

ing in this, that a majority of election Judges and one Ballot Clerk were without the semblance of authority to conduct the election.

The contestant endeavors to meet this objection by relying on the provision of Article 33, section 45, of Public General Laws, which provides that if any of the Judges should not "*attend at the place of election at the time prescribed for opening the election,*" then the other Judge or Judges may swear in and qualify other persons to act as Judges. This section can have no application to this case. The Judges did attend, &c., and from 8 A. M. to 12½ P. M., tendered themselves ready to receive every legal ballot offered, and were supplanted by the Republican Judge solely because of their refusal to receive illegal ballots.

Your committee can conceive of no case where a more flagrant violation of law could be committed than in the displacement of regularly qualified election Judges and Ballot Clerks, and substituting in their place by the Republican Judge persons who were clothed with no lawful authority to conduct an election. The committee are of the opinion that the provisions of law relating to the qualification of the election officers as prescribed in the Act of 1890, chapter 538, are mandatory and not only directory, if this is not so, then the law is a sham, and the objects to be attained by the new system of conducting elections all go for naught. It will not do to say that those officers thus illegally selected and qualified did their duty and no fraud resulted; the answer to this is that their appointment and qualification were in direct opposition to the provisions of law, and that the precautions which the Legislature has prescribed to ensure secrecy and fairness were violated. It is not a question as to the consequences which resulted in this case from a disregard of the law, but the danger is in permitting as a precedent the counting of a vote which was cast in defiance and violation of the provision of the law.

2. Every writer upon the law of elections, as well as all leading cases in the courts of this country and England, hold that the law as to the *place* and *time* of holding election is mandatory and must be strictly observed and followed. If the time has been mater-