

the contestee Bird 151 majority over Talbott; the prayer of the contestant Bird in his memorial referred to your committee is that the vote of St. Leonard's Precinct be counted for him, and that the sitting member Talbott be unseated and the seat in the Senate from Calvert county be awarded to him. If the ballots cast at St. Leonard's are not counted, then the contestee Talbott is elected by a majority of 171 votes and is entitled to retain his seat unless it should be held, because of the irregularities at St. Leonard's Precinct, there was no election in Calvert county for Senator and the election of a Senator be remanded by the Senate to the voters of the county for a new election.

*Law Applicable to the Facts.*

The inquiry that next presents itself is, what are the terms and provisions of law, in the language of the Constitution "as prescribed by the Constitution and the laws of the State" on these facts.

1. Was the election held in the St. Leonard's Precinct held by officers properly qualified under the law to hold the election? The committee think it was not so held. The two Judges and Ballot Clerk, by standers who were attempted to be qualified by administering the oath above set forth, by the Republican Judge, were neither *de facto* nor *de jure* proper officers to conduct a legal election.

The regularly qualified Judges and Ballot Clerk were displaced for no other reason whatsoever than that they refused to receive, what in their opinion and that of the Republican Supervisor, were illegal ballots.

The duties of the Judges and Ballot Clerk are not only fully prescribed by law, but the oath is prescribed by law, the oath for Ballot Clerk sets forth in minute detail his duties. This oath, it is not pretended, was administered or read to him. There is no law that justified the Republican Judge, under the circumstances, that existed at the Second Precinct on the morning of the election, to administer any oath to the Judges or Ballot Clerks appointed by him, hence the oath was without legal force, and we have in effect an election conducted by unsworn officers; one of the first safeguards for a legal election is want-