid, and have the same entered upon such returns as being lawful votes duly cast at said election for your petitioner.

9th. Your petitioner further shows: That in the canvassing and counting of the ballots cast in said election in the said four precincts of Ogden City, great irregularity occurred, in this: The said canvassers and judges did not read each ballot as the same was taken from the box wherein it had been deposited by the voter at said election, but undertook to separate in different lots supposed "Straight Liberal Tickets," or ballots so called, and supposed so called "Straight People's Party Tickets," and in lots where "Liberal Tickets," so called, had been "scratched," and in lots where "People's Party Tickets," so called, had been "scratched," as hereinbefore set out and defined, and having so separated said ballots, undertook to and did count the aggregate number of the several lots of ballots so designated as "straight tickets" as having been cast for each and all of the candidates of the two above named parties respectively, and thereby, as your petitioner is informed and believes, he was deprived of more than one hundred votes, which if counted for him would show that he had been elected to said office; and upon this ground also petitioner says that a recount should be had, and by reason of the before mentioned irregularity your petitioner respectfully submits to this honorable Board whether any of the votes cast or returned in the said four precincts should be here canvassed, counted, or considered as any part of the returns of said election from said Weber County.

10th. Your petitioner further shows: That heretofore, to-wit, on the 14th of August, A. D. 1890, he caused a notice of the presentation to this Board of this petition, together with a true copy of the petition, to be personally served on said John G. Tyler, which said notice, with the affidavit of service of the same, is hereunto attached, marked "Exhibit B," and hereby made a part hereof.

Wherefore, the premises considered, your petitioner prays that this honorable Board recount the said ballots, or cause the same to be re-