

It is not contended that these officers were guilty of any fraud or unfairness, but it is strangely contended that while there was nothing in the method of the appointment of the election officers to work an injury to the contestee and no injury was done, yet the contestant must meet the burden of proof and establish this fact.

This he has done. The facts in this case, together with the law, are replete with such proof. There are 669 registered voters in this precinct, about 550 of whom usually vote. The law requires not less than one booth for each 100 registered voters. This poll therefore had six booths or voting compartments, which would contain six men all voting or preparing their ballots at once. The average time consumed by voters in preparing and casting their ballots is not more than three minutes, and with the booths all filled, six men could vote in this time, being one half minute to each vote.

From the opening of the polls at 12.30 P. M., in this precinct, until they closed at 6 P. M., 5½ hours or 330 minutes elapsed, giving ample time for all who desired to vote to do so. The democrats did not fail to vote because the time was too short, but because they had been instructed by the Democratic Judges that the ballots were illegal, and the evident purpose of this instruction was to defeat an election in this republican precinct and thus render it impossible to show the republican majority. This is confirmed by the conduct of the judges and their absolute failure to even make an effort to secure ballots and go on with the election. Indeed they seem the most indifferent of all present, aye the most determined that no election should be held.

If this be not so, why did they not at once, with the supervisor proceed under the power contained in section 149, to procure duplicates, and when duplicates were put into their hands, with the sole exception of the designation on the back of the ballot of the place of election, why did they did not hold the same?

The Act of 1890, at section 149, clearly contemplates such delays, provides means for holding elections in case the ballots are lost, stolen or inaccessible,